

ORDINANCE NO. 3559-C.S.

AN ORDINANCE AMENDING SECTION 27-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO MEDIUM DENSITY RESIDENTIAL ZONE, R-2, PROPERTY LOCATED AT 1721 YOSEMITE BOULEVARD, BETWEEN ROSINA AVENUE AND N. CONEJO AVENUE. (HOGAN INVESTMENTS, L.P.).

WHEREAS, a verified application for an amendment to Section 27-3-9 of the Zoning Map was filed by Hogan Investments, L.P. on October 6, 2011, to rezone from Low Density Residential Zone, R-1, to Medium Density Residential Zone, R-2, property located at 1721 Yosemite Boulevard, between Rosina Avenue and N. Conejo Avenue, and

WHEREAS, after a public hearing held on December 5, 2011, it was found and determined by the Planning Commission that the requested zone change is required by public convenience or necessity, the requested zone change will result in an orderly planned use of land resources, and the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan, and

WHEREAS, by Resolution No. 2011-25, adopted on December 5, 2011, the Planning Commission recommended to the Council that the application of Hogan Investments, L.P. to amend Section 27-3-9 of the Zoning Map to rezone the hereinafter described property from Low Density Residential Zone, R-1, to Medium Density Residential Zone, R-2, be approved,

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

SECTION 1. After a public hearing held on January 24, 2012, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines that the requested zone change is required by public convenience or necessity, the requested zone change will result in an orderly planned use of land resources, and the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan.

This Council also finds and determines that the decision to approve the requested zone change is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed rezoning to R-2 Medium Density Residential uses will provide for a higher density of residential dwelling units at the site that is compatible with surrounding land uses.
2. The proposed rezoning is consistent with the Modesto Urban Area General Plan because the R-2 Medium Density Residential zoning is consistent with the General Plan "Residential" land use designation of the site.

SECTION 2. ZONING CHANGE. Section 27-3-9 of the Zoning Map is hereby amended to rezone the following described property from Low Density Residential Zone, R-1, to Medium Density Residential Zone, R-2:

R-1 to R-2

All that certain real property situate in a portion of the Southeast quarter of the Southeast quarter of the Southwest quarter of Section 27, Township 3 North, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California described as follows:

Commencing at a point in the center of the county road distant 322.2 feet East of the Southwest corner of the Southeast quarter of the Southeast quarter of the Southwest quarter of said Section 27; thence running north 413.0 feet more or less to the point of beginning; thence continuing North 277.0 feet more or less to the

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, 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: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Ridenour

NOES: Councilmembers: None.

ABSENT: Councilmembers: None

APPROVED: _____

JIM RIDENOUR, Mayor

ATTEST:

By _____

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____

SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO DESCRIPTION:

By _____

Community & Economic Development
Department, Planning Division

center line of Miller Avenue; thence Westerly 100.0 feet more or less along said center line of Miller Avenue to the Northerly prolongation of the Easterly line of a 20 foot wide alley; thence South 277.0 feet more or less along said prolongation and said Easterly line of said alley; thence East 100.0 feet to the point of beginning.

Containing 27,700 square feet (0.64 acres) more or less.

APN: 116-004-040

SECTION 3. ZONING MAP. Section 27-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

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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 February, 2012, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor **Ridenour**

NOES: Councilmembers: None.

ABSENT: Councilmembers: None

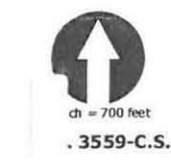
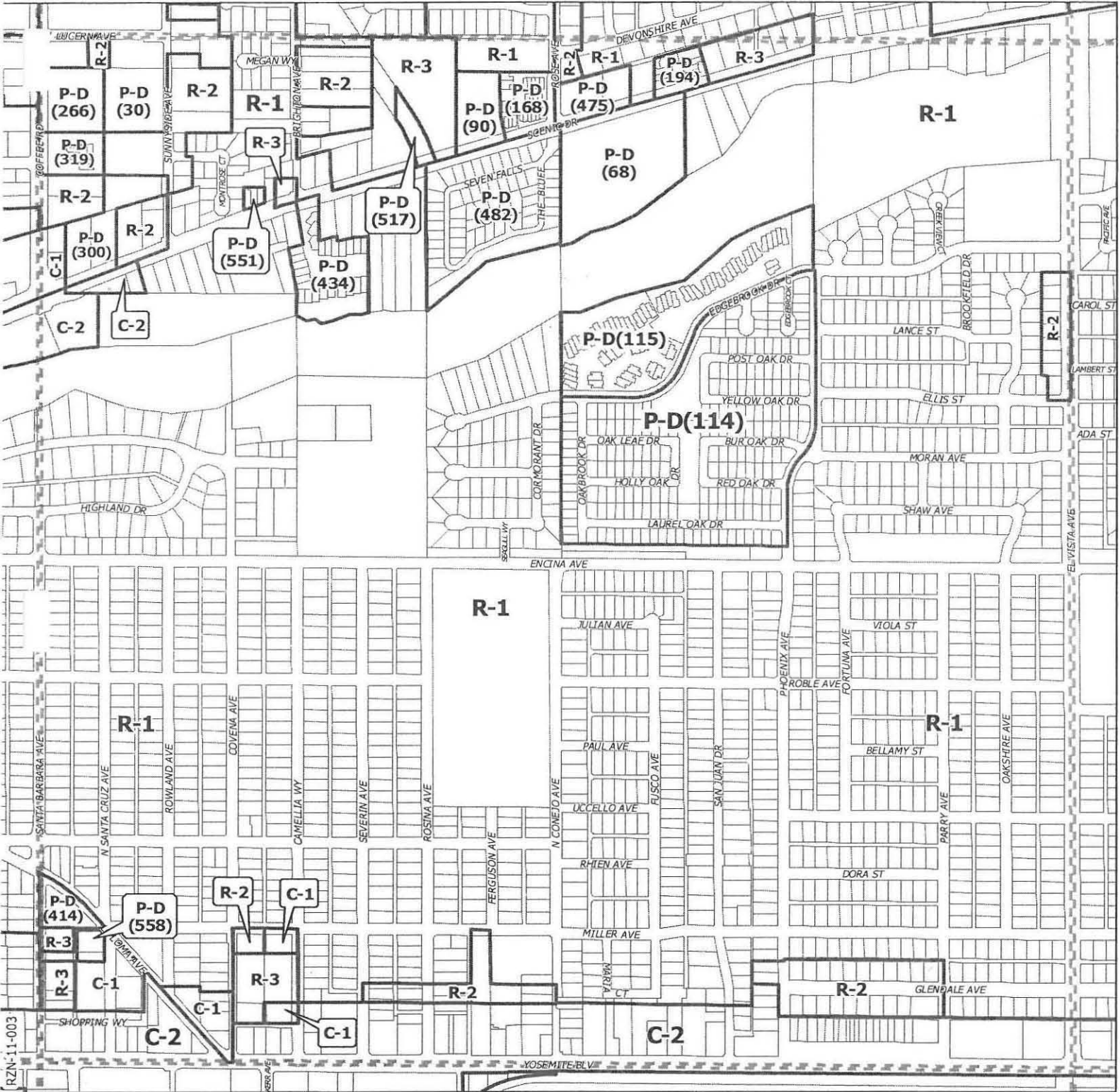
APPROVED: 

MAYOR JIM RIDENOUR

ATTEST: 

STEPHANIE LOPEZ, City Clerk

Effective Date: March 8, 2012



ZONING MAP OF THE CITY OF MODESTO

27-3-9

ORDINANCE NO. 3560-C.S.

AN ORDINANCE AMENDING CHAPTER 6 OF TITLE 5 OF THE MODESTO MUNICIPAL CODE; AMENDING ARTICLE 3 OF CHAPTER 6 OF TITLE 5 OF THE MODESTO MUNICIPAL CODE AND ADDING SECTIONS 5-6.310 THROUGH 5-6.331 THERETO RELATING TO WASTEWATER COLLECTION AND DISPOSAL.

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

SECTION 1. AMENDMENT OF CODE. Chapter 6 of Title 5 of the Modesto

Municipal Code is hereby amended to read as follows:

CHAPTER 6 - WASTEWATER COLLECTION AND DISPOSAL.

SECTION 2. AMENDMENT OF CODE. Article 3 of Chapter 6 of Title 5 of the

Modesto Municipal Code is hereby amended to read as follows:

ARTICLE 3. DISCHARGES OF FATS, OILS AND GREASE FROM FOOD SERVICE ESTABLISHMENTS.

SECTION 3. AMENDMENT OF CODE. The following sections are hereby

added to Article 3 of Chapter 6 of Title 5 of the Modesto Municipal Code to read as follows:

5-6.310. DEFINITIONS.

- (a) **Best Management Practices (BMPs).** Activities, prohibitions, maintenance procedures and other management practices to prevent or reduce the direct or indirect introduction of Fats, Oils and Grease (FOG) into the Collection System.
- (b) **Change in Operations.** Any of the following: 1) ownership or name change; 2) changes in food types processed at a Food Service Establishment; 3) operational procedures that have the potential to change the amount of FOG discharged by Food Service Establishments (FSEs) in an amount that alone or collectively causes or creates a potential for a Sanitary Sewer Overflow (SSO) to occur.

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- (c) **City.** The City of Modesto, a municipal corporation of the State of California.
- (d) **Collection System.** Consisting of all pumps, pipes, conduits, manholes and all other infrastructure, whose purpose is conveying or collecting Wastewater discharge to the Wastewater Plant, excluding private Sewer Laterals.
- (e) **Compliance Schedule.** A time schedule, enforceable under the provisions of this Chapter, that contains increments of progress (e.g. milestones, in the form of dates). These milestones shall be for the commencement and/or completion of major events leading to the construction and operation of additional pretreatment facilities or the implementation of policies, procedures or operational management techniques required for Responsible Persons to comply with all applicable federal, state or local environmental regulations which may directly or indirectly affect the quality of the Responsible Person's Wastewater.
- (f) **Composite Sample.** A collection of individual samples obtained at selected intervals based on an increment of either flow or time. The resulting mixture (composite sample) forms a representative sample of the waste stream discharged during the sample period.
- (g) **Design Hydraulic Depth.** A total operating depth of a Grease Interceptor at which the unit does not contribute FOG to the Collection System.
- (h) **Direct Discharge.** The introduction of pollutants into the Collection System through any plumbing connection.
- (i) **Director.** The Public Works Director or such other persons as may be designated by the City or the Director to perform the services or make the determinations permitted or required in this Chapter to be made by the Public Works Director of the City.
- (j) **Effluent.** Any Wastewater outflow from a FSE or Private Sewer Lateral that is discharged into the Collection System.
- (k) **Enforcement Officer.** A City employee or agent of the City with authority to enforce the provisions of this Chapter and the authority to make any decision, on behalf of the Director, required or called for by this Chapter.

- (l) **Environmental Compliance Inspector (ECI).** A person authorized by the Director to inspect any existing or proposed wastewater generation, conveyance, and processing and/or disposal facilities.
- (m) **Fats, Oils, and Grease (FOG).** Any substance such as vegetable or animal product that is used in, or is a byproduct of, the cooking of food or food preparation process, and that becomes or may become viscous, or solidifies or may solidify.
- (n) **Food Grinder and/or Food Waste Disposal Units.** Any device for the purpose of grinding food or food waste for introduction into Wastewater.
- (o) **Food Service Establishment (FSE).** A permanently constructed structure maintained, used or operated at least in part for the purpose of storing, preparing, service or manufacturing or packing or otherwise handling food, and which has any process or device that uses or produces FOG, or grease vapors, steam, fumes, smoke or odors that are required to be removed by an exhaust hood pursuant to California Health and Safety Code Section 114149.1 or in accordance with the California Uniform Retail Food Facilities Law (CURFFL) (California Health and Safety Code Sections 113700, et seq.). A limited food preparation establishment is not considered an FSE when engaged only in reheating, hot holding, or assembly of ready to eat food products, provided that there is no Wastewater discharge containing FOG, as described in Section 5-6.201(4) of the Modesto Municipal Code.
- (p) **Grab Sample.** A sample taken from a waste stream on a one time basis without regard to the flow in the waste stream and without consideration of time.
- (q) **Grease Control Device.** Any Grease Interceptor, Grease Trap or other mechanism, device or process which attaches to, or is applied to, Wastewater plumbing fixtures or lines, the purpose of which is to trap, collect or treat FOG prior to it being discharged into the Publicly Owned Treatment Works (POTW).
- (r) **Grease Disposal Mitigation Fee.** A fee charged to the responsible person and/or party when there are physical limitations to the property that make the installation of the usual and customary Grease Interceptor or Grease Control Device for the FSE impossible or impractical. The Grease Disposal Mitigation Fee is intended to cover the costs of increased maintenance of the Collection System, for inspection and cleaning of FOG

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that a usual and customary, and properly maintained, Grease Control Device would otherwise prevent from entering the Collection System.

- (s) **Grease Interceptor.** A multi-compartment device that is generally required, according to the California Plumbing Code. These devices use gravity to separate FOG from the Wastewater. To be effective, these devices must be cleaned, maintained and have the FOG removed and disposed of in a proper manner, at regular intervals.
- (t) **Grease Trap.** A device that is used to serve individual plumbing fixtures. The City requires a minimum grease capacity of 100-pounds and installed per Health & Safety Code requirements.
- (u) **Hearing Officer.** A person appointed by the City and/or City Manager to preside over administrative hearings of Municipal Code violations that are appealed in writing to the City Clerk.
- (v) **Hot Spots.** Areas in Sewage System that have experienced SSOs or that must be cleaned or maintained frequently to avoid blockages of the Collection System.
- (w) **Indirect Discharge.** The introduction of pollutants into the Collection System by means other than a connection to the Collection System.
- (x) **Infiltration.** Water that enters the Collection System from the ground through such means as defective pipes, pipe joints, connections or manhole walls.
- (y) **Manifest and/or Bill of Lading.** A receipt given by the carrier to the shipper acknowledging receipt of the goods being shipped and specifying the terms of delivery.
- (z) **New Construction.** Any structure that is planned or under construction, which will require payment of a capacity charge fee.
- (aa) **Publicly Owned Treatment Works (POTW).** The Collection System and Treatment Plant as defined in Section 212 of the Act, (33 U.S.C. 1292). The POTW shall include any sewers that convey Wastewater from persons outside the City, who are, by contract or agreement Responsible Persons of the POTW.
- (ab) **Remodeling.** Means any physical and/or change in operations to a FSE

- causing a change in FOG quantity or consistency.
- (ac) **Responsible Person.** A person who the Director determines is responsible for causing, permitting, or maintaining a public nuisance or a violation of the Municipal Code, Uniform Plumbing Code, applicable state codes, any National Pollutant Discharge Elimination System ("NPDES") permit or any Wastewater discharge permit. The term "responsible person" includes, but is not limited to, a property owner, tenant, person with a legal interest in the property, person in possession of the property or person that exercises custody and control over the property.
- (ad) **Private Sewer Lateral.** A sewer line that connects a building's Wastewater facilities to the Collection System which includes:
- (1) Upper Lateral, defined as the private sewer line connecting a home or other structure to the Lower Lateral, generally extending from the outside of the foundation of the structure to the public right-of-way or the cleanout;
 - (2) Lower Lateral, defined as the private lateral line below the clean-out and connecting a home or other structures to the Collection System.
- (ae) **Solids Interceptor.** A device used to capture all types of solids.
- (af) **Twenty-five Percent (25%) Rule.** A requirement for Grease Interceptors to be maintained such that the combined FOG and solids accumulation does not exceed 25% of the Design Hydraulic Depth of the Grease Interceptor. This is to ensure that the minimum hydraulic retention time and required available hydraulic volume is maintained to effectively intercept and retain FOG discharged to the Collection System.
- (ag) **Wastewater.** Liquid and/or FOG, whether treated or untreated which is discharged by an FSE into or permitted to enter the Collection System.

5-6.311. PURPOSE AND FINDINGS.

The purpose of this Article is to facilitate the maximum beneficial use of the POTW, while preventing blockages resulting from discharges of FOG into the Collection System, and to specify appropriate FOG discharge requirements for FSEs as defined herein.

The provisions set forth in this Article are designed to ensure compliance with

federal, state and local laws and regulations, and to allow the City to meet applicable standards. This Article also establishes quantity and quality standards on all discharges containing FOG, which may alone or collectively cause or contribute to FOG accumulation in the POTW causing or potentially causing or contributing to the occurrence of SSOs. This Article shall apply to both Direct and Indirect Discharges of Wastewater containing FOG discharged to the Collection System from any FSE. Unless otherwise defined herein, terms related to water quality shall be as adopted in the latest edition of *Standard Methods for Examination of Water and Wastewater*, published by the American Public Health Association, the American Water Works Association and the Water Environment Federation. Testing procedures for waste constituents and characteristics shall be as provided in 40 Code of Federal Regulations 136.

5-6.312. REGULATIONS, RULES AND REQUIREMENTS.

(a) Fog Discharge Limitation.

- (1) No FSE shall discharge FOG, or cause FOG to be discharged into the Collection System that causes an SSO or that may accumulate and/or cause or contribute to blockages in the Collection System or the POTW.

(b) SSO; Public Nuisance; Abatement Orders and Cleanup Costs.

- (1) Any FSE determined by the Director to have contributed to a sewer blockage, SSO or any Collection System obstruction resulting from the discharge of Wastewater containing FOG, shall be ordered to install and maintain a Grease Control Device, and may be subject to a plan to abate the nuisance created by Collection System failures and blockages, SSOs or any other obstruction. SSOs may cause threat and injury to public health, safety, and welfare of life and property and are hereby declared public nuisances. Furthermore, Private Sewer Lateral failures and SSOs caused by FSEs alone or collectively, are the responsibility of the Responsible Person. If the Director determines that the public health and safety require the City to act immediately to contain and clean up any SSO caused by blockage of a Private Sewer Lateral or the Collection System serving an FSE, or if the City so acts at the request of the Responsible Person of the FSE, or because of the failure of the Responsible Person or FSE to abate the condition causing immediate threat of injury to the health, safety, welfare, or property of the public, the City's costs for such abatement may be

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entirely borne by the Responsible Person of the FSE, and individuals who are responsible officers or owners of the FSE, and may constitute a debt to the City, due and payable upon the City's request for reimbursement of such costs, depending upon the Director's determination of the cause of the SSO.

(c) Kitchen Best Management Practices (BMPs) Required.

- (1) All FSEs shall implement Kitchen BMPs in accordance with the requirements and guidelines established by the Director, in an effort to minimize the discharge of FOG to the Collection System.
- (2) All FSEs shall be required, at a minimum, to implement and comply with the following Kitchen BMPs, when applicable:
 - (i) Drain screens shall be installed on all Fixtures and pipes in food preparation areas.
 - (ii) All waste cooking oil shall be collected and stored properly in recycling receptacles such as barrels or drums. Such recycling receptacles shall be maintained properly to ensure that they do not leak. Waste cooking oil shall be transported by a licensed waste hauler to an approved recycling or disposal site, in accordance with all applicable federal, state, and/or local laws.
 - (iii) All garbage and food waste shall be disposed of properly in trash bins or containers, and not in fixtures.
 - (iv) Kitchen exhaust filters shall be cleaned as frequently as necessary to be maintained in good operating condition. The Wastewater generated from the cleaning of kitchen exhaust filters, floor mats and kitchen equipment or fixtures shall be disposed of properly, in compliance with these regulations.
 - (v) Employees of FSEs shall be trained by Responsible Persons periodically on the following subjects:
 - a) How to "dry wipe/scrape" pots, pans, dishware, utensils, equipment and work areas before washing to remove FOG.

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- b) How to properly dispose of garbage, food waste and solids in enclosed plastic bags prior to disposal in trash bins or containers to prevent leaking and odors.
- c) The location and use of absorption products to clean under fryer baskets and other locations where FOG may be spilled or dripped.
- d) How to properly dispose of FOG from cooking equipment into a FOG receptacle such as a barrel, drum or bin without spilling.

Training shall be documented for each employee. Training records shall be available for review at any reasonable time by the Director. Training records shall be retained for a minimum of three (3) years.

(d) Prohibitions.

FSEs are prohibited from doing any of the following:

- (1) Discharging into the Collection System FOG that may accumulate and/or cause or contribute to blockages in the Collection System or at the Private Sewer Lateral.
- (2) Installing any food grinders or food waste disposal units in the plumbing system. FSEs shall remove all existing food grinders within 180 days from the effective date of this ordinance, except as otherwise expressly allowed by the Director.
- (3) Introducing any additives into an FSE's plumbing system, Grease Control Device and/or Grease Interceptor for the purpose of emulsifying FOG, biologically and/or chemically treating FOG for grease remediation and/or as a supplement to Grease Interceptor maintenance, unless a specific written authorization from the Director is first obtained.
- (4) Disposing waste cooking oil into the Collection System or storm drain. All waste cooking oils shall be collected and stored properly in receptacles such as rendering bins, barrels or drums for recycling or other acceptable methods of disposal. Waste storage areas shall be protected from rainfall and constructed to prevent storm water run-on or run-off. Drains within trash enclosures containing stored waste cooking oil or stored grease shall be plumbed to Private

Sewer Lateral through an approved Grease Control Device or other approved device.

- (5) Discharging Wastewater with temperatures in excess of 140°F into any Grease Control Device.
- (6) Discharging Wastewater containing fecal materials from toilets, urinals, washbasins or other fixtures to Grease Control Devices and/or the Private Sewer Lateral.
- (7) Discharging FOG and solid materials removed from a Grease Control Device to Collection System. Grease removed from Grease Interceptors shall be waste hauled to an approved disposal site as part of the operation and maintenance requirements for Grease Interceptors.
- (8) Operating Grease Interceptors with FOG and solids accumulation exceeding twenty-five percent (25%) of the design hydraulic depth of the Grease Interceptor (25% Rule). The grease and solids layers combined shall not exceed 25% of the total interceptor liquid depth to avoid overloading the interceptor.

(e) FOG Pretreatment Required.

Every FSE is required at the time of construction, remodel, and/or change in operations to install, operate and maintain an approved type and adequately sized Grease Removal Device necessary to maintain compliance with the objectives of this Chapter, subject to the waiver provisions of Section 5-6.315. The Grease Removal Device shall be adequate to separate and remove FOG contained in Wastewater from FSEs prior to discharge to the Collection System, as determined by the then current adopted addition of the *California Plumbing Code (CPC)*. Fixtures, equipment, and drain lines located in the food preparation and clean up areas of any FSEs that are a source of FOG discharges shall be connected to the Grease Interceptor. Compliance shall be established as follows:

- (1) New construction of FSEs
 - (i) New construction of any FSE shall include complete installation of an approved type and adequately sized Grease Interceptor, with a minimum size to be in

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compliance with the most current adopted CPC, prior to commencing discharges of Wastewater to the Collection System.

(2) Existing FSEs and Commissaries

- (i) Any existing FSE, which, in the Director's determination has caused or contributed to grease-related blockage in the Collection System, has one or more Private Sewer Laterals connected to Hot Spots and/or has contributed significant FOG to the Collection System, shall be deemed to have reasonable potential to adversely impact the Collection System and shall be required to install a Grease Control Device within one hundred eighty (180) days upon issuance of written notification by the Director.
- (ii) Any existing FSE or Commissary that undergoes Remodeling and/or a Change in Operations, as defined in this Article, shall be required to install a Grease Control Device or to obtain a waiver in accordance with Section 5-6.315.

(f) Commercial and Institutional Properties.

Any owner of a commercial and/or institutional property where FSEs are located shall be responsible for the installation and maintenance of a Grease Interceptor serving multiple FSEs that are located on a single parcel.

(g) Grease Interceptor Requirements.

- (1) Any FSE required by this Article to provide FOG pretreatment shall install, operate, and maintain an approved type and adequately sized Grease Interceptor necessary to maintain compliance with the objectives of this Article.
- (2) Grease Interceptor sizing and installation shall conform to the most current adopted edition of the CPC. Grease Interceptors shall be constructed in accordance with the design approved by the Director and shall have a minimum of two compartments with fittings designed for grease retention. The Director reserves the right to make determinations of Grease Interceptor size, adequacy, location

and need, based on review of relevant information, including, but not limited to, Grease Interceptor performance, waste stream characteristics, facility location, maintenance needs, and or inspection needs.

- (3) The Grease Interceptor shall be installed at a location where it shall at all times be easily accessible for inspection, cleaning, and removal of accumulated grease.
- (4) An access manhole, with a minimum diameter of twenty-four (24) inches, shall be provided over each Grease Interceptor chamber. The access manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable covers to facilitate inspection, grease removal, and Wastewater sampling activities.
- (5) Food Waste disposal units or food grinders shall not be connected to or discharged into any Grease Interceptor.
- (6) Grease Interceptors shall be maintained in efficient operating condition by periodic removal of the full content of the interceptor, which includes Wastewater, accumulated FOG, floating materials, sludge and solids.
- (7) All Grease Interceptors shall be maintained in a manner consistent with the maintenance frequency approved by the Director.
- (8) All Grease Interceptors are required to have grease retention fittings as designed for proper function. Any interceptor that does not have the grease retention fittings shall be repaired and/or retro fitted with appropriate grease retention fittings.
- (9) No FOG that has accumulated in a Grease Interceptor shall be allowed to pass into any Private Sewer Lateral, Collection System, storm drain or public right-of-way, or onto the surface of any street or parking area.
- (10) The Director may require any FSE with a Grease Interceptor to submit data and information necessary to establish the required maintenance frequency of the Grease Interceptor.
- (11) The required maintenance frequency for every FSE with a Grease

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Interceptor shall be determined in one of the following methods:

- (i) Grease Interceptors shall be fully pumped out and cleaned at a frequency such that the combined FOG and solids accumulation in the Grease Interceptor does not exceed twenty-five percent (25%) of the total designed hydraulic depth of the Grease Interceptor (25% Rule). This is to ensure that the minimum hydraulic retention time and required available hydraulic volume is maintained to effectively intercept and retain FOG from being discharged to the Collection System.
- (ii) Every FSE with a Grease Interceptor shall fully pump out and clean its Grease Interceptor not less than once every six (6) months.
- (iii) Grease Interceptors shall be fully pumped out and cleaned quarterly when the frequency described in Section 5-6.312 (g)(11) has not been established. The maintenance frequency shall be adjusted when sufficient data has been obtained to establish an average frequency based on the requirements described in Section 5-6.312 (g)(11). The City may change the required maintenance frequency at any time to reflect changes in actual operations based on the actual generation of FOG from the FSE.
- (iv) If the Grease Interceptor, at any time, contains FOG and solids accumulation exceeding the requirements described in Section 5-6.312 (g)(11), the FSE shall be required to have the Grease Interceptor serviced immediately such that all FOG, and other materials are completely removed from the Grease Interceptor. If deemed necessary, the Director may also increase the required maintenance frequency of the Grease Interceptor.
- (v) Wastewater, accumulated FOG, floating materials, sludge/solids, and other materials removed from the Grease Interceptor shall be disposed of by waste haulers at an approved disposal site in accordance with all applicable federal, state, and/or local laws.
- (vi) The Director may direct City staff to have an FSE's Grease

Interceptor serviced if, in the opinion of the Director, the FSE has failed to comply with the terms of Article 3 of Chapter 6. The FSE shall be responsible for any and all expenses incurred by the City in undertaking such work.

- (vii) Abandoned Grease Interceptors shall be emptied and filled in, as required for abandoned septic tanks specified in the most current edition of the *California Plumbing Code and City Standards and Specifications*.

5-6.313. FACILITIES AND DRAWING SUBMITTAL REQUIREMENTS.

- (a) Any FSE may be required to submit two (2) copies of facility site plans, mechanical and plumbing plans and details to show all sewer locations and connections. The submittal shall be in a form and content acceptable to the Director and Building Safety Division for review of the existing or proposed Grease Control Device, Grease Interceptor, monitoring facilities, metering facilities, and operating procedures. The review of the plans and procedures shall in no way relieve the FSE of the responsibility of modifying the facilities or procedures in the future as necessary to produce an acceptable discharge, and to meet the requirements of any other regulatory agency.
- (b) The City may require the drawings be prepared by a California registered civil, chemical, mechanical, or electrical engineer.
- (c) All drawings shall be submitted to the Building Safety Division.

5-6.314. RECORD KEEPING REQUIREMENTS.

- (a) The Responsible Person shall be required to keep on the premises and readily available, copies of all bills of lading, receipts and invoices of all cleaning, maintenance, and grease removal from the Grease Control Device, disposal carrier and disposal site location for no less than three years. The Responsible Person shall, upon request, make the bills of lading, receipts and invoices available to the Director, any inspector and/or any enforcement officer. These records may include:
 - (1) An on-site logbook of Grease Interceptor or Grease Control Device cleaning and maintenance practices.
 - (2) A record of BMPs being implemented, including employee training.
 - (3) Copies of records and bills of lading of waste hauling interceptor contents.
 - (4) Records of sampling data and sludge height monitoring for FOG and solids accumulation in the Grease Interceptors.
 - (5) Records of any spills and/or cleaning of the Private Sewer Lateral or Collection System.

- (6) Any other information deemed appropriate by the Director to ensure compliance with this Chapter.
- (b) Mobile food facilities or mobile support units containing FOG in the Wastewater shall be required to keep with the units and readily available, copies of all bills of lading, receipts and invoices of all FOG related cleaning, maintenance, and grease removal from the units and disposal site location for no less than one (1) year.

5-6.315. WAIVER OF GREASE INTERCEPTOR REQUIREMENT.

- (a) A conditional waiver of requirement to install Grease Interceptor may be granted for FSEs that the Director determines to have negligible FOG discharge and insignificant impact to the Collection System. Although a waiver from installation of a Grease Interceptor may be granted, the FSE may be required to provide space and plumbing segregation for future installation of a Grease Interceptor. The Director's determination to grant or revoke a conditional waiver shall be based upon, but not limited to, evaluation of the following conditions:
 - (1) Quantity of FOG discharge, as measured or indicated by the size of the FSE based on water usage, menu, seating capacity, number of meals served, amount of on-site consumption of prepared food, number of plumbing fixtures and other conditions that may reasonably be shown to contribute to FOG discharges.
 - (2) Identification of the FSE as a significant contributor of FOG into the Collection System, which is based on inspection or sampling of FOG discharged from the FSEs Private Sewer Lateral to the Collection System.
 - (3) Adequacy of implementation of BMPs and compliance history.
 - (4) Sewer size, grade, condition based on visual and other information, FOG deposition in the Collection System by the FSE, and history of maintenance and SSOs caused by FOG from the FSE.
 - (5) Changes in operations that significantly affect FOG discharge.
 - (6) Failure to comply with any of the conditions set forth in the waiver.

- (7) Any other condition that the Director deems reasonably related to the generation of FOG discharges.
- (b) Where the installation of a Grease Interceptor is not feasible, an FSE may be granted a waiver of the Grease Interceptor requirement upon the payment of a Grease Disposal Mitigation Fee as described in Section 5-6.318(d). Additional requirements may also be imposed to mitigate the discharge of FOG into the Collection System. The Director's determination to grant the waiver upon the payment of a Grease Disposal Mitigation Fee will be based upon, but not limited to, evaluation of the following conditions:
 - (1) There is inadequate space for installation and/or maintenance of a Grease Interceptor.
 - (2) There is inadequate slope for gravity flow between kitchen plumbing fixtures and the Grease Interceptor and/or between the Grease Interceptor and the Private Sewer Lateral or the Collection System.

- (c) Application for waiver of requirement for Grease Interceptor.

An FSE may submit to the City of Modesto Environmental Compliance Section an application for waiver from the Grease Interceptor requirement. The FSE bears the burden of demonstrating that the installation of a Grease Interceptor is not feasible or otherwise required. A waiver may be issued upon determination by the Director that reasons are sufficient to justify such a waiver.

- (d) Terms and conditions of waiver.

A waiver shall contain the terms and conditions that serve as the basis for its issuance. A waiver may be revoked by the Director at any time upon his or her determination that any of the terms or conditions for its issuance is not satisfied or if the conditions upon which the waiver was based have changed so that the justification for the waiver no longer exists. The waiver shall be valid so long as the FSE remains in compliance with the terms and conditions or until the expiration date specified in the waiver. Waivers are non-transferable.

5-6.316. MONITORING FACILITIES REQUIREMENTS.

- (a) The City may require the FSE to construct and maintain in proper operating condition at the FSEs sole expense, flow monitoring, constituent monitoring and/or sampling facilities.
- (b) The location of the monitoring or metering facilities shall be subject to approval by the Director.
- (c) FSEs shall, during regular business hours, provide immediate and safe access to the Director and his or her designees to the FSEs monitoring and metering facilities.
- (d) FSE shall, upon request, submit to the Director waste analysis plans, contingency plans, and other necessary information to verify compliance with these regulations.
- (e) No FSE shall increase the use of water or in any other manner attempt to dilute a discharge as a way of achieving compliance with these regulations.

5-6.317. GREASE TRAP REQUIREMENTS.

- (a) If provided, a Grease Trap shall not be located in a food or utensil handling area unless specifically approved by the Director or Stanislaus County Department of Environmental Resources (Health).
- (b) Grease Traps shall have a Solids Interceptor installed prior to entering the device.
- (c) Grease Traps shall be easily accessible for servicing.
- (d) FSEs that have an approved Grease Trap in operation before the effective date of this Article are not required to comply with this requirement unless there is a change in ownership or a Change in Operation, or a requirement by the Director or Stanislaus County Department of Environmental Resources (Health).

5-6.318. FEES.

It is the purpose of Section 5-6.318 to provide for the recovery of costs from Responsible Persons of the Collection System for the implementation of the program established in Article 3.

- (a) Charges and Fees.

The City may adopt charges and fees by resolution which may include:

- (1) Fees for reimbursement of costs of setting up and operating the City's FOG program;
 - (2) Fees for consistent removal by the City of FOG and/or pollutants otherwise subject to Federal Pretreatment Standards;
 - (3) Other fees as the City may deem necessary to carry out the requirements contained in Article 3.
- (b) Costs incurred by the City as a result of required on-site sampling and analysis shall be reimbursed to the City by the Responsible Person.
- (c) Noncompliance Fee.

Any Responsible Person determined to be in noncompliance with the terms and conditions specified in any provision of this Article may be required to pay a noncompliance fee. The purpose of the noncompliance fee is to compensate the City for costs of additional inspection and follow-up, sampling, monitoring, laboratory analysis, treatment, disposal, and administrative processing incurred as a result of the noncompliance, and shall be in addition to and not in lieu of any penalties as may be assessed pursuant to Articles 7 and 8 of Chapter 6. Noncompliance fees shall be in the amount determined by Council Resolution.

- (d) Grease Disposal Mitigation Fee.

Any FSE that operates without a Grease Interceptor may be required to pay an annual Grease Disposal Mitigation Fee to equitably cover the costs of increased maintenance of the Collection System as a result of the FSEs inability to adequately remove FOG from its Wastewater discharge. This section shall not be interpreted to allow new construction or an existing FSE undergoing remodeling and/or a change in operations to operate without an approved Grease Interceptor unless the Director has determined that it is impossible or impracticable to install and/or operate a Grease Interceptor for the subject facility under the provisions of Section 5-6.315 of Article 3.

- (1) The Grease Disposal Mitigation Fee shall be established annually by the Director and approved through Council Resolution. The

Grease Disposal Mitigation Fee shall be based on the estimated annual increased cost of maintaining the Collection System for inspection and removal of FOG and other viscous or solidifying agents attributable to the FSE resulting from the lack of a Grease Interceptor.

5-6.319. MONITORING AND REPORTING CONDITIONS.

- (a) The Director may require periodic reporting of the status of implementation of BMPs, in accordance with Article 3
- (b) The Director may require visual monitoring at the sole expense of the Responsible Person to observe the actual conditions of the FSE's Private Sewer Lateral.
- (c) The Director may require reports for self-monitoring of Wastewater constituents and FOG characteristics of the Responsible Person needed for determining compliance with any conditions or requirements as specified in this Chapter 6. Monitoring reports of the analyses of Wastewater constituents and FOG characteristics shall be in a manner consistent with this Chapter and form approved by the Director and shall be submitted upon request of the Director. Failure by the Responsible Person to perform any required monitoring, or to submit monitoring reports required by the Director constitutes a violation of Chapter 6 and shall be cause for the City to initiate all necessary tasks and analyses to determine the Wastewater constituents and FOG characteristics for compliance with any conditions and requirements specified in Chapter 6. The Responsible Person shall be responsible for any and all costs and expenses of the City in undertaking such monitoring analyses and preparation of reports.
- (d) Other reports may be required, such as compliance schedule progress reports, FOG control monitoring reports, and any other reports deemed reasonably appropriate by the Director to ensure compliance with Chapter 6.

5-6.320. FALSIFYING INFORMATION OR TAMPERING WITH PROCESS.

It shall be unlawful to make any false statement, representation, record, report, plan or other document that is filed with the City and/or the Director, or to tamper with or knowingly render inoperable any Grease Control Device, monitoring device or method or access point required under Chapter 6.

3560-C.S.
Effective: March 15, 2012

5-6.321. INSPECTIONS AND SAMPLING CONDITIONS.

- (a) The Director may inspect or order the inspection and sample the Wastewater discharges of any FSE to ascertain whether the intent of these regulations is being met and the Responsible Person is complying with all requirements. The Responsible Person shall allow access to the FSE premises, during normal business hours, for purposes of inspecting the FSE's Grease Control Devices, reviewing the bills of lading, receipts and invoices relating to the cleaning, maintenance and inspection of the Grease Control Devices.
- (b) The Director shall have the right to place or order the placement on the FSE's property, or other locations as determined by the Director, such devices as are necessary to conduct sampling or metering operations. Where an FSE has security measures in force, the Responsible Person shall make necessary arrangements so that the Director shall be permitted to enter without delay for the purpose of performing their specific responsibilities.
- (c) In order for the Director to determine the Wastewater characteristics for purposes of determining compliance with Chapter 6, the Responsible Person shall make available for inspection to the Director, all notices, monitoring reports, waste bills of lading, and records including, but not limited to, those related to Wastewater generation and Wastewater disposal. All such records shall be kept by the Responsible Person a minimum of three (3) years.

5-6.322. RIGHT OF ENTRY.

The Responsible Person of the FSE where Wastewater is created or discharged shall allow the Director reasonable access to all parts of the Wastewater generating and disposal facilities for the purposes of inspection and sampling during all times the FSE is open, operating, or any other reasonable time. No persons or occupants of premises shall interfere with, delay, resist or refuse entrance to the Director attempting to inspect any facility involved directly or indirectly with a discharge of Wastewater to the Collection System. In the event of an emergency involving an actual or imminent SSO, the Director may access adjoining businesses or properties that share a Private Sewer Lateral with an FSE in order to prevent or remediate the actual or imminent SSO.

5-6.323. NOTIFICATION OF SPILL.

- (a) In the event a Responsible Person is unable to comply with any provision of Article 3 due to a breakdown of equipment, accidents, or human error or the Responsible Person has reasonable opportunity to know that their discharge will exceed the discharge provisions of Chapter 6, the Responsible Person shall immediately notify the Wastewater Division by telephone. If the material discharged to the Collection System has the potential to cause or result in sewer blockages or SSOs, the Responsible Person shall immediately notify the Wastewater Division.
- (b) Confirmation of Responsible Person's notification shall be made in writing to the Director postmarked no later than five (5) calendar days from the date of the incident. The written notification shall state the date of the incident, the reasons for the discharge or spill, what steps were taken to immediately correct the problem, and what steps are being taken to prevent the problem from recurring.
- (c) Such notification shall not relieve the Responsible Person of any expense, loss, damage or other liability which may be incurred as a result of damage or loss to the City or any other damage or loss to persons or property; nor shall such notification relieve the Responsible Person of any fees or other liability which may be imposed by these regulations or other applicable law.

5-6.324. NOTIFICATION OF PLANNED CHANGES.

- (a) The Responsible Person shall notify the Director least sixty (60) days prior to any facility expansion or remodeling, or process modifications that may result in new or substantially increased FOG discharges or a change in the nature of the discharge. The Responsible Person shall notify the Director in writing of the proposed expansion or remodeling and shall submit any information requested by the Director for evaluation of the effect of such expansion or remodeling on the Responsible Person's FOG discharge to the Collection System.

5-6.325. HARMFUL DISCHARGE.

- (a) The City may suspend or terminate the Wastewater service when such suspension or termination is necessary, in the opinion of the Director, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, or which causes obstruction to the

Collection System or the POTW, or causes the City to violate any condition of its permits.

- (b) Any Responsible Person notified of a suspension or termination of Wastewater service shall immediately stop or eliminate all discharges to the Collection System. In the event of a failure of the Responsible Person to comply voluntarily with the suspension or termination order, the Director shall take such steps as he or she deems necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the Collection System or the POTW. The Director shall reinstate the Wastewater service only upon proof of the elimination of the nonconforming discharge. A detailed written statement submitted by the Responsible Person describing the causes of the harmful discharge and the measures taken to prevent any future occurrence shall be submitted to the Director within fifteen (15) days of the date of occurrence.

5-6.326. DETERMINATION OF NON-COMPLIANCE.

- (a) Sampling and inspection procedures.
 - (1) Sampling and inspection of FSEs shall be conducted in the time, place, manner, and frequency determined at the sole discretion of the Director.
 - (2) Noncompliance with any discharge provisions of these regulations may be determined by an inspection of the Grease Control Device, Grease Interceptor and associated manifest and documentation, or analysis of a grab or composite sample of the effluent of a FSE.
 - (3) Any sample taken from a sample point must be considered representative of the discharge to the Collection System, as determined by the Director.
- (b) Notice of Violation and Correction Order.

Any Responsible Person found to be in violation with the terms and conditions specified in any provision of Article 3 may be issued a Notice of Violation and/or Correction Order in which there will be a specified time period to correct the violation. If the violation is not corrected within the specified time period, the Responsible Person shall be considered in noncompliance.

5-6.327. COMPLIANCE SCHEDULE.

- (a) Upon determination that a Responsible Person is in noncompliance with the terms and conditions specified in any provision of Article 3, or needs to construct and/or acquire and install a Grease Control Device or Grease Interceptor, the Director may require the Responsible Person to enter into a Compliance Schedule on terms and conditions specified by the Director.
- (b) The Compliance Schedule may contain terms and conditions including, but not limited to, requirements for installation of a Grease Control Device, Grease Interceptor and facilities, submittal of drawings or reports, audit of waste hauling records, BMPs and waste minimization practices, payment of fees, or other provisions to ensure compliance with Article 3.
- (c) If compliance is not achieved in accordance with the terms and conditions of a Compliance Schedule during its term, the Director may issue an order suspending or terminating Wastewater service pursuant to Article 8 of this Chapter 6.

5-6.328. SUSPENSION AND/OR TERMINATION OF WASTEWATER SERVICE.

- (a) The City may suspend and/or terminate Wastewater service when the Director determines that a Responsible Person:
 - (1) Fails to comply with the terms and conditions of a Compliance Schedule order.
 - (2) Knowingly provides a false statement, representation, record, report, or other document to the City and/or the Director.
 - (3) Refuses to provide records, reports, plans, or other documents required by the City and/or the Director to determine discharge compliance or compliance with Article 3.
 - (4) Falsifies, tampers with or knowingly renders inaccurate any monitoring device or sample collection method.
 - (5) Refuses reasonable access to the FSE for the purpose of inspection and monitoring.
 - (6) Fails to make timely payment of all amounts owed to the City for

charges or any other fees imposed pursuant to Chapter 6.

- (7) Causes obstruction, sewer blockages or SSOs in the Collection System.
- (8) Violates Grease Interceptor or Grease Control Device maintenance requirements or any provision of this Chapter 6.
- (9) Fails to report significant changes in operations, or Wastewater constituents and characteristics.

5-6.329. VIOLATION-PENALTY.

- (a) Any violation of Article 3, or the orders, rules and regulations issued under Chapter 6 is unlawful and shall be an infraction or misdemeanor as determined by the City Attorney.
- (b) Any Responsible Person in violation of Article 3, or the orders, rules and regulations issued under Chapter 6 may be ordered by the Director to cease and desist operations until the violation is cured. Continuance of operations after issuance to the Responsible Person of a notice to cease and desist shall be unlawful, and an infraction or misdemeanor as determined by the City Attorney. Each day in which any such violation shall continue shall be deemed a separate offense.
- (c) The violation of any of the provisions of Article 3, or the orders, rules and regulations issued under Chapter 6, or the doing of any act prohibited or the failure or omission to do any act required by Article 3, or the orders, rules and regulations issued under Chapter 6, is a public nuisance and may be enjoined by the City Attorney.
- (d) If any violation of Article 3, or the orders, rules and regulations issued under Chapter 6, causes damage to the Collection System or POTW, the Director may seek to recover civil damages from the Responsible Person causing such damage.
- (e) The Director is authorized to levy against any person administrative civil penalties as prescribed in Charter 6 of Title 1 of the City Municipal Code per day for each violation of the rules and regulations issued under Chapter 6. The Notice and Order shall provide information as to the reason for the administrative fine and the authority and the notice shall also specify the person's right to appeal.

In determining the amount of the civil penalty, the Director may take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the economic benefit derived through any non-compliance, the nature and persistence of the violation, the length of time over which the violation occurred, and any remedial action attempted or taken by the violator.

- (f) The remedies and provisions of this section are cumulative, and are in addition to any other remedy or provision of law.

5-6.330. APPEALS.

Any Responsible Person affected by a decision, action, or determination, including suspension, revocation, refusal or termination of Wastewater service, cease and desist order, or imposition of civil penalties issued by the Director, or any other action of the Director in interpreting or implementing the provisions of this Chapter, may file an appeal in accordance with the City of Modesto's Municipal Code Title 1 Chapter 4 Appeals.

5-6.331. FAILURE TO COMPLY WITH THE ADMINISTRATIVE ENFORCEMENT ORDER.

- (a) Upon the failure of the Responsible Person to comply with the terms and deadlines set forth in the administrative enforcement order, the Director may use all appropriate legal means to recover the civil penalties, administrative costs and obtain compliance with the administrative enforcement order.
- (b) After the administrative hearing officer issues an administrative enforcement order, the Director shall monitor the violations and determine compliance.

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

3560-C.S.
Effective: March 15, 2012

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 February, 2012, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and ordered printed and published by the following vote:

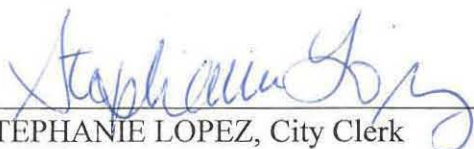
AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Ridenour

NOES: Councilmembers: None.

ABSENT: Councilmembers: None

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3560-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 February, 2012, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None.

ABSENT: Councilmembers: None

APPROVED:


MAYOR GARRAD MARSH

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: March 15, 2012

3560-C.S.
Effective: March 15, 2012

ORDINANCE NO. 3561-C.S.

AN ORDINANCE REPEALING CHAPTER 7 OF TITLE 8 OF
THE MODESTO MUNICIPAL CODE RELATING TO
ENTERPRISE INCENTIVES

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

SECTION 1. REPEALS. Chapter 7 of Title 8 of the Modesto Municipal Code is hereby repealed.

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.

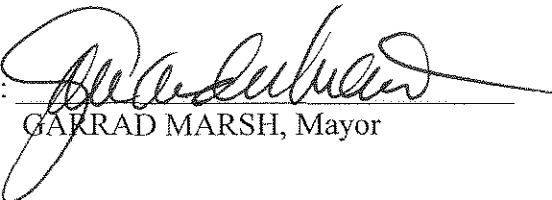
3561-C.S.
Effective: April 26, 2012

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2012, by Councilmember Lopez, 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: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None.

ABSENT: Councilmembers: None


APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

3561-C.S.
Effective: April 26, 2012

Ord. No. 3561-C.S.

FINAL ADOPTION CLAUSE

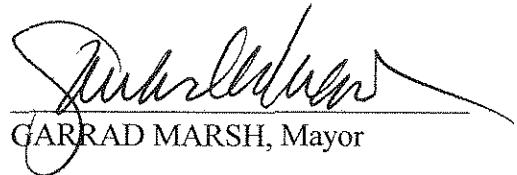
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 27th day of March, 2012, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None.

ABSENT: Councilmembers: None

APPROVED:


GARRAD MARSH, Mayor

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: April 26, 2012

3561-C.S.
Effective: April 26, 2012

ORDINANCE NO. 3562-C.S.

AN ORDINANCE REPEALING TITLE 10 OF THE MODESTO MUNICIPAL CODE RELATING TO THE ZONING REGULATIONS IN ITS ENTIRETY AND REENACTING A NEW TITLE 10 FOR A COMPREHENSIVE MAINTENANCE UPDATE.

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

SECTION 1. AMENDMENT OF CODE. Title 10 of the Modesto Municipal Code relating to the Zoning Regulations is hereby repealed in its entirety and reenacted to read as shown in EXHIBIT A.

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

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


The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 2012, by Councilmember Cogdill, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None.

ABSENT: Councilmembers: None

APPROVED:



GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3562-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None.

ABSENT: Councilmembers: None

APPROVED:


MAYOR GARRAD MARSH

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: May 24, 2012

ORDINANCE NO. 3563-C.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MODESTO
AUTHORIZING THE LEVY OF SPECIAL TAXES WITHIN THE CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2012-1 (KIERNAN BUSINESS PARK SOUTH)**

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

WHEREAS, on March 27, 2012, this City Council adopted a resolution entitled "A Resolution Declaring the City Council's Intention to Establish City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South) and to Authorize the Levy of a Special Tax Within Said Community Facilities District" stating its intention to form City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act") in order to finance certain services and facilities and incidental expenses to be incurred in connection with financing the foregoing; and

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

WHEREAS, subsequent to said hearing, the City Council adopted resolutions entitled "A Resolution Establishing City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South), Authorizing the Levy of Special Taxes Therein and Establishing an Annual Appropriations Limit" (the "Resolution of Formation"), and "A Resolution Calling a Special Election for the City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South)," which resolutions established the Community Facilities District, authorized the levy of special taxes therein and called an election within the Community Facilities District on the propositions of levying special taxes, authorizing the issuance of bonds and establishing an appropriations limit; and

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

NOW, THEREFORE, the Council of the City of Modesto, acting as the legislative body of City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South), DOES ORDAIN as follows:

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

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

SECTION 3. The Finance Director shall be responsible for annually preparing, or causing the preparation of, the current roll of special tax levy obligations by assessor's parcel number on non-exempt property within the Community Facilities District. The City Council or, to the maximum extent permitted by law, the Finance Director is authorized to determine the specific special taxes to be levied on each parcel of land in the Community Facilities District, in the manner and as provided in the Rate and Method. In connection with the foregoing, the Finance Director of the City shall take any and all steps necessary in order to deliver to the Stanislaus County Tax Collector, on or before the date specified in Section 53340, a certified list of all parcels subject to the Annual Maintenance Special Tax and/or the Annual Facilities Special Tax (each as defined in the Rate and Method) levies, including the amount of each such tax to be levied on each parcel for the applicable tax year. The special taxes to be levied shall not exceed the maximum rates set forth in the Rate and Method, but the special taxes may be levied at lower rates.

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

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

SECTION 6. The One-Time Special Facilities Tax (as defined in the Rate and Method) shall be collected prior to the issuance of a building permit for new construction of any structure on Taxable Property within the Community Facilities District. The Annual Maintenance Special Tax and the Annual Facilities Special Tax shall be collected in the same manner as ordinary *ad valorem* taxes are collected and shall be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for *ad valorem* taxes as such collection procedure may be modified by law or this City Council from time to time. Notwithstanding the foregoing, the Finance Director may collect, or cause to be collected, one or more installments of such special taxes by means of direct billing of the property owners within the Community Facilities District if, in the judgment of the Finance Director, such means of collection will reduce the burden of administering the Community Facilities District or is otherwise appropriate in the circumstances. In such event, such special taxes shall become delinquent if not paid when due as set forth in any such respective billing to the property owners.

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

SECTION 8. At least two (2) days prior to its final adoption, copies of this Ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a

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

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May 2012, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None.

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

ATTACHMENT A
CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2012-1
(KIERNAN BUSINESS PARK SOUTH)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2012-1 (Kiernan Business Park South) shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2012-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2012-1 unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acre" or "Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map or other Subdivision Map.

"Administration Component" means the portion of the Maximum One-Time Facilities Special Tax that is for administrative costs incurred by the City throughout the term of the One-Time Facilities Special Tax including, but not limited to, costs associated with the preparation and oversight of reimbursement agreements, accounting, and tracking of credits. For Original Parcels, the Administration Component is shown in Attachment I to this RMA. Beginning in January 2013 and each January thereafter, the Administration Component shall be adjusted annually by the greater of: (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available; or (ii) four percent (4.0%). Each annual adjustment of the Administration Component shall become effective on January 1 of the calendar year for which the annual adjustment was made.

"Administrative Expenses" means any or all of the following: expenses incurred by the City in carrying out its duties with respect to CFD No. 2012-1, including, but not limited to, levying and collecting the Special Taxes; the fees and expenses of legal counsel; charges levied by the County Auditor's Office, Tax Collector's Office, and/or Treasurer's Office; costs related to annexing property into the CFD; costs related to property owner inquiries regarding the Special Taxes; and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

"Administrator" means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Tax.

"Annual Maintenance Special Tax" means a special tax levied in any Fiscal Year to pay the Annual Maintenance Special Tax Requirement, as defined below.

“Annual Maintenance Special Tax Requirement” means that amount necessary in any Fiscal Year to: (i) pay for Authorized Services, (ii) pay for Administrative Expenses, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

“Assessor’s Parcel” or **“Parcel”** means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

“Assessor’s Parcel Map” means an official map of the County Assessor designating parcels by Assessor’s Parcel number.

“Authorized Facilities” or **“Authorized Facility”** means those facilities that are authorized to be funded by CFD No. 2012-1, including land purchases for right-of-way and a storm drainage basin, and any other land that is acquired to construct an Authorized Facility.

“Authorized Services” means those services that are authorized to be funded by CFD No. 2012-1.

“Base Maximum One-Time Facilities Special Tax” means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year not including the Administration Component. For Original Parcels, the Base Maximum One-Time Facilities Special Tax is shown in Attachment 1 to this RMA. Beginning in January 2013 and each January thereafter, the Base Maximum One-Time Facilities Special Tax shall be adjusted annually by the greater of: (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available; or (ii) four percent (4.0%). Each annual adjustment of the Base Maximum One-Time Facilities Special Tax shall become effective on January 1 of the calendar year for which the annual adjustment was made.

“Base Year” means the year in which Authorized Facilities dedicated by a Builder/Developer were accepted by the City. The Administrator shall keep track of the Base Year for each Authorized Facility the City accepts.

“Building Permit” means a permit issued by the City’s Building Department for construction, reconstruction, or expansion of a vertical building structure, or for construction of the foundation of such structure.

“Builder/Developer” means a person or entity that is a property owner, builder, or developer of any Parcel or Parcels within CFD No. 2012-1.

“CFD” or **“CFD No. 2012-1”** means the City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South).

“CFD Formation” means the date on which the Resolution of Formation to form CFD No. 2012-1 was adopted by the City Council.

“City” means the City of Modesto.

“City Council” means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2012-1.

“County” means the County of Stanislaus.

“Credit/Reimbursement Amount” means the Authorized Facilities costs that have been paid in advance by a Builder/Developer (including land dedications for which the Builder/Developer will receive credits and/or reimbursements) and have not yet been reimbursed to that Builder/Developer through one of the following: (i) the application of Special Tax Credits (as defined below) or (ii) payments to the Builder/Developer from One-Time Facilities Special Taxes collected from other Builders/Developers in the CFD. The Credit/Reimbursement Amount outstanding at any point in time will be determined pursuant to Section D below.

“Developed Property” means, in any Fiscal Year, all Parcels for which one or more of the following events have occurred: (i) a Building Permit was issued prior to June 30 of the preceding Fiscal Year; or (ii) the City has accepted improvements, infrastructure, or public facilities that were constructed as a condition of development of the Parcel (not including the acceptance of land by the City for public right-of-ways that will be a site for future improvements, infrastructure, or public facilities) and were constructed, or paid to be constructed, by the owner of such Parcel. Notwithstanding the foregoing, the Parcel identified at CFD Formation as APN 078-018-036 shall not be classified as Developed Property until such time as a connection to the City’s storm drainage system occurs, and it shall be at the discretion of the City to determine whether or not such a connection has occurred. In addition, a Parcel that had an existing building, or had a Building Permit issued, prior to CFD Formation shall not be classified as Developed Property until such time as a new Building Permit is issued for the Parcel that creates a new vertical structure or structures if such new structures do not simply support or represent an addition to the building that occupied the Parcel or had a Building Permit issued prior to CFD Formation.

“Final Map” means a final map, parcel map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates lots which do not need to be further subdivided prior to issuance of a Building Permit for a residential or non-residential structure.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Maximum Annual Maintenance Special Tax” means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Section C below.

“Maximum CFD Maintenance Cost” means \$80,053 in Fiscal Year 2012-13 dollars, and includes the estimated annual cost of Administrative Expenses. Beginning in January 2013 and each January thereafter, the Maximum CFD Maintenance Cost Tax shall be adjusted annually by the greater of: (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available; or (ii) four percent (4.0%). Each annual adjustment of the Maximum CFD Maintenance Cost shall become effective on July 1 of the calendar year for which the annual adjustment was made.

“Maximum One-Time Facilities Special Tax” means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year, which is equal to the sum of the Base Maximum One-Time Facilities Special Tax and the Administration Component for the Parcel. For Original Parcels, the Maximum One-Time Facilities Special Tax is shown in

Attachment 1 to this RMA. Notwithstanding the foregoing, the City may allow adjustments to the Maximum One-Time Facilities Special Tax assigned in Attachment 1 if all of the following occur: (i) there are changes in the Net Taxable Acreage estimates for Original Parcels, (ii) based on those changes, the City concludes that a redistribution of the Maximum One-Time Facilities Special Tax is appropriate, and (iii) written confirmation is received from the owner of each Parcel that will be affected by the redistribution. Once all these items have occurred, the Administrator shall prepare a new Attachment 1 which shall henceforth be the operative RMA for purposes of calculating the Maximum One-Time Facilities Special Tax. For all other Parcels, the Maximum One-Time Facilities Special Tax is determined in accordance with Section C below.

“Maximum Special Taxes” means, collectively, the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax.

“Net Taxable Acre” or **“Net Taxable Acreage”** means the total gross Acreage within a Final Map or Parcel less road right-of-ways and property that is identified in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by a subdivision, the Administrator shall calculate the Net Taxable Acreage of such Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined at the sole discretion of the City.

“One-Time Facilities Special Tax” means a special tax levied and collected in full by the City prior to a Building Permit being issued for new construction on Taxable Property.

“Original Parcel” means any of the Assessor’s Parcels that were included in the CFD at the time of CFD Formation, as identified in Attachment 1 to this RMA. A Parcel that was created from the subdivision of an Original Parcel and is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C.

“Proportionately” means, for Developed Property, that the ratio of the actual Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Developed Property.

“Public Property” means any property within the boundaries of CFD No. 2012-1 that is owned by the federal government, State of California, County, City, or other public agency.

“RMA” means this Rate and Method of Apportionment of Special Tax.

“Special Tax Credit” means a waiver of the creditable portion of the Base One-Time Facilities Special Tax that would otherwise be due from a Parcel in the CFD if the Builder/Developer of that Parcel did not have an outstanding Credit/Reimbursement Amount.

“Special Taxes” means, collectively, the One-Time Facilities Special Tax and the Annual Maintenance Special Tax.

“Subdivision Map” means a Final Map, large lot subdivision map, tentative map, or other map recorded with the County and/or approved by the City that results in the subdivision of a Parcel or a change in the quantity or type of proposed land uses.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 2012-1 which are not exempt from the Special Taxes pursuant to law or Section G below.

“Taxable Public Property” means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2012-1 that: (i) based on a tentative map or other Subdivision Map, were expected to be Taxable Property; and (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year. However, if Parcels designated as Public Property based on a tentative map or other Subdivision Map are relocated, the new Public Property will again become exempt. If such relocation occurs, the Acreage previously designated as Public Property will become Taxable Property and the Acreage that becomes Public Property will not be taxed. This trading of Acres of Public Property will be permitted to the extent that there is no net loss in Maximum Special Tax revenues.

“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2012-1 that are not Developed Property.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Parcels of Taxable Property. The Administrator shall also determine: (i) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property; (ii) the Net Taxable Acreage for each Parcel; and (iii) the Annual Maintenance Special Tax Requirement. In addition, the Administrator shall update Attachment 1 to this RMA pursuant to Section C as Original Parcels are subdivided.

In any Fiscal Year, if it is determined that (i) a Final Map for a portion of property in the CFD was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the Final Map was recorded, the Assessor does not yet recognize the new Parcels created by the Final Map, and (iii) one or more of the newly-created Parcels meets the definition of Developed Property, the Administrator shall calculate the Special Taxes for the property affected by recordation of the Final Map by determining the Special Taxes that apply separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the Final Map.

C. CALCULATING MAXIMUM SPECIAL TAXES

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2012-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax.

1. Maximum One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax for each Original Parcel in CFD No. 2012-1 at the time of CFD Formation is shown in Attachment 1 to this RMA. Each time a

Subdivision Map is approved within the CFD or when Parcels are otherwise subdivided or reconfigured, the Administrator shall reallocate the Maximum One-Time Facilities Special Tax assigned to each Original Parcel to the newly-created Parcel(s) within the Subdivision Map as follows:

- Step 1.** For any given point in time, calculate the Base Maximum One-Time Facilities Tax and the Administration Component applicable to the Original Parcel being subdivided.
- Step 2.** Determine the Net Taxable Acreage of each Parcel created by the approval of the Subdivision Map.
- Step 3.** Sum the Net Taxable Acreage from Step 2 for all newly-created Parcels to determine the total Net Taxable Acreage resulting from the subdivision of the Original Parcel.
- Step 4.** For each newly-created Parcel, divide the Net Taxable Acreage determined in Step 2 by the total Net Taxable Acreage of the Original Parcel determined in Step 3 to calculate a percentage.
- Step 5.** For each newly-created Parcel, multiply the percentage calculated in Step 4 by the amounts calculated in Step 1 to determine the Base Maximum One-Time Facilities Special Tax and Administration Component to be allocated to each newly-created Parcel.
- Step 6.** For each newly-created Parcel, add the Base Maximum One-Time Facilities Special Tax and the Administration Component calculated in Step 5 to determine the Maximum One-Time Facilities Special Tax. Attachment 1 of this RMA will be updated by the Administrator each time an Original Parcel is subdivided to show the Base Maximum One-Time Facilities Special Tax, the Administration Component, and the Maximum One-Time Facilities Special Tax for each newly-created Parcel.

Under no circumstances shall the sum of the Maximum One-Time Facilities Special Tax for all Parcels created by the subdivision or reconfiguration of an Original Parcel ever be less than the Maximum One-Time Facilities Special Tax of the Original Parcel.

2. Annual Maintenance Special Tax

Each Fiscal Year, the Maximum Annual Maintenance Special Tax shall be determined for each Parcel of Developed Property using the following methodology:

- Step 1.** For any Fiscal Year, calculate the total Maximum CFD Maintenance Cost.
- Step 2.** Determine the Net Taxable Acreage of all Parcels of Developed Property.

- Step 3.** Divide the Net Taxable Acreage of each Parcel of Developed Property by the total Net Taxable Acreage of all Parcels of Developed Property calculated in Step 2 to obtain a percentage for each Parcel.
- Step 4.** Multiply the percentage calculated in Step 3 by the Maximum CFD Maintenance Cost in Step 1 to determine the Maximum Annual Maintenance Special Tax for each Parcel of Developed Property for the then-current Fiscal Year.

D. IMPLEMENTATION OF CREDIT/REIMBURSEMENT PROGRAM

Certain Builders/Developers may be required to construct, pay for, or provide Authorized Facilities that are ultimately intended to be funded from One-Time Facilities Special Tax revenues. The City shall implement a Special Tax Credit and reimbursement program, so that Builders/Developers that construct, pay for or provide Authorized Facilities will receive a credit against their Base Maximum One-Time Facilities Special Tax and/or be reimbursed for Authorized Facilities costs, if revenues are available.

At the request of the landowners at the time this RMA was prepared and CFD No. 2012-1 was formed, all credits and reimbursements to Builders/Developers who construct, pay for, or provide Authorized Facilities shall be based on the actual cost of those Authorized Facilities, with the exception of right-of-way and storm drainage basin land costs, which shall be reimbursed at fair market value at the time of dedication, as determined by the City. Pursuant to this request, if the cost of the Authorized Facility constructed, paid for, or provided is less than the Builder/Developer's Base Maximum One-Time Facilities Special Tax, the Builder/Developer shall receive a Special Tax Credit against their Base Maximum One-Time Facilities Special Tax equal to the actual cost of the Authorized Facility constructed, paid for, or provided, and the remaining Base Maximum One-Time Facilities Special Tax shall be paid by the Builder/Developer in addition to the full Administration Component.

Alternatively, if the cost of the Authorized Facility constructed, paid for, or provided exceeds the Builder's/Developer's Base Maximum One-Time Facilities Special Tax, the Builder/Developer will qualify for a Special Tax Credit and/or a reimbursement from the collection of future One-Time Facilities Special Taxes, as set forth below; the Builder/Developer must still pay the full Administration Component. Notwithstanding the foregoing, there is no guarantee that future One-Time Facilities Special Taxes will be available to reimburse the Builder/Developer. All Credit/Reimbursement Amounts shall be determined by the City based on evidence of costs provided to the City by the Builder/Developer.

The landowners at the time this RMA was prepared and CFD No. 2012-1 was formed also requested that a Builder/Developer not receive any Special Tax Credits if other Builders/Developers have unpaid Credit/Reimbursement Amounts outstanding that have a higher priority for reimbursement. In other words, any outstanding Credit/Reimbursement Amounts for Builders/Developers that have a higher reimbursement priority shall be fully paid prior to Special Tax Credits being applied to a Builder/Developer with a lower reimbursement priority.

The following steps shall be applied to implement the credit/reimbursement program summarized above:

1. On an Ongoing Basis

- a. In January 2013 and each January thereafter, the Administrator shall escalate the Maximum One-Time Facilities Special Tax assigned to each Parcel and the Credit/Reimbursement Amount outstanding for any Builder/Developer by the greater of: (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available; or (ii) four percent (4.0%). Each annual adjustment shall become effective on January 1 of the calendar year for which the annual adjustment was made.
- b. The City shall determine whether One-Time Facilities Special Tax revenues are available to reimburse Builders/Developers that have an outstanding Credit/Reimbursement Amount. If such revenues are available, the City shall pay reimbursements on a "first-incurred/first-paid" basis, as determined by the Base Year for each Authorized Facility accepted by the City. Once the Builder/Developer with first priority is fully reimbursed, the Builder/Developer with second priority will be able to take Special Tax Credits against their One-Time Facilities Special Tax and, if a Credit/Reimbursement Amount is still outstanding, be paid such outstanding Credit/Reimbursement amount if and when One-Time Facilities Special Tax revenues are available. Such reimbursement shall continue until the earlier of (i) the date on which all outstanding Credit/Reimbursement Amounts are paid, or (ii) the date on which no One-Time Facilities Special Tax revenues are available to pay outstanding Credit/Reimbursement Amounts and no additional One-Time Facilities Special Tax revenues are anticipated to be received by the City. There is no guarantee that all Credit/Reimbursement Amounts will be paid to Builders/Developers.

2. At any time that Authorized Facilities are accepted by the City

The Administrator shall apply the following steps each time Authorized Facilities are dedicated to the City and the City accepts such dedication(s):

- Step 1.** Determine the total cost of Authorized Facilities accepted by the City. This total cost shall be the Credit/Reimbursement Amount applicable to the Builder/Developer that dedicated the Authorized Facilities.
- Step 2.** Identify and record the Base Year for the Authorized Facilities and determine priority for the Builder's/Developer's Credit/Reimbursement Amount relative to outstanding Credit/Reimbursement Amounts owed to other Builders/Developers.
- Step 3.** Beginning in the calendar year that commences after the Base Year, the Administrator shall escalate the Credit/Reimbursement Amount

determined in Step 1 each year as outlined in Section D.1 above. If a Builder/Developer constructed, paid for, or provided Authorized Facilities with different Base Years, the Credit/Reimbursement Amount shall be escalated taking the different Base Years into account.

3. Prior to issuance of a Building Permit

When a Builder/Developer requests issuance of a Building Permit, the Administrator shall determine if the Builder/Developer has an outstanding Credit/Reimbursement Amount and apply the appropriate subsection below to determine the Credit/Reimbursement Amount and remaining One-Time Facilities Special Taxes (if any) for the Builder/Developer:

- a. **A Credit/Reimbursement Amount is outstanding for the Builder/Developer requesting issuance of a Building Permit, and the Builder/Developer has first priority with respect to their Credit/Reimbursement Amount.**

For any Fiscal Year, the Administrator shall apply the following steps to determine the Maximum One-Time Facilities Special Tax, if any, that is due from the subject Parcel(s):

Step 1. Identify the Base Maximum One-Time Facilities Special Tax that would have been paid by the Parcel(s) if no Credit/Reimbursement Amount were outstanding.

Step 2. *If the Base Maximum One-Time Facilities Special Tax determined in Step 1 is less than the outstanding Credit/Reimbursement Amount for the Builder/Developer, the Administration Component shall be collected and the Builder/Developer shall be given a Special Tax Credit against the Base Maximum One-Time Facilities Special Tax for that Parcel(s). After the Special Tax Credit has been calculated, the Administrator shall subtract the aggregate amount of such Special Tax Credits from the outstanding Credit/Reimbursement Amount for the Builder/Developer, and the Builder/Developer shall qualify for reimbursement of the remaining Credit/Reimbursement Amount to the extent One-Time Facilities Special Tax revenues are available.*

If the Base Maximum One-Time Facilities Special Tax is greater than the outstanding Credit/Reimbursement Amount for the Builder/Developer, the Administrator shall subtract the outstanding Credit/Reimbursement Amount from the Base Maximum One-Time Facilities Special Tax to determine the net amount of the Base Maximum One-Time Facilities Special Tax that must be paid by the Builder/Developer. In addition, the Builder/Developer must pay the full Administration Component assigned to the Parcel(s) for which the Building Permit is being issued. The Administrator shall update the CFD records to reflect a zero Credit/Reimbursement Amount for that Builder/Developer.

- b. **A Credit/Reimbursement Amount is outstanding for the Builder/Developer requesting issuance of a Building Permit, and the Builder/Developer does not have first priority with respect to their Credit/Reimbursement Amount.**

For any Fiscal Year, the Administrator shall apply the following steps to determine the Maximum One-Time Facilities Special Tax, if any, that is due from the subject Parcel(s):

Step 1. Identify the Base Maximum One-Time Facilities Special Tax that would have been paid by the Parcel(s) if no Credit/Reimbursement Amount were outstanding.

Step 2. Identify the aggregate outstanding Credit/Reimbursement Amounts that have a higher priority than the amount due the Builder/Developer requesting issuance of a Building Permit.

Step 3. *If the Base Maximum One-Time Facilities Special Tax determined in Step 1 is less than the Credit/Reimbursement Amounts that are due other Builders/Developers as determined in Step 2, the Base Maximum One-Time Facilities Special Tax and the Administration Component shall be collected from the Builder/Developer requesting issuance of a Building Permit. The Base One-Time Facilities Special Tax collected shall be used to reimburse Builders/Developers with higher reimbursement priority, and the Administration Component collected shall be retained by the City. The Builder/Developer requesting issuance of a Building Permit shall then qualify for a reimbursement of their entire Credit/Reimbursement Amount and be placed in order of priority behind any remaining Builders/Developers that still have outstanding Credit/Reimbursement Amounts.*

If the Base Maximum One-Time Facilities Special Tax determined in Step 1 is greater than the Credit/Reimbursement Amounts that are due all other Builders/Developers as determined in Step 2, the Administration Component and the amount of the aggregate Credit/Reimbursement Amounts that are due other Builder/Developers shall be collected from the Builder/Developer requesting issuance of a Building Permit. The outstanding Credit/Reimbursement Amounts due all other Builder/Developers shall be subtracted from the Base Maximum One-Time Facilities Special Tax to determine the net amount of the Base Maximum One-Time Facilities Special Tax that must be paid by the Builder/Developer. Using this net amount of the Base Maximum One-Time Facilities Special Tax as the starting point, the steps in Section D.3.a shall be applied to determine the remaining One-Time Facilities Special Tax and/or outstanding Credit/Reimbursement amount, if any, applicable to the Builder/Developer requesting issuance of a Building Permit.

- c. **No Credit/Reimbursement Amount is outstanding for the Builder/Developer requesting issuance of a Building Permit**

If no Credit/Reimbursement Amount is outstanding for the Builder/Developer requesting issuance of a Building Permit, then the Maximum One-Time Facilities Special Tax as calculated pursuant to Section C.1 above shall be due and payable to the City.

E. METHOD OF LEVY OF THE SPECIAL TAX

1. One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2012-1 and shall be collected as set forth in Section F below.

2. Annual Maintenance Special Tax

Each Fiscal Year, the Administrator shall determine the Annual Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year;

F. COLLECTION OF SPECIAL TAX

The Maximum One-Time Facilities Special Tax shall be collected prior to a Building Permit being issued for new construction on Taxable Property within CFD No. 2012-1, and shall be immediately delinquent if not so paid.

The Annual Maintenance Special Tax for CFD No. 2012-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes; provided, however, that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Maintenance Special Taxes through foreclosure or other available methods.

The Annual Maintenance Special Tax will continue to be levied and collected unless and until the City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay for Authorized Services and Administrative Expenses.

G. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on Public Property, except Taxable Public Property, as defined herein. Special Taxes shall not be levied on Parcels that are owned by a public utility for an unmanned facility or on Parcels that are subject to an easement that precludes any other use on the Parcels. In addition, no Annual Maintenance Special Tax shall be levied on any Parcel of Undeveloped Property.

H. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning the Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Tax.

I. ENFORCEMENT

All delinquent Annual Maintenance Special Taxes billed off the County tax roll shall be subject to an immediate 10% penalty plus interest charges of 1.5% as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City's discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following January 1. This shall not prevent the City from simultaneously pursuing the delinquency by an action on a contract of guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.

ATTACHMENT 1

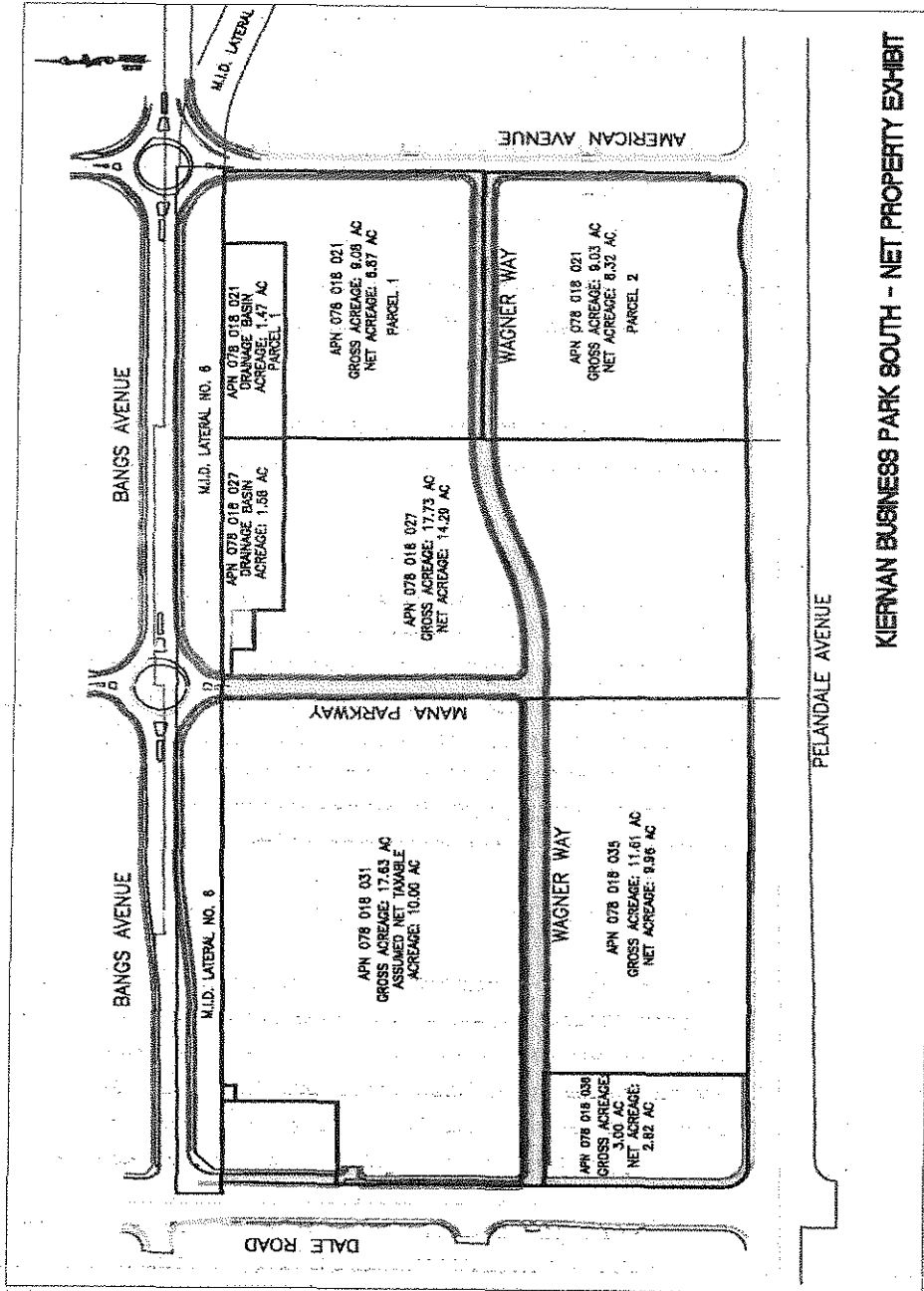
**City of Modesto Community Facilities District No. 2012-1
(Kiernan Business Park South)
Maximum One-Time Facilities Special Tax
at CFD Formation**

<i>Assessor's Parcel Number (Original Parcels) ^{/1}</i>	<i>Net Taxable Acreage</i>	<i>Base Maximum One-Time Facilities Special Tax ^{/2}</i>	<i>Administration Component ^{/2}</i>	<i>Maximum One-Time Facilities Special Tax</i>
078-018-021 (1)	6.87	\$ 1,351,942	\$ 14,502	\$ 1,366,444
078-018-021 (2)	8.32	1,803,001	17,563	1,820,564
078-018-027	14.29	2,948,137	30,166	2,978,303
078-018-031 ^{/3}	14.00	3,035,561	29,553	3,065,114
078-018-035	9.96	2,233,405	26,556	2,259,961
078-018-036	2.62	0	0	0
Total		\$11,372,045	\$118,341	\$ 11,490,386

- ^{/1} At the time of CFD Formation, APN 078-018-021 was anticipated to be subdivided into two separate parcels based on a preliminary parcel map submitted to the City. Attachment 2 to this RMA shows the geographic locations of APN 078-018-021 (1) and APN 078-018-021 (2) based on this preliminary parcel map. The Maximum One-Time Facilities Special Taxes shown above for these two Parcels were calculated based on this preliminary parcel map.
- ^{/2} Represents the Base Maximum One-Time Facilities Special Tax and the Administration Component at the time of CFD Formation. Beginning in January 2013 and each January thereafter, the Base Maximum One-Time Facilities Special Tax and the Administration Component shall be adjusted annually by the greater of: (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available; or (ii) four percent (4.0%). Each annual adjustment of the Base Maximum One-Time Facilities Special Tax and the Administration Component shall become effective on January 1 of the calendar year for which the annual adjustment was made.
- ^{/3} At the time of CFD Formation, APN 078-018-031 was not included in the CFD. This Parcel may or may not annex to the CFD at a future date, and it will not pay its Maximum One-Time Facilities Special Tax until such time as it annexes to the CFD and a Building Permit is issued for construction on the Parcel.

ATTACHMENT 2

City of Modesto Community Facilities District No. 2012-1
(Kiernan Business Park South)
Identification of Original Parcels
at CFD Formation



KIERNAN BUSINESS PARK SOUTH - NET PROPERTY EXHIBIT

Ord. No. 3563-C.S.

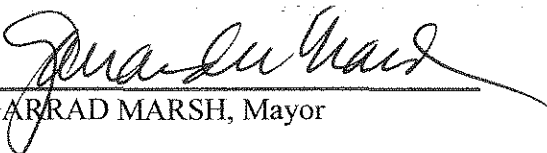
FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 8th day of May, 2012, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None.

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

Effective Date: June 8, 2012

ORDINANCE NO. 3564-C.S.

AN ORDINANCE AMENDING SECTION 28-3-9 OF THE ZONING MAP TO REZONE FROM MEDIUM HIGH DENSITY RESIDENTIAL ZONE, R-3, TO PLANNED DEVELOPMENT ZONE, P-D(594), PROPERTY LOCATED ON THE WEST CORNER OF 17TH AND G STREETS (SATELLITE HOUSING/AMERICAN BAPTIST HOMES OF THE WEST)

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, P-D(594):

R-3 to P-D(594)

All those portions of Lots 7 through 16 in Block 127 as per Map thereof filed December 21, 1942 in Volume 15 of Maps, Stanislaus County Records lying in the southwest quarter of Section 28, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

BEGINNING at the north corner of said Lot 7, said point being on the southwesterly right-of-way line of 80.00 feet wide 17th Street; thence South 43° 12' 09" East 250.05 feet on said right-of-way line to the east corner of aforementioned Lot 16 and the northwesterly right-of-way line of 80.00 feet wide G Street; thence South 46° 49' 09" West 139.94 feet on said northwesterly right-of-way line to the south corner of said Lot 16 and the northeasterly line of the 20.00 feet wide alley through Block 127; thence North 43° 11' 11" West 250.05 feet on said northeasterly alley line; thence leaving said northeasterly alley line, North 46° 49' 12" East 140.00 feet on the northwesterly line of said Lot 7 to the point of beginning.

Also including the southwesterly 40.00 feet of 17th Street, the northwesterly 40.00 feet of G Street, and the northeasterly 10.00 feet of the alley, all being immediately adjacent to the above described property.

APNs: 106-006-012 and 106-006-013

SECTION 2. USES. The following uses shall be permitted in said P-D(594) 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 10-7.108(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 10-7.108(a) or (b) of the Modesto Municipal Code:

1. A three-story senior housing apartment building.
2. Residential uses as allowed in the R-3 Zone.

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 22nd day of May, 2012, by Councilmember Cogdill, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None.

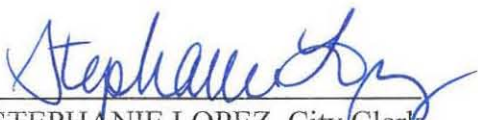
ABSENT: Councilmembers: None

APPROVED:


GARRAD MARSH, Mayor

ATTEST:

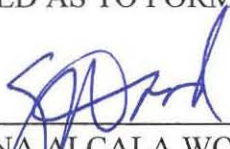
By


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By


SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO DESCRIPTION:

By


Community & Economic Development
Department, Planning Division

Ord. No. 3564-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of June 2012, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None.

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, Mayor

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: July 5, 2012

ORDINANCE NO. 3565-C.S.

AN ORDINANCE AMENDING SECTION 3-1.304 OF ARTICLE 3 OF CHAPTER 1 OF TITLE 3 OF THE MODESTO MUNICIPAL CODE RELATING TO ADMINISTRATIVE REMEDIES AND SECTION 3-1.223 OF ARTICLE 2 OF CHAPTER 1 OF TITLE 3 OF THE MODESTO MUNICIPAL CODE RELATING TO SALES OF FIREWORKS.

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

SECTION 1. AMENDMENT OF CODE. Section 3-1.304 of Article 3 of

Chapter 1 of Title 3 of the Modesto Municipal Code is hereby amended to read as follows:

3-1.304. ADMINISTRATIVE REMEDIES.

In addition to any other remedies set forth in this chapter, administrative penalties may be imposed against any person, as defined in Section 1-6.207 of the Modesto Municipal Code, for violating any of the requirements set forth in this chapter. Any administrative penalties assessed shall be as follows:

- (a) For violations of Section 3-1.227, possession, sale, use or discharge of dangerous fireworks, the administrative penalty shall be one thousand dollars (\$1,000.00) for each specific act found to be in violation of that section.
- (b) For all violations of this chapter, other than Section 3-1.227, possession, sale, use or discharge of dangerous fireworks, the amount of the administrative penalty shall be two hundred fifty dollars (\$250.00) for the first violation, five hundred dollars (\$500.00) for a second violation within any twelve (12) month period, and seven hundred fifty dollars (\$750.00) for any subsequent violations within any twelve (12) month period.

SECTION 2. AMENDMENT OF CODE. Section 3-1.223 of Article 3 of

Chapter 1 of Title 3 of the Modesto Municipal Code is hereby amended to read as follows:

3-1.223. SALES OF FIREWORKS.

Section 3308 of the 2007 California Fire Code is hereby amended by adding the

following:

3308.4. Sales. It shall be unlawful to engage in the sale of "Safe and Sane" fireworks in the City of Modesto without first having secured a permit to do so.

- (1) Effective with 2005, the total number of sales permits issued in any given year shall be limited to seventy (70). If the number of permits exceed seventy (70) at the time of this ordinance the reduction will be accomplished through attrition. Therefore, any permit in excess of seventy (70) that is not renewed or lost for cause, or for any other reason shall not be reissued.
- (2) Sales permits for the sale of "Safe and Sane" fireworks in the City of Modesto shall be issued only to local nonprofit organizations and existing local for-profit organizations as defined herein.
 - (A) A "nonprofit organization" shall mean any nonprofit association, club, or corporation organized for veteran, patriotic, welfare, religious, civic betterment, youth or charitable purposes, as defined by Section 501(c) of the Internal Revenue Code of the United States, or affiliated with a public school located within the city limits of Modesto or within the City of Modesto sphere of influence. Each new organization shall provide the City with a copy of their "Letters of Incorporation" as proof of their nonprofit status. Existing organizations shall submit verification of current corporation status from the State of California Secretary of State's Office. Those organizations that are an integral part of a recognized national organization having tax exempt status must provide IRS written verification of such status. All applications will be subject to additional verification with the State of California and IRS if nonprofit status comes into question.
 - (B) Public school organizations shall provide current written verification of affiliation from the school each year.
 - (C) A "local nonprofit organization" must have its principal and permanent meeting place in the City of Modesto or within the City of Modesto sphere of influence. The organization

must have obtained nonprofit status and have been organized and established in the City of Modesto for a minimum of one (1) continuous year preceding the filing of the application for permit. The organization must also have a bona fide membership of at least ten (10) members who reside in the City of Modesto, which will be verified each year. Applications shall be signed by two (2) bona fide officers of the eligible organization, wherein the officer, on behalf of the organization and its agents, agrees to abide by State laws, administrative regulations, and all stipulations of this Code and the permit if permission to operate a fireworks stand is granted to the organization.

- (D) An "existing local for-profit organization" must have a permitted fixed business location in the City of Modesto, have been issued a fireworks sales permit the previous year, have remained under the same management and/or ownership continuously since 1999, and have paid all business license and mill tax fees due the City of Modesto by the close of the application period. In the event mill taxes and business license fees are not current the organization's application will be denied.
- (E) If any of the above items fail to be met at the time of application, the organization's application shall be denied.

(3) Sales permits for retail sales of "Safe and Sane" fireworks in the City of Modesto issued pursuant to provision of this Code are not transferable by the holder of the permit. The sales permits may be used only by the organization to which they are issued. Violations will result in the immediate loss of the organization's sales permit.

(4) All applications for sales permits shall be in writing to the Fire Code Official on forms supplied by the City. Applications may only be filed during normal business hours from April 1st of each year up to and including April 30th of the same year, at which time the filing period for that year will close. A separate sales permit shall be required for each proposed location of a fireworks stand.

Each organization may file an application for one (1) sales permit for which there is only one tax ID number.

- (5) Applications shall set forth the proposed location of the fireworks stand including the nine (9) digit parcel number (APN) of the Stanislaus County Assessor, a site map, and other information as may be required by the Fire Code Official.
- (6) Applicants for sales permits shall be notified by June 15th of each year by the Fire Code Official of approval or disapproval of such application. Sales permits will be issued after final inspection of the stand reveals compliance with all state and local regulations. Organizations shall not open for sales prior to the final inspection of their stand. If an organization's stand fails to pass inspection there will be a re-inspection fee charged for the third (3rd) inspection, and each inspection thereafter until final inspection is approved, as established by Resolution No. 03-446.
- (7) Every application shall be accompanied by proof of insurance as specified in Section 3-1.226. Other items required at the time of application will be the organization's verification of eligibility as stated in 2(A) above, list of bona fide members, and current written permission signed by the property owner of record (with respect to lessee permission, approval shall be in the sole discretion of the Fire Code Official to sell fireworks at that location. Organizations representing public schools, as stated in 2(B) above, require written verification from the school of their affiliation.
- (8) Every application shall be accompanied by a nonrefundable application fee as established by resolution of the City Council from time to time. This application fee shall be in addition to any fees or taxes imposed by Title 6 of the Modesto Municipal Code.
- (9) Any local nonprofit organization as defined herein may make application for a sale permit but pre-approved (continuously permitted since 1999) organizations will have first option for a permit.
 - (A) When additional sales permits are authorized and all current pre-approved organizations have applied for such permits, a lottery will be held to fill any vacancies.
 - (B) This lottery will be held fourteen (14) days after the last day

of the filing period specified in paragraph 4 and will include the names of all new local nonprofit organizations that have filed a complete application within the said filing period. If the fourteenth (14th) day falls on a weekend the lottery will be held on the next business day.

(C) One organization will be drawn for each available vacancy. If the organization whose name is drawn declines the permit, another name will be drawn until each vacancy is filled.

(D) Any organization having an approved application that fails to open their stand for that sales year will automatically forfeit their permit and a new organization will be chosen the following year provided a permit is available.

(10) A nonprofit organization may apply for a sales permit with regard to a stand located in an area annexed by the City of Modesto under the following conditions:

(A) Two (2) consecutive years prior to annexation, the applicant was issued a sales permit, by the City or County in which the property was formerly located, and applicant presents proof of the issuance of said permits;

(1) The applicant has received a valid City of Modesto business license; and

(2) The organization must either

a) Meet the criteria of set forth in Section 33-1.223(2)(A) or

b) Present documentary evidence establishing its primary meeting for a minimum of two (2) years preceding application to City of Modesto was at the location for which the sales permit is currently sought.

(B) Annexed property that was previously used for a temporary booth by an organization whose current primary meeting

place is outside the city limits of Modesto is not eligible to make application for a sales permit.

Permits issued to these organizations will be issued without the necessity of being selected by lottery, even though such issuance may increase the number of permits to more than allowed herein. The addition of these organizations does not change the original intent to issue a total of seventy (70) sales permits per year.

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

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

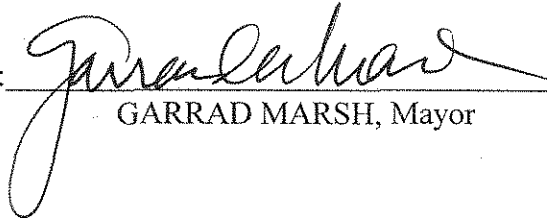
The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None.

ABSENT: Councilmembers: None

APPROVED:



GARRAD MARSH, Mayor

ATTEST:

By




STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By



SUSANA ALCALA WOOD, City Attorney

Ord. No. 3565-C.S.

FINAL ADOPTION CLAUSE

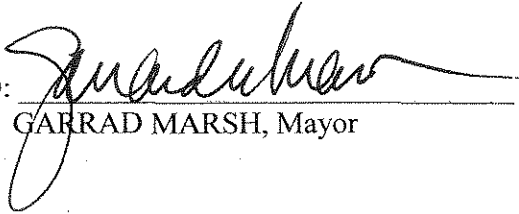
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None.

ABSENT: Councilmembers: None

APPROVED:


GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

Effective Date: July 5, 2012

ORDINANCE NO. 3566-C.S.

AN ORDINANCE AMENDING SECTION 11-1.05 OF
CHAPTER 1 OF TITLE 11 OF THE MODESTO MUNICIPAL
CODE RELATING TO WATER MAIN CONNECTION
CHARGES

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

SECTION 1. AMENDMENT OF CODE. Section 11-1.05 of Chapter 1 of Title
11 of the Modesto Municipal Code is hereby amended to read as follows:

11-1.05. WATER MAIN CONNECTION CHARGES.

In addition to the water service installation charges imposed by Section 11-1.04 of this chapter, and in case of metered services, the meter costs imposed by Section 11-1.06 of this chapter, water main connection charges shall be paid in accordance with this section.

- (a) **Territory Within the City.** For water service in all areas within the City, the water main connection charge to existing mains shall be in accordance with a schedule approved by the Council from time to time by resolution.
- (b) **Territory Outside the City.** For water services in territory outside the City limits, the water main connection charge to existing mains shall be in accordance with a schedule approved by the Council from time to time by resolution. The City Manager shall, upon the recommendation of the Director responsible for utility system planning, request City Council approval of all extensions of water and sewer services into unincorporated areas. In considering applications for furnishing water service to property located outside the City limits, the City Manager may impose such reasonable conditions to the granting of such privilege as the City Manager deems to be in the best interest of the City. City Manager shall establish the conditions and City Council shall approve said conditions from time to time by resolution. Any agreements for the provision of such water service shall be approved as to form by the City Attorney.
- (c) **Main Extensions.** Where water main extensions are required before water service can be provided outside the City, the City may require an agreement with the person desiring water service which shall provide the

3566-C.S.
Effective: July 5, 2012

basis upon which water mains will be constructed and financed. Such an agreement, among other things, may include the requirement of annexation of any territory so served to the City at the earliest opportunity.

- (d) **Allocation of Costs.** Notwithstanding the provisions of subsections (a) and (b) above, the Public Works Director is hereby authorized to approve and process applications for water service to portions of parcels of land in accordance with the rates specified in the above subsections subject to all of the following terms and conditions:
- (1) That the property involved can reasonably be served by the municipal water system.
 - (2) The total area of such parcels of land to be served shall be not less than twenty thousand (20,000) square feet, and the portion of the parcel to be served shall not be less than six thousand (6,000) square feet in area.
 - (3) A fee shall be paid to the City and shall accompany the application for the purpose of covering the costs of inspection of the premises to make the determination specified in subsections (d)(1) and (2) above, and said fee shall be in accordance with a schedule approved by the Council from time to time by resolution.
 - (4) Connection fees shall be payable based on the size of the portion of the parcel to be served and shall be paid in accordance with the applicable provisions of the Municipal Code.
 - (5) Water service fees shall be payable in accordance with the Municipal Code provisions relating to water service generally.
 - (6) The portion of the area to be served shall be recorded by means of a sketch map on the water service card filed in the Public Works Department.
 - (7) In addition to the remedies for violations of the provisions of this Code, as an additional and alternate remedy, the Public Works Director shall have the authority to immediately discontinue water service without requirement of notification in the event that the Director shall determine that water supplied to serve the area under the permit is used on other premises.

3566-C.S.
Effective: July 5, 2012

- (e) **Water Mains Installed by Developers.** Notwithstanding the charges set forth in subsections (a) and (b) of this section, the Public Works Director is hereby authorized to waive the square footage portion of the water main connection charge and require water mains to be installed in conjunction with the subdivision of land by the developers of subdivisions as follows:
- (1) All water mains shall be sized in accordance with current City of Modesto Standard Specifications.
 - (2) All six (6) inch and eight (8) inch diameter mains and appurtenances thereto, such as, but not necessarily limited to, fire hydrants, blowoffs, valves and valve boxes shall be furnished and installed by the developer.
 - (3) All ten (10) inch and larger water mains and all water pumping stations shall be furnished and installed by the City.
 - (4) The cost of installation of all fire hydrants, whether connected to water mains installed by the developer or by the City, shall be the responsibility of the developer. Where fire hydrants are installed by the City, the developer shall pay to the City a fee for such installation, the amount of which shall be established by the City Council from time to time by resolution.
- (f) **Water Connection Charges to Subdivisions.** Normally all water mains smaller than ten (10) inches in inside diameter, and appurtenances thereto, will be installed by the developers of subdivisions as set forth in subsection (e)(3) of this section. From time to time, however, in its best interest, the City may elect to install all water mains, and appurtenances thereto, in a particular subdivision.

In the event the City so elects to install all water mains, and appurtenances thereto, water service shall be provided only if the developer of said subdivision agrees that if the water main connection charges set forth in subsections (a), (b) and (c) of this section have not been paid for eighty (80) percent of all lots within said subdivision within three (3) years and ninety (90) days from the date of recordation of the final map, or within three (3) years of the completion of installation of the waterlines by the City, whichever is the longer period of time, the developer or his/her assignees shall forthwith pay to City water main connection charges for all lots for which said fees have not been paid.

3566-C.S.
Effective: July 5, 2012

Notwithstanding the provisions of this subsection, the City may enter into special agreements with developers of industrial subdivisions which shall provide the basis upon which water mains shall be constructed and financed.

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 May, 2012, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Geer, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None.

ABSENT: Councilmembers: None

APPROVED: _____



GARRAD MARSH, Mayor

ATTEST:

By _____




STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____



SUSANA ALCALA WOOD, City Attorney

Ord. No. 3566-C.S.

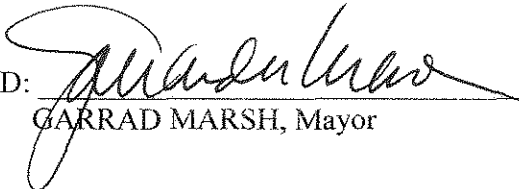
FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None.

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

Effective Date: July 5, 2012

3566-C.S.
Effective: July 5, 2012

ORDINANCE NO. 3567-C.S.

AN ORDINANCE AMENDING SECTION 5-6.309 OF
CHAPTER 6 OF TITLE 5 OF THE MODESTO MUNICIPAL
CODE RELATING TO RULES AND REGULATIONS
CONCERNING SEWER CONNECTION

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

SECTION 1. AMENDMENT OF CODE. Section 5-6.309 of Chapter 6 of Title 5
of the Modesto Municipal Code is hereby amended to read as follows:

5-6.309. RULES AND REGULATIONS.

- (a) The City Manager, upon the recommendation of the Director responsible for utility system planning, shall request City Council approval for all extensions of sewer services into unincorporated areas. No person shall connect property outside the Sewer District to the sewage system without first obtaining Council approval, and paying the fees and charges imposed by the City. In considering applications for furnishing sewer service to property located outside the Sewer District, the City Manager may impose such reasonable conditions to the granting of such privilege as the City Manager deems to be in the best interest of the City. The City Manager shall establish the conditions and the City Council shall approve said conditions from time to time by resolution. Any agreements for the provision of such sewer service shall be approved as to form by the City Attorney.
- (b) Each user shall be responsible for the construction, maintenance and repair of his or her house sewer line. Each user shall be liable for damages which may result to the sewage system from his or her failure to keep his or her house sewer line in good order. A City inspector shall be admitted at all reasonable hours to all parts of any premises connected with the sewage system for purposes of checking the house sewer line and all fixtures and facilities connected thereto.
- (c) When a sewer connection fee is paid for a particular parcel, it shall be credited to subsequent owners of that parcel. Refunds shall be made for duplicate payments. Additional fees will be required where there are zoning, use density changes that will increase the fees.

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.

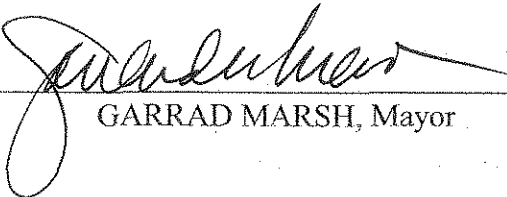
SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth 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 May, 2012, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Geer, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None.

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3567-C.S.

FINAL ADOPTION CLAUSE

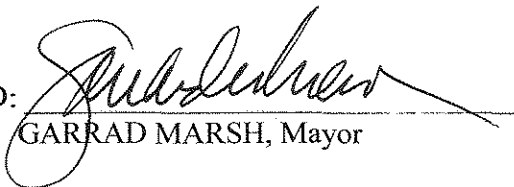
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None.

ABSENT: Councilmembers: None

APPROVED:


GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

Effective Date: July 5, 2012

ORDINANCE NO. 3568-C.S.

AN ORDINANCE ADDING ARTICLE 7 TO CHAPTER 12 OF
TITLE 4 OF THE MODESTO MUNICIPAL CODE RELATING
TO CAMPING ON PUBLIC OR PRIVATE PROPERTY

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

SECTION 1. AMENDMENT OF CODE. Article 7 is hereby added to Chapter
12 of Title 4 of the Modesto Municipal Code to read as follows:

ARTICLE 7. CAMPING ON PUBLIC OR PRIVATE PROPERTY.

4-12.701. PURPOSE.

The streets and public areas within the City should be readily accessible and available to residents and the public at large. The use of these areas for camping purposes or storage of personal property interferes with the rights of others to use the areas for which they were intended. Such activity can constitute a public health and safety hazard which adversely impacts neighborhoods and commercial areas. Camping on private property without the consent of the owner, proper sanitary measures and for other than a minimal duration adversely affects private property rights as well as public health, safety, and welfare of the City. The purpose of this Article is to maintain streets, parks and other public and private areas within the City in a clean, sanitary and accessible condition and to adequately protect the health, safety and public welfare of the community, while recognizing that, subject to reasonable conditions, camping and camp facilities associated with special events can be beneficial to the cultural and educational climate in the City. Nothing in this Article is intended to interfere with otherwise lawful and ordinary uses of public or private property.

4-12.702. DEFINITIONS.

Unless the particular provisions or the context otherwise requires, the definitions contained in this section shall govern the construction, meaning, and application of words and phrases used in this Article.

- (a) **“Camp”** means to place, pitch or occupy camp facilities; to live temporarily in a camp facility or outdoors; to use camp paraphernalia.

- (b) **“Camp facilities”** include, but are not limited to, tents, huts, vehicles, vehicle camping outfits or temporary shelter.
- (c) **“Camp paraphernalia”** includes, but is not limited to, bedrolls, tarpaulins, cots, beds, sleeping bags, hammocks or cooking facilities and similar equipment.
- (d) **“City Manager”** means the City Manager or designee.
- (e) **“Establish”** means setting up or moving equipment, supplies or materials on to public or private property to “camp” or operate camp facilities.
- (f) **“Maintain”** means keeping or permitting equipment, supplies or materials to remain on public or private property in order to camp or operate camp facilities.
- (g) **“Operate”** means participating or assisting in establishing or maintaining a camp or camp facility.
- (h) **“Park”** means the same as defined in Modesto Municipal Code Section 12-4.201(h).
- (i) **“Private property”** means all private property including, but not limited to, streets, sidewalk, alleys, and improved or unimproved land.
- (j) **“Public property”** means all public property including, but not limited to, streets, sidewalks, alleys, improved or unimproved land and parks.
- (k) **“Store”** means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

4-12.703. UNLAWFUL CAMPING.

It is unlawful and a public nuisance for any person to camp, occupy camp facilities, or use camp paraphernalia in the following areas:

- (a) Any public property; or
- (b) Any private property.
 - (1) It is not intended by this section to prohibit overnight camping on private residential property by friends or family of the property

owner, so long as the owner consents and the overnight camping is limited to not more than five consecutive nights.

- (2) Nothing in this Article is intended to prohibit or make unlawful, activities of an owner of private property or other lawful user of private property that are normally associated with and incidental to the lawful and authorized use of private property for residential or other purposes; and provided further, nothing is intended to prohibit or make unlawful, activities of a property owner or other lawful user if such activities are expressly authorized by the City's comprehensive zoning ordinance or other laws, ordinances and regulations.
- (3) The City Manager may, as provided in Section 4-12.705 of this Article, issue a temporary permit to allow camping on public or private property in connection with a special event.

A violation of this section is a misdemeanor. In addition to the remedies set forth in Penal Code Section 370, the City Attorney may institute civil or administrative actions to abate a public nuisance under this Article.

4-12.704. STORAGE OF PERSONAL PROPERTY ON PUBLIC AND PRIVATE PROPERTY.

It is unlawful and a public nuisance for any person to store personal property, including camp paraphernalia, in the following areas, except as otherwise provided by resolution of the City Council:

- (a) Any public property; or
- (b) Any private property without the written consent of the owner.

A violation of this section is a misdemeanor. In addition to the remedies set forth in Penal Code Section 370 the City Attorney may institute civil or administrative actions to abate a public nuisance under this Article.

4-12.705. PERMIT FOR SPECIAL EVENTS REQUIRED.

The City Manager may, in his or her discretion, issue a permit to establish, maintain and operate a camp or a camp facility in connection with a special event. A special event is intended to include, but not be limited to, programs operated by

the City departments, youth or school events, marathons or other sporting events and scouting activities. The City Manager may consult with various City departments, the health officer and the public prior to issuing any temporary permit. Each department or person consulted may provide comments regarding any health, safety or public welfare concerns and provide recommendations pertaining to the issuance, denial or conditioning of the permit. A reasonable fee, to be set by the City Council shall be paid, in advance, by the applicant. The fee shall be returned if the application is denied. In exercising his or her discretion to issue a temporary permit, the City Manager may consider any facts or evidence bearing on the sanitary, health, safety and welfare conditions on or surrounding the area or tract of land upon which the proposed temporary camp or camp facility is to be located.

Any person who establishes, maintains or operates a camp or camp facility without a permit is guilty of a misdemeanor and constitutes a public nuisance. In addition to remedies provided in Penal Code Section 370 the City Attorney may institute civil or administrative actions to abate a public nuisance under this Article.

4-12.706. POSTING COPY OF PERMIT.

It is unlawful for any person to establish, maintain, conduct or carry on any camp or camp facility unless there shall be at all times posted in a conspicuous place upon the area or tract of land upon which the camp or camp facility is located a permit obtained from the City Manager in accordance with the provisions of Section 4-12.705 of this Article.

4-12.707. POWER OF THE CITY MANAGER TO MAKE RULES AND REGULATIONS.

The City Manager is further empowered to ascertain that the operation or maintenance of any camp or camp facilities to which a temporary permit shall apply will in no way jeopardize the public health, safety or welfare and for this purpose may make additional rules and regulations pertaining to their establishment, operation or conduct. The City Manager may also impose conditions on the establishment, maintenance and operation of the camp or camp facility, including, but not limited to security, sanitation facilities, the number of occupants, posting of bonds or deposits, insurance, quiet hours, duration of the permit, and permitted activities on the premises. When the City Manager shall issue any permit under the terms of Section 4-12.705 of this Article, the same may be revoked at any time thereafter by the City Manager if the City Manager

becomes satisfied that the maintenance or continuing operation of the camp or camp facilities is adverse to the public health, safety and welfare.

4-12.708. CURRENT ORDINANCE PROVISIONS.

Neither the adoption of the ordinance codified in this Article nor the repeal hereby of any ordinance shall in any manner affect the prosecution for violation of ordinances, which violations were committed prior to the effective date hereof, nor be construed as affecting any of the provisions of such ordinance relating to the collection of any such license or penalty or the penal provision applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof, required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect.

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 June, 2012, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Geer, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,

NOES: Councilmembers: Mayor Marsh

ABSENT: Councilmembers: None

APPROVED:



GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3568-C.S.

FINAL ADOPTION CLAUSE

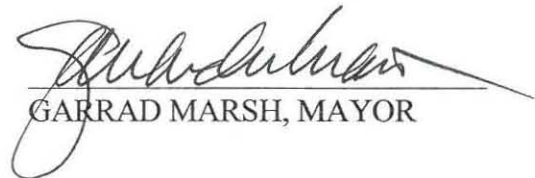
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, Councilmember Cogdill moved its final adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,

NOES: Councilmembers: Mayor Marsh

ABSENT: Councilmembers: None

APPROVED:


GARRAD MARSH, MAYOR

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: July 12, 2012

ORDINANCE NO. 3569-C.S.

AN ORDINANCE ADOPTING THE 2012-2013 ANNUAL AND MULTI-YEAR OPERATING BUDGETS AND THE 2012-2013 CAPITAL IMPROVEMENT PROGRAM FOR THE CITY OF MODESTO AND THE RELATED INTER-FUND TRANSFERS

WHEREAS, pursuant to the Charter of the City of Modesto, the Mayor presented the Proposed Operating Budget and Capital Improvement Program for the 2012-2013 Fiscal Year to the Finance Committee at workshops held on May 14, May 15, May 17 and May 23, 2012, and

WHEREAS, the Finance Committee reviewed the Proposed Annual and Multi-year Operating Budgets and the Capital Improvement Program in a series of televised public workshops on May 14, May 15, May 17 and May 23, 2012 and

WHEREAS, the Finance Committee is recommending the Proposed Operating and Multi-Year budgets to the full City Council, and

WHEREAS, the Finance Committee is recommending the proposed Capital Improvement Program budget to the full City Council, and

WHEREAS, the City Council considered the recommendations of the Finance Committee, and

WHEREAS, in accordance with the City Charter, a duly noticed public hearing was scheduled on June 5, 2012, and continued to June 12, 2012 during which the City Council considered the recommendations of the Finance Committee relating to the Proposed Operating and Multi-year budgets and the Capital Improvement Program, and

WHEREAS, prior to any discussion of the budgets and prior to the final adoption, the City Council by separate motion considered each CIP project that could be the source of a potential conflict of interest to one or more members of the City Council without the participation of those members, and

WHEREAS, copies of the Proposed Operating and Multi-year budgets and the Capital Improvement Program have been and are available for inspection by the public at the office of the City Clerk,

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

SECTION 1. ADOPTION OF BUDGET. That the Proposed Operating and Multi-year Budgets, a copy of which is on file in the City Clerk's Office and as shown in Exhibit 4, 5, 6, 7, and 9 (Exhibit 4-Mayor's Recommended Enhancements/Reductions, Exhibit 5-Proposed Operating Budget Addendum, Exhibit 6-Fund Summary, Exhibit 7-Transfer In/Out List, Exhibit 9-Multi-Year Operating Budget List) are hereby adopted as the Fiscal Year 2012-2013 Operating and Multi-year Budgets for the City of Modesto.

SECTION 2. ADOPTION OF BUDGET CONTROLS/FINANCIAL POLICIES. That the Financial Policies for budgetary control and authority as shown in Exhibit 8 and incorporated herein by reference is hereby adopted for the Fiscal Year 2012-2013.

SECTION 3. ADOPTION OF CAPITAL IMPROVEMENT PROGRAM. That the Capital Improvement Program, a copy of which is on file in the City Clerk's office and shown in the proposed CIP budget document and in Exhibit 1 and 2 (Exhibit 1-CIP List, Exhibit 2-CIP Addendum List) and other amounts previously approved for spending on Capital Improvement Projects are hereby adopted as the 2012-2013 Capital Improvement Program for the City of Modesto.

SECTION 4. MULTI-YEAR OPERATING PROGRAMS. That unexpended funds previously approved and appropriated in Multi-Year Programs are hereby re-appropriated for the programs for which they were originally authorized (Exhibit 9-Multi-Year Operating Budget List).

SECTION 6. COUNCIL POLICIES. That the Policy Issues outlined in the 2012-2013 Proposed Operating and Multi-year Budgets have been reviewed and are adopted hereby (Exhibit 3-Proposed Policies).

SECTION 7. EFFECTIVE DATE. Pursuant to Section 722 of the Charter of the City of Modesto, this ordinance shall go in effect and be in full force and operation immediately upon adoption.

SECTION 8. PUBLICATION. Copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its 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 June, 2012, by Councilmember Cogdill, who moved its adoption, and passage to print, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None.


ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(seal)

APPROVED:

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney


GARRAD MARSH, MAYOR

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 June, 2012, Councilmember Lopez 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: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None.

ABSENT: Councilmembers: None

APPROVED:


MAYOR GARRAD MARSH

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: June 26, 2012

ORDINANCE NO. 3570-C.S.

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

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

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

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
BOWEN AVENUE, between Tully Road and McHenry 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
CARPENTER 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	35 miles per hour
CROWS LANDING, between School Avenue and Imperial Avenue	35 miles per hour
CROWS LANDING, between Imperial Avenue and Whitmore	45 miles per hour
DEL VALE AVENUE, between Del Vista Avenue and Glenwood Drive	25 miles per hour
EICHER AVENUE, between Conant Avenue and Goldie Avenue	25 miles per hour
EMERALD AVENUE, between Maze Boulevard and Kansas Avenue	25 miles per hour
ENCINA AVENUE, between Santa Barbara Avenue and Conejo Avenue	25 miles per hour
ENSLLEN AVENUE, between Granger Avenue and Orangeburg Avenue	25 miles per hour
FAIRMONT AVENUE, between Virginia Avenue and McHenry Avenue	25 miles per hour
FAIRMONT AVENUE, between Sunrise Avenue and Coffee Road	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
JEFFERSON STREET, between Paradise Road and 8th Street	25 miles per hour
K STREET, between Washington Street and 9th Street	25 miles per hour
KEARNEY AVENUE, between Glenwood Drive and Coldwell Drive	25 miles per hour
KELLER STREET, between Sylvan Avenue and Rumble Road	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
PRINCETON AVENUE, between Tully Road and College Avenue	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
SHARON WAY, between Budd Street and Prescott Road	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
SURREY AVENUE, between Oakdale Road and Eastridge Drive	25 miles per hour
TIOGA DRIVE, between Conejo Avenue and Legion Park Drive	25 miles per hour
VENEMAN AVENUE NORTH, between Snyder Avenue and Regency Park Drive	25 miles per hour
WESTERN WAY, between Sutter Avenue and Roselawn Avenue	25 miles per hour

WINMOORE WAY, between Crows Landing Road and Jim Way	25 miles per hour
WRIGHT STREET, between Sycamore Avenue and McHenry Avenue	25 miles per hour
WYLIE DRIVE, between Rose Avenue and Oakdale Road	25 miles per hour
7TH STREET, between Sierra Drive and B Street	25 miles per hour
9TH STREET, between 400 feet north of Tully Road and P Street	35 miles per hour
9TH STREET, on the Tuolumne River Bridge	40 miles per hour

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

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

<u>NAME OF STREET OR PORTION AFFECTED</u>	<u>DECLARED PRIMA FACIE SPEED LIMIT</u>	<u>DATE SURVEYED</u>
BANGS AVENUE, between Dale Road and McHenry Avenue	45 miles per hour	February 1, 2012
BLUE GUM AVENUE, between Morse Road and Carpenter Road	35 miles per hour	February 4, 2010
BRIGGSMORE AVENUE, between Claus Road and Santa Fe Railroad Tracks	45 miles per hour	December 22, 201

BRIGGSMORE AVENUE, between Coffee Road and Oakdale Road	50 miles per hour	July 1, 2009
BRIGGSMORE AVENUE, between McHenry Avenue and Coffee Road	45 miles per hour	June 24, 2009
BRIGGSMORE AVENUE, westbound and eastbound between Oakdale Road and Claus Road	50 miles her hour	December 22, 2011
BRIGGSMORE AVENUE, between Prescott Road and Tully Road	45 miles per hour	February 26, 2010
BRIGGSMORE AVENUE, between Tully Road and McHenry Avenue	45 miles per hour	June 24, 2009
BRIGHTON AVENUE, between Coffee Road and Locke Road	30 miles per hour	January 31, 2007
CALIFORNIA AVENUE, between Carpenter Road and Martin Luther King Drive *ES 10	30 miles per hour	July 11, 2002
CARPENTER ROAD, between Blue Gum Avenue and Woodland Avenue	40 miles per hour	February 2, 2010
CARPENTER ROAD, between Woodland Avenue and Maze Boulevard	40 miles per hour	February 16, 2012
CARPENTER ROAD, between Maze Boulevard and Paradise Road	50 miles per hour	February 2, 2010
CARVER ROAD, between Bangs Avenue and Pelandale Avenue	35 miles per hour	December 22, 2011
CARVER ROAD, between Pelandale Avenue and Brixton Lane	30 miles per hour	December 28, 2011
CARVER ROAD, between Brixton		

Lane and Briggsmore Avenue

30 miles per hour

December 28, 2011

CARVER ROAD, between Briggsmore Avenue and Orangeburg Avenue	30 miles per hour	December 28, 2011
CARVER ROAD, between Orangeburg Avenue and 9th Street	30 miles per hour	December 28, 2011
CELESTE DRIVE, between Coffee Road and Oakdale Road	30 miles per hour	February 14, 2007
CLARATINA AVENUE, between Coffee Road and Oakdale Road	55 miles per hour	July 1, 2009
CLAUS ROAD, between Sylvan Avenue and Briggsmore Avenue	50 miles per hour	January 26, 2012
CLAUS ROAD, between Briggsmore Avenue and Scenic Drive	45 miles per hour	January 26, 2012
CLAUS ROAD, between Scenic Drive and Yosemite Boulevard	45 miles per hour	January 26, 2012
COFFEE ROAD, between Claratina Avenue and Sylvan Avenue	40 miles per hour	December 15, 2009
COFFEE ROAD, between Sylvan Avenue and Floyd Avenue	40 miles per hour	February 8, 2010
COFFEE ROAD, between Floyd Avenue and Briggsmore Avenue	40 miles per hour	February 26, 2010
COFFEE ROAD, between Briggsmore Avenue and Scenic Drive	40 miles per hour	February 8, 2010
COLLEGE AVENUE, between Rumble Road and Bowen Avenue	30 miles per hour	February 4, 2010
COLLEGE AVENUE, between Bowen Avenue and Princeton Avenue*ES 10	35 miles per hour	February 21, 2003

COLLEGE AVENUE, between Princeton Avenue and Needham Avenue*ES 10	25 miles per hour	February 21, 2003
CREEKWOOD DRIVE, between Claus Road and Yosemite Boulevard	35 miles per hour	February 26, 2010
CROWS LANDING ROAD, between 7th Street and Hatch Road*ES 10	35 miles per hour	May 7, 2003
CROWS LANDING ROAD, between Hatch Road and Whitmore Avenue	35 miles per hour	February 2, 2010
DALE ROAD, northbound and southbound, between Bangs Avenue and Kiernan Avenue	40 miles per hour	December 20, 2011
DALE ROAD, between Bangs Avenue and Snyder Avenue	35 miles per hour	February 1, 2012
DALE ROAD, between Snyder Avenue and Veneman Avenue	35 miles per hour	February 1, 2012
DALE ROAD, between Veneman Avenue and Standiford Avenue	30 miles per hour	February 1, 2012
EASTRIDGE DRIVE, between Orangeburg Avenue and Scenic Drive	30 miles per hour	February 11, 2010
EL VISTA AVENUE, between Scenic Drive and Yosemite Boulevard	35 miles per hour	August 13, 2009
EMERALD AVENUE, between Maze Boulevard and California Avenue	30 miles per hour	February 5, 2010
EVERGREEN AVENUE, between Orangeburg Avenue and Carver Road	30 miles per hour	February 22, 2012

FLOYD AVENUE, between Coffee Road and Oakdale Road	30 miles per hour	February 23, 2012
FLOYD AVENUE, between McHenry Avenue and Coffee Road	30 miles per hour	February 24, 2012
FLOYD AVENUE, eastbound and westbound, between Oakdale Road and Roselle Avenue	35 miles per hour	January 26, 2012
FLOYD AVENUE, between Roselle Avenue and Claus Road	40 miles per hour	June 24, 2009
G STREET, between 9 th Street and 17 th Street	25 miles per hour	December 14, 2009
GRANGER AVENUE, between Tully Road and McHenry Avenue	35 miles per hour	February 26, 2010
GRANGER AVENUE, between McHenry Avenue and Sunrise Avenue	35 miles per hour	February 26, 2010
H STREET, between 9 th Street and 17 th Street	25 miles per hour	February 4, 2010
HASHEM DRIVE, between Sylvan Avenue and Oakdale Road	30 miles per hour	April 23, 2012
HATCH ROAD, between Carpenter Road and Crows Landing Road	45 miles per hour	February 15, 2012
JEFFERSON STREET, between Maze Boulevard and Paradise Road	30 miles per hour	February 19, 2004
KANSAS AVENUE, between Morse Road and Rosemore Avenue*ES 10	40 miles per hour	May 6, 2003
KANSAS AVENUE, between Rosemore Avenue and Carpenter Road	40 miles per hour	February 10, 2010

KANSAS AVENUE, between Carpenter Road and Emerald Avenue	35 miles per hour	February 10, 2010
KANSAS AVENUE, between Emerald Avenue and Franklin Street	30 miles per hour	December 20, 2011
LA LOMA AVENUE, between Burney Street and Yosemite Boulevard	30 miles per hour	March 20, 2012
LAKEWOOD AVENUE, between Briggsmore Avenue and Scenic Drive	35 miles per hour	February 11, 2010
LINCOLN AVENUE, between Dry Creek and Yosemite Boulevard	35 miles per hour	February 15, 2012
MABLE AVENUE, between Coffee Road and Oakdale Road	30 miles per hour	March 21, 2012
MARTIN LUTHER KING DRIVE, between Maze Boulevard and Paradise Road	30 miles per hour	February 16, 2012
MERLE AVENUE, between Oakdale Road and Roselle Avenue*ES 10	30 miles per hour	February 26, 2003
MERLE AVENUE, between Roselle Avenue and Claus Road	35 miles per hour	February 25, 2010
MILLER AVENUE, between La Loma Avenue and El Vista Avenue	35 miles per hour	February 25, 2010
MITCHELL ROAD, between Finch Road and the southerly City limits	50 miles per hour	December 29, 2011
MORRIS AVENUE, between McHenry Avenue and Coffee Road	30 miles per hour	March 22, 2012
MORSE ROAD, between Blue Gum Avenue and Kansas Avenue	40 miles per hour	February 22, 2012

MT. VERNON DRIVE, between Prescott Road and College Avenue	30 miles per hour	February 3, 2010
NEECE DRIVE, between Tuolumne Boulevard and Rouse Avenue	35 miles per hour	February 22, 2012
NEEDHAM STREET, between 9th Street and L Street	35 miles per hour	March 6, 2012
NORWEGIAN AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	February 26, 2010
OAKDALE ROAD, between 1300 feet north of Mable Avenue and Sylvan Avenue	45 miles per hour	March 7, 2012
OAKDALE ROAD, between Sylvan Avenue and Floyd Avenue	45 miles per hour	March 7, 2012
OAKDALE ROAD, between Floyd Avenue and Briggsmore Avenue	40 miles per hour	February 4, 2010
OAKDALE ROAD, between Briggsmore Avenue and Scenic Drive	40 miles per hour	February 4, 2010
ORANGEBURG AVENUE, between Briggsmore Avenue and Martin Avenue	35 miles per hour	April 25, 2007
ORANGEBURG AVENUE, between Martin Avenue and McHenry Avenue	40 miles per hour	March 21, 2012
ORANGEBURG AVENUE, between McHenry Avenue and Coffee Road	40 miles per hour	March 22, 2012
ORANGEBURG AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	March 22, 2012

ORANGEBURG AVENUE, between Oakdale Road and Lakewood Avenue	35 miles per hour	May 3, 2007
ORANGEBURG AVENUE, between Lakewood Avenue and Claus Road	35 miles per hour	May 8, 2007
PARADISE ROAD, between Carpenter Road and Martin Luther King Drive	35 miles per hour	May 9, 2007
PARADISE ROAD, between Martin Luther King Drive and Washington Street	30 miles per hour	May 10, 2007
PARKER ROAD, between Santa Fe and Church Street	45 miles per hour	February 4, 2010
PELANDALE AVENUE, between Sisk Road and Dale Road	45 miles per hour	December 20, 2011
PELANDALE AVENUE, between Dale Road and Prescott Avenue	50 miles per hour	March 5, 2010
PELANDALE AVENUE, between Prescott Avenue and Carver Road	50 miles per hour	March 5, 2010
PELANDALE AVENUE, between Carver Road and Tully Road	50 miles per hour	March 5, 2010
PELANDALE AVENUE, between Tully Road and McHenry Avenue	50 miles per hour	March 5, 2010
PRESCOTT ROAD, between Snyder Avenue and Standiford Avenue	40 miles per hour	May 15, 2007
PRESCOTT ROAD, between Standiford Avenue and Rumble Road	40 miles per hour	May 16, 2007
PRESCOTT ROAD, between Rumble Road and Briggsmore Avenue	35 miles per hour	May 17, 2007

RIVERSIDE DRIVE, between Edgebrook Drive and Yosemite Boulevard	30 miles per hour	May 22, 2007
ROSE AVENUE, between Floyd Avenue and Briggsmore Avenue	30 miles per hour	May 24, 2007
ROSE AVENUE, between Briggsmore Avenue and Scenic Drive	30 miles per hour	May 30, 2007
ROSEBURG AVENUE, between Carver Road and Tully Road	30 miles per hour	June 13, 2002
ROSEBURG AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	February 11, 2010
ROSEBURG AVENUE, between McHenry Avenue and Sunrise Avenue	30 miles per hour	February 4, 2010
ROSELLE AVENUE, between Sylvan Avenue and Floyd Avenue*ES 10	40 miles per hour	February 26, 2003
ROSELLE AVENUE, between Floyd Avenue and Briggsmore Avenue	45 miles per hour	March 5, 2010
ROSEMORE AVENUE, between Blue Gum Avenue and Kansas Avenue*ES 10	30 miles per hour	April 18, 2007
ROUSE AVENUE, between Colorado Avenue and Neece Drive	30 miles per hour	February 5, 2010
RUMBLE ROAD, between Sisk Road and Conant Avenue	30 miles per hour	December 15, 2009
RUMBLE ROAD, between Conant Avenue and Tully Road	30 miles per hour	February 4, 2010

RUMBLE ROAD, between Tully Road and McHenry Avenue	30 miles per hour	February 4, 2010
RUMBLE ROAD, between McHenry Avenue and Coffee Road*ES 10	30 miles per hour	May 17, 2002
SANTA CRUZ AVENUE, between Yosemite Boulevard and Legion Park Drive	30 miles per hour	February 9, 2010
SCENIC DRIVE, between Burney Street and Coffee Road	30 miles per hour	April 23, 2012
SCENIC DRIVE, between Coffee Road and Oakdale Road	40 miles per hour	July 8, 2009
SCENIC DRIVE, between Oakdale Road and Lakewood Avenue	40 miles per hour	February 10, 2010
SCENIC DRIVE, between Lakewood Avenue and Lillian Drive	40 miles per hour	July 8, 2009
SCENIC DRIVE, between Lillian Drive and Claus Road	40 miles per hour	July 8, 2009
SIERRA DRIVE, between G Street and 7th Street	30 miles per hour	February 25, 2010
SISK ROAD, between Pelandale Avenue and Standiford Avenue	40 miles per hour	December 20, 2011
SISK ROAD, between Standiford Avenue and Briggsmore Avenue	40 miles per hour	December 20, 2011
SNYDER AVENUE, between Dale Road and Prescott Road	30 miles per hour	December 15, 2009
SNYDER AVENUE, between Prescott Road and Tully Road*ES 10	30 miles per hour	May 16, 2002

STANDIFORD AVENUE, between Sisk Road and Prescott Road	45 miles per hour	February 4, 2010
STANDIFORD AVENUE, between Prescott Road and Tully Road	40 miles per hour	February 4, 2010
STANDIFORD AVENUE, between Tully Road and McHenry Avenue	40 miles per hour	February 4, 2010
SUNRISE AVENUE, between Floyd Avenue and Lucern Avenue	30 miles per hour	February 9, 2010
SUTTER AVENUE, between Paradise Road and Robertson Road	30 miles per hour	March 5, 2010
SYLVAN AVENUE, between McHenry Avenue and Coffee Road	40 miles per hour	February 4, 2010
SYLVAN AVENUE, between Coffee Road and Oakdale Road	40 miles per hour	February 4, 2010
SYLVAN AVENUE, between Oakdale Road and Roselle Avenue	45 miles per hour	June 24, 2009
SYLVAN AVENUE, between Roselle Avenue and Claus Road	45 miles per hour	February 4, 2010
TENAYA DRIVE, between Empire Avenue and the easterly city limit on Tenaya Drive	30 miles per hour	December 29, 2011
TULLY ROAD, between Bangs Avenue and Standiford Avenue	45 miles per hour	December 14, 2009
TULLY ROAD, between Standiford Avenue and Brigsmore Avenue	35 miles per hour	December 14, 2009

TULLY ROAD, between Briggsmore Avenue and Coldwell Avenue	35 miles per hour	December 14, 2009
TULLY ROAD, between Coldwell Avenue and 9 th Street	30 miles per hour	December 14, 2009
TUOLUMNE BOULEVARD, between Paradise Road and 7th Street	35 miles per hour	February 2, 2010
UNION AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	December 15, 2009
VENEMAN AVENUE, between Dale Road and Regency Park Drive	30 miles per hour	December 15, 2009
VIRGINIA AVENUE, between Roseburg Avenue and Needham Street	30 miles per hour	December 11, 2010
WHITMORE AVENUE, between Ustick Road and Crows Landing Road	45 miles per hour	February 2, 2010
WHITMORE AVENUE, between Crows Landing Road and Morgan Road	40 miles per hour	February 2, 2010
WOODLAND AVENUE, between Morse Road and Carpenter Road	30 miles per hour	February 2, 2010
WOODLAND AVENUE, between Carpenter Road and 9th Street	30 miles per hour	February 26, 2010
WOODROW AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	May 21, 2002
5TH STREET, between L Street and Sierra Drive	30 miles per hour	February 4, 2010

6TH STREET, between M Street and Sierra Drive*ES 10	30 miles per hour	May 28, 2002
7TH STREET BRIDGE, between B Street and River Road	30 miles per hour	August 30, 2000
9TH STREET, between Carpenter Road and Tully Road	45 miles per hour	February 4, 2010
9TH STREET, between Tully Road and L Street	35 miles per hour	March 5, 2010
9TH STREET, between D Street and Morton Boulevard	35 miles per hour	February 4, 2010

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

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.

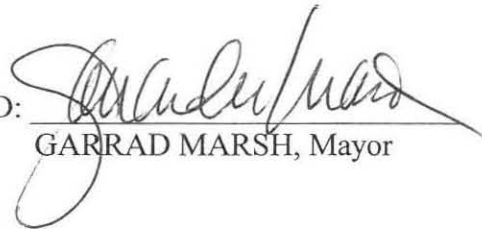
The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None.

ABSENT: Councilmembers: None

APPROVED:



GARRAD MARSH, Mayor

ATTEST:

By



STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By



SUSANA ALCALA WOOD, City Attorney

Ord. No. 3570-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 July, 2012, Councilmember Lopez 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: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None.

ABSENT: Councilmembers: None

APPROVED:



MAYOR GARRAD MARSH

ATTEST:



STEPHANIE LOPEZ, City Clerk

Effective Date: August 3, 2012

ORDINANCE NO. 3571-C.S.

AN ORDINANCE AMENDING SECTION 8-3.203 OF ARTICLE
2 OF CHAPTER 3 OF TITLE 8 OF THE MODESTO
MUNICIPAL CODE RELATING TO FORMAL BID
PROCEDURES

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

SECTION 1. AMENDMENT OF CODE. Section 8-3.203 of Article 2 of Chapter
3 of Title 8 of the Modesto Municipal Code is hereby amended to read as follows:

8-3.203. FORMAL BID PROCEDURES.

This formal bid procedure shall apply to all purchases whose total maximum cost to City exceeds fifty thousand dollars (\$50,000.00), and shall include at least the following:

- (a) Preliminary approval by the City Manager of a staff proposed bid package, including all project, material, supply and/or equipment specifications, requirements and all other matters reasonably required of bidders, including, but not limited to, all contractual terms proposed. The total maximum cost to the City if a bid is accepted by the Purchasing Manager, and a contract is executed by the City Manager or designee, shall be set forth.
- (b) 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, for public works projects only, in accordance with the provisions of Section 1307 of the City Charter. All other bids for which formal bid procedures are required shall be noticed in a manner or manners appearing to the Purchasing Manager to assure as broad a vendor response as reasonably possible. The required 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 Manager shall send notices inviting

bids to prospective vendors and contractors. It shall be the responsibility of the Purchasing Manager to encourage as wide a response as possible from prospective vendors or contractors.

- (c) Bid Deposits. Where required by the City Charter and when not so required but deemed necessary or desirable by the Purchasing Manager, 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.

- (d) 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, whether or not a bid is late through any fault of the late bidder, and shall be returned to the bidder unopened.
- (e) 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.

- (f) 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.
 - (6) Local vendor as defined in Section 8-3.206(c).
- (g) 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.

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.

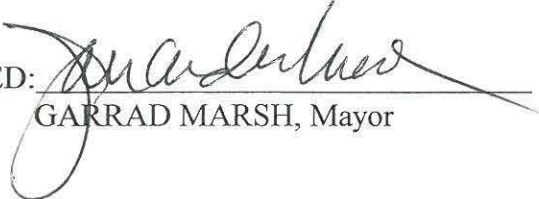
SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth 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 June, 2012, 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: Burnside, Cogdill, Geer, Muratore, Mayor Marsh

NOES: Councilmembers: Gunderson, Lopez

ABSENT: Councilmembers: None

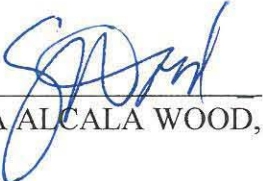
APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3571-C.S.

FINAL ADOPTION CLAUSE

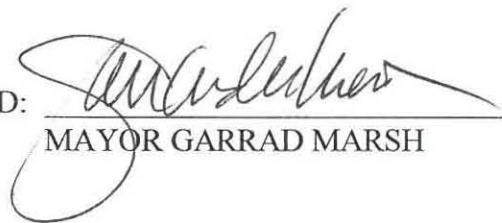
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2012, Councilmember Cogdill moved its final adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Muratore,
Mayor Marsh

NOES: Councilmembers: Lopez

ABSENT: Councilmembers: None

APPROVED:



MAYOR GARRAD MARSH

ATTEST:



STEPHANIE LOPEZ, City Clerk

Effective Date: August 3, 2012

ORDINANCE NO. 3572 -C.S.

AN ORDINANCE AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF MODESTO AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PROVIDE 3% @ 55 FULL FORMULA, THREE-YEAR FINAL COMPENSATION TO LOCAL POLICE SAFETY MEMBERS ENTERING MEMBERSHIP FOR THE FIRST TIME.

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

SECTION 1. That an amendment to the contract between the City of Modesto and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked as "EXHIBIT," and by such reference made a part hereof as though herein set out in full.

SECTION 2. This amendment to the contract is per the tentative agreements signed by each affected bargaining unit; namely, Modesto Police Officers Association and Modesto Police Management Association.

SECTION 3. The City Manager of the City of Modesto is hereby authorized, empowered, and directed to execute said amendment for and on behalf of the City of Modesto.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect thirty (30) days after the date of its final passage and adoption.

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2012, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Muratore, Lopez
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Approved: 
GARRAD MARSH, Mayor

Attest: 
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3572-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 8th day of August, 2012, Councilmember Lopez, who moved its final adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Muratore, **Lopez**, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
MAYOR GARRAD MARSH

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: September 9, 2012



EXHIBIT

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Modesto

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective August 1, 1946, and witnessed July 27, 1946, and as amended effective December 1, 1950, July 1, 1956, July 1, 1959, November 1, 1959, January 1, 1960, October 1, 1962, January 1, 1969, May 1, 1973, May 1, 1974, June 24, 1975, March 28, 1978, July 4, 1978, November 1, 1980, October 20, 1981, June 29, 1982, October 15, 1985, June 24, 1986, April 14, 1987, November 22, 1991, July 25, 1997, November 7, 2000, June 19, 2001, July 2, 2002, June 26, 2007, August 1, 2008, March 6, 2009 and January 17, 2012 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 16 are hereby stricken from said contract as executed effective January 17, 2012, and hereby replaced by the following paragraphs numbered 1 through 16 inclusive:

1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members entering membership in the miscellaneous classification on or prior to January 17, 2012, age 60 for local miscellaneous members entering membership for the first time in the miscellaneous classification after January 17, 2012, age 50 for local fire members entering membership in the fire classification on or prior to January 17, 2012 and for those local police members entering membership in the police classification on or prior to the effective date of this amendment to contract, age 55 for local fire members entering membership for the first time in the fire classification after January 17, 2012 and for local police members entering membership for the first time in the police classification after the effective date of this amendment to contract.
2. Public Agency shall participate in the Public Employees' Retirement System from and after August 1, 1946 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.

- (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.
 - (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.
 - (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.
 - (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
- a. Local Fire Fighters (herein referred to as local safety members);
 - b. Local Police Officers (herein referred to as local safety members);
 - c. Employees other than local safety members (herein referred to as local miscellaneous members).
5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
- a. **POLICE COURT EMPLOYEES;**
 - b. **ALL HOURLY RATED OR HOURLY BASIS EMPLOYEES HIRED ON AND AFTER OCTOBER 1, 1962; AND**
 - c. **CITY COUNCIL MEMBERS ELECTED INTO OFFICE ON OR AFTER AUGUST 1, 2008.**

6. Assets heretofore accumulated with respect to members in the local retirement system have been transferred to the Public Employees' Retirement System and applied against the liability for prior service incurred thereunder. That portion of the assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system has been credited to the individual membership account of each such employee under the Public Employees' Retirement System.
7. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member entering membership in the miscellaneous classification on or prior to January 17, 2012 shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1956, the effective date of Social Security coverage, and prior to June 30, 1978, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).
8. The percentage of final compensation to be provided for each year of credited current service as a local miscellaneous member entering membership for the first time in the miscellaneous classification after January 17, 2012 shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Full).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a local fire members entering membership in the fire classification on or prior to January 17, 2012 and for those local police members entering membership in the police classification on or prior to the effective date of this amendment to contract shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
10. The percentage of final compensation to be provided for each year of credited current service as a local fire member entering membership for the first time in the fire classification after January 17, 2012 and for those local police members entering membership for the first time in the police classification after the effective date of this amendment to contract shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
11. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.

- b. Section 21222.2 (One-Time 5% Increase - 1971). Legislation repealed said Section effective January 1, 1980.
- c. Section 21319 (One-Time 15% Increase for Local Miscellaneous Members Who Retired or Died Prior to July 1, 1971). Legislation repealed said Section effective January 1, 2002.
- d. Section 21572 (Increased Level of 1959 Survivor Benefits) for local miscellaneous members only.
- e. Section 20042 (One-Year Final Compensation) for local fire members entering membership on or prior to January 17, 2012 and miscellaneous members entering membership on or prior to January 17, 2012 and for those local police members entering membership on or prior to the effective date of this amendment to contract.
- f. Section 21427 (Improved Nonindustrial Disability Allowance) for local miscellaneous members only.
- g. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance) for local safety members and local miscellaneous members entering membership on or prior to October 20, 1981.
- h. Section 21325 (One-Time 3% to 15% Increase For Local Miscellaneous Members and Local Safety Members Who Retired or Died Prior to January 1, 1974). Legislation repealed said Section effective January 1, 2002.
- i. Section 20475 (Different Level of Benefits). Sections 21624, 21626, and 21628 (Post-Retirement Survivor Allowance) are not applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after October 20, 1981.

Section 21353 (2% @ 60 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after January 17, 2012.

Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local fire members entering membership for the first time in the fire classification after January 17, 2012.

Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local police members entering membership for the first time in the police classification after the effective date of this amendment to contract.

- j. Section 21322 (One-Time 4% Increase For Local Miscellaneous Members and Local Safety Members Who Retired or Died Prior to January 1, 1981). Legislation repealed said Section effective January 1, 2002.
 - k. Section 21317 (One-Time 15% Increase for Certain Local Safety Members Who Retired for Service Retirement). Legislation repealed said Section effective January 1, 2002.
 - l. Section 21024 (Military Service Credit as Public Service).
 - m. Section 21574.5 (Indexed Level of 1959 Survivor Benefits) for local safety members only.
 - n. Section 21547.7 (Alternate Death Benefit for Local Fire Members Credited with 20 or More Years of Service).
 - o. Section 21118 (Partial Service Retirement) for local miscellaneous members only.
12. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on March 28, 1978. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
13. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
14. Public Agency shall also contribute to said Retirement System as follows:
- a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574.5 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local safety members.

- b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
 - c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
15. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
16. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF MODESTO

BY _____
KAREN DE FRANK, CHIEF
CUSTOMER ACCOUNT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

ORDINANCE NO. 3573-C.S.

AN ORDINANCE AMENDING SECTION 4-5.08 OF CHAPTER
5 OF TITLE 4 OF THE MODESTO MUNICIPAL CODE
RELATING TO ADVERTISING ON STREETS AND
SIDEWALKS

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

SECTION 1. AMENDMENT OF CODE. Section 4-5.08 of Chapter 5 of Title 4
of the Modesto Municipal Code is hereby amended to read as follows:

4-5.08. ADVERTISING MERCHANDISE ON SIDEWALK PROHIBITED.

It shall be unlawful and punishable as an infraction for any person owning or occupying any premises fronting on a public street to place any goods, wares or merchandise, for the purpose of exhibition, display or advertisement, on any portion of the sidewalk in front of said premises; or suffer any goods, wares or merchandise to remain thereon; or suspend any goods, wares or merchandise, or any advertising banner or device over any portion thereof. The provisions of this section shall not apply to; 1) sales promotion events of community-wide interest and importance when sponsored by a bona fide merchants' association; and 2) display within the boundaries of the Downtown Core (DC) Zone, as permitted by Section 10-2.809(b)(1) Outdoor Dining and Display. All sales promotion activities and displays shall be approved by the City Manager or his designee. In granting its approval, the City Manager or his designee 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.

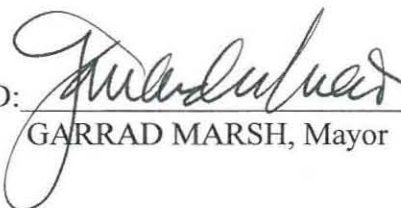
SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth 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 14th day of August, 2012, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None


APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3573-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 September, 2012, Councilmember Lopez, who moved its final adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


MAYOR GARRAD MARSH

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: October 5, 2012

ORDINANCE NO. 3574-C.S.

AN ORDINANCE AMENDING SECTION 8-3.102 OF
ARTICLE 1 OF CHAPTER 3 OF TITLE 8 OF THE MODESTO
MUNICIPAL CODE RELATING TO CITY CONTRACTS -
CONTRACTING AUTHORITY.

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

SECTION 1. AMENDMENT OF CODE. Section 8-3.102 of Article 1 of
Chapter 3 of Title 8 of the Modesto Municipal Code is hereby amended to read as follows:

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 total amount of fifty thousand dollars (\$50,000.00) or less. Except as noted below, no contract involving an expenditure in excess of fifty thousand dollars (\$50,000.00) may be authorized, approved or executed without City Council approval. The fifty thousand dollars (\$50,000.00) limit set forth in the preceding sentences does not apply to the following:

- (a) 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 fifty thousand dollars (\$250,000.00) or less.
- (b) Contracts for public works projects consisting of the construction, improvement, repair, expansion, renovation or modification of any facilities funded by a Mello-Roos Community Facilities District and involving an expenditure of District Facility Taxes in the amount of three million dollars (\$3,000,000.00) or less. The District Administrator may approve and authorize all contracts for such projects.
- (c) Contracts for public works projects consisting of the maintenance, repair, replacement, and improvement of existing water lines. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of three hundred thousand dollars (\$300,000.00) or less.

- (d) Contracts for public works projects consisting of the installation and establishment of water service connections associated with new development. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of seventy-five thousand dollars (\$75,000.00) or less.
- (e) Contracts for public works projects consisting of repairs determined by the City Manager to be of urgent necessity for the preservation of life, health, or property. The City Manager may approve and authorize all contracts for such projects in the amount of two hundred thousand dollars (\$200,000.00) or less. Within ten (10) days of the authorization for any such work, the City Manager shall report to the City Council the circumstances of the emergency.
- (f) Contracts for public works projects consisting of the construction, improvement, repair, expansion, renovation, or modification of any facilities associated with development and installed by the developer provided:
 - (1) That an agreement is approved by the City Council prior to commencement of construction of the works.
 - (2) The agreement clearly defines the work to be done and the basis for reimbursement.
 - (3) That total reimbursement required by the agreement is less than four hundred thousand dollars (\$400,000.00) in City funds.
- (g) Contracts for public works projects consisting of the installation, construction, and improvement, of the Coffee-Claratina Dual Use Neighborhood Park/Storm Basin in the City of Modesto. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of one million five hundred thousand dollars (\$1,500,000.00) or less.
- (h) Contracts for public works projects consisting of the installation and construction of any upgrade and/or rebuild of the City's Institutional Network (INET). The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of four million two hundred thousand dollars (\$4,200,000.00) or less.

- (i) Contracts for public works projects consisting of those improvements to the South Modesto water system identified in that certain technical memorandum prepared by West Yost and Associates dated October 17, 2005, as amended on November 7, 2005, for the benefit of the Galas Brothers Unit II Project bounded by Hatch Road, Estrella Way, Ironside Drive, Salazar Circle and Monticello Lane in the City of Modesto and any incidental work thereto. The City Manager may approve and authorize all contracts for this project involving a total expenditure of City funds not to exceed two million five hundred thousand dollars (\$2,500,000) or less.
- (j) Contracts for public works contracts consisting of the purchase, installation and replacement of water meters including an automated water meter reading (AMR) system and infrastructure work in conjunction with the system-wide water metering program. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of five million dollars (\$5,000,000) or less annually.
- (k) Contracts for paving and landscaping work to be done by City forces at the City's Traffic Operations Facility located at 117 Elm Street in the amount of one hundred thousand dollars (\$100,000) or less.
- (l) Contracts for public works projects consisting of the design, purchase and installation of water lines and associated equipment used to blend down contaminants at water well sites in the amount of one million five hundred thousand dollars (\$1,500,000) per project.
- (m) Contracts for public works projects consisting of additions and/or expansion of facilities and structures at John Thurman Field not to exceed two million four hundred thousand dollars (\$2,400,000) per project.
- (n) Contracts for work done by City forces to repair, replace and improve water lines and associated appurtenances for the McHenry Avenue Water System Upgrade Project in the amount of four hundred fifty thousand dollars (\$450,000) or less.
- (o) Contracts for work done by City forces to repair, replace and improve water lines and associated appurtenances for the 9th Street Water Main Replacement Project in the amount of five hundred eighty-five thousand dollars (\$585,000) or less.
- (p) Contracts for Public Works projects consisting of bus stop improvements at various locations on the Modesto Area Express route system. The City

Manager may approve all contracts for such projects in the amount of six hundred seventy-five thousand dollars (\$675,000) or less annually.

- (q) Contracts for work done by City forces consisting of roadway and intersection improvements on Oakdale Road between Claratina Avenue and Mable Avenue in the amount of one hundred forty thousand dollars (\$140,000.00) or less.
- (r) Contracts for work done by City forces to repair, replace and improve water lines and associated appurtenances for the Del Rio Water Main Replacement Project in the amount of three hundred ninety thousand dollars (\$390,000.00) or less.
- (s) Contracts for public works projects consisting of energy efficient improvements to City facilities that are funded through the American Recovery and Reinvestment Act (ARRA) of 2009, Energy Efficiency and Conservation Block Grant (EECBG) Program. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of six hundred thousand dollars (\$600,000.00) or less.
- (t) Contracts for public works to purchase and construct a Police Officer Memorial and associated appurtenances at the Modesto Police Headquarters in the amount of one hundred twenty-five thousand dollars (\$125,000.00) or less.
- (u) Contracts for public works projects consisting of the design, purchase and installation of water mains and associated appurtenances used to upgrade the water system in the Airport Neighborhood service area in the amount of one million four hundred five thousand one hundred sixty-six dollars (\$1,405,166.00) or less.

Any contract for a public works project which may be approved as set forth in subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t) and (u) above of this section and authorized by the City Manager, District Administrator, or other authorized person, is not subject to the public bidding requirements of articles 2 and 4 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 the City Attorney's authorized representative before presentation to the City Council.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Geer, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:
By Stephanie Lopez
STEPHANIE LOPEZ, City Clerk
(SEAL)

Garrad Marsh
GARRAD MARSH, Mayor

APPROVED AS TO FORM:

By Susana Alcala Wood
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3574-C.S.

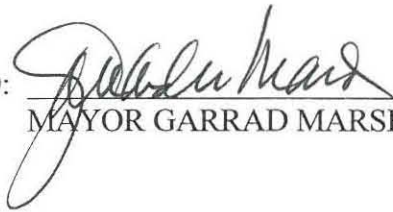
FINAL ADOPTION CLAUSE

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 September, 2012, Councilmember Lopez, who moved its final adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
MAYOR GARRAD MARSH

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: October 12, 2012

ORDINANCE NO. 3575-C.S.

AN ORDINANCE AMENDING ARTICLE 8 OF CHAPTER 4 OF
TITLE 4 OF THE MODESTO MUNICIPAL CODE RELATING
TO SUBDIVISION OF LAND - IMPROVEMENTS.

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

SECTION 1. AMENDMENT OF CODE. Article 8 of Chapter 4 of Title 4 of the
Modesto Municipal Code is hereby amended to read as follows:

ARTICLE 8. IMPROVEMENTS

4-4.801. STANDARDS AND APPROVAL.

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

4-4.802. GENERAL REQUIREMENTS.

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

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

- (c) **Curbs and Gutters.** Curbs and gutters shall be installed to grades, cross section, layout and location approval by the Community and Economic Development Director.
- (d) **Sidewalks.** Sidewalks shall be installed along all streets and may be required in other locations where sidewalks are deemed necessary by the Planning Commission.
- (e) **Sewage Disposal.** Sanitary sewer facilities connecting with the existing City system shall be installed to serve each lot when connection to such system is available. Sewers shall be installed to grades, location, design and sizes approved by the Community and Economic Development Director in accordance with the provisions of applicable laws of the City.
- (f) **Water.** Water mains connecting with the existing City or public utility system shall be installed to serve each lot when connection to such system is available. In the latter case, when it is proposed that water will be supplied by a private water company, the subdivider shall submit a letter from the governing body of such water system showing the ability of the system to serve the proposed subdivision and evidence that a satisfactory agreement has been entered into for connection to the system. Water mains shall then be installed to grades, location, design and sizes approved by the Community and Economic Development Director and the engineer of the governing body of the water system.
- (g) **Street Lights.** Street lighting standards, underground cables or conduit and conductors and all materials and appurtenances necessary shall be installed of a design and location approved by the Community and Economic Development Director. There shall be at least one (1) electrolier at each intersection, and intermediate electroliers not more than three hundred thirty (330) feet apart in blocks exceeding three hundred thirty (330) feet in length. Electroliers shall be spaced not more than three hundred thirty (330) feet apart on both sides of major streets.

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

- (h) **Railroad Crossings.** Provisions shall be made for any and all railroad crossings necessary to provide access to or circulation within the proposed subdivision, including the preparation of all documents necessary for

3575-C.S.

Effective: November 2, 2012

application to the California State Public Utilities Commission for the establishment and improvement of such crossing. The cost of such railroad crossing improvement shall be borne by the subdivider.

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

4-4.802.1. REIMBURSEMENT FOR IMPROVEMENTS.

- (a) Improvements shall be dedicated to the public and have sufficient size, capacity and number to provide for orderly development both of the property being subdivided and for adjacent areas. The size, capacity and number of improvements shall be determined by the Community and Economic Development Director. The City will reimburse the subdivider that portion of the cost of improvements equal to the difference between the amount it would cost the subdivider to install improvements to serve only the subdivision and the actual cost of such improvements. The reimbursement shall be provided in accordance with provisions of the Subdivision Map Act. The City may enter into an agreement with the subdivider to specify the details of the reimbursement procedure. Interest will not be paid to the subdivider.
- (b) To pay for the reimbursement required hereby, the City may:
 - (1) Collect a reasonable charge from other persons, including public agencies, using such improvements for the benefit of the real property not within the subdivision.
 - (2) Contribute to the subdivider that part of the cost of improvements that is attributable to the benefit of real property outside the subdivision and levy a charge upon real property benefited to reimburse the City for such costs.
 - (3) Establish and maintain local benefit districts for the levy and collection of such charge or cost from property benefited.

4-4.803. DRAINAGE FACILITIES.

Whenever the City by ordinance has adopted a drainage plan for a particular drainage area pursuant to Section 66483 of the Government Code of the State California, each subdivider of a subdivision, any part of which is located within the boundaries of such a drainage area and the tentative map of which is filed after the effective date of this section, shall pay to the City at the time of approval of the final map, as a condition of such approval, such fees as may be required by said ordinance.

4-4.803.1 STREET TREES.

Each subdivider of a subdivision or parcel map, the tentative map of which is approved by the Planning Commission after the effective date of this section, shall be responsible to supply, locate, plant, provide and install supports for street trees in such subdivision or parcel. Street trees shall be planted and maintained in accordance with the provisions of Chapter 5 of Title 7 of this Code.

4-4.804. MONUMENTS.

- (a) At the time of making the survey for the final map, the engineer or surveyor shall set sufficient durable monuments to conform with the standards described in Section 8771 of the Business and Profession Code so that another engineer or surveyor may readily retrace the survey.
- (b) Permanent monuments as required by the Standard Specifications of the City of Modesto shall be set at each corner and angle point in the exterior boundaries of the subdivision except where such monuments already exist in the proper positions. The exterior boundary of the subdivision shall be adequately monumented or referenced before the final map is recorded.
- (c) Interior monuments shall be set as required by the Standard Specifications of the City of Modesto. Interior monuments need not be set at the time the map is recorded, if the engineer or surveyor certifies on the map that the monuments will be set on or before a specified later date, and if the subdivider furnishes to the City a cash deposit in an amount for each monument to be set as established by resolution of the City Council adopted from time to time.
- (d) Within five (5) days after the final setting of all monuments has been completed by the engineer or surveyor, he/she shall give written notice to the subdivider, and to the Community and Economic Development Director, that the final monuments have been set.

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

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

4-4.805. PRELIMINARY SKETCHES OF PROPOSED SUBDIVISIONS.

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 September, 2012, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

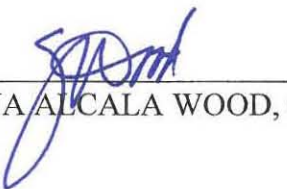
APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3575-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 October, 2012, Councilmember Lopez, who moved its final adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


MAYOR GARRAD MARSH

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: November 2, 2012

3575-C.S.
Effective: November 2, 2012

ORDINANCE NO. 3576-C.S.

AN ORDINANCE AMENDING SECTION 4-4.404 OF
CHAPTER 4 OF TITLE 4 OF THE MODESTO MUNICIPAL
CODE RELATING TO ACTION ON TENTATIVE MAP.

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

SECTION 1. AMENDMENT OF CODE. Section 4-4.404 of Chapter 4 of Title 4
of the Modesto Municipal Code is hereby amended to read as follows:

4-4.404. ACTION ON TENTATIVE MAP.

- (a) **Action by Planning Commission.** The Planning Commission shall review the tentative map to determine whether it is in conformity with the provisions of law and of this chapter and upon that basis, within fifty (50) days after the filing of the tentative map, adopt a resolution approving, conditionally approving or disapproving the tentative map. The Planning Commission is authorized to report its action directly to the subdivider.
- (b) **Consistency With General Plan.** A tentative map shall not be approved or conditionally approved by the Planning Commission unless the Planning Commission finds that the proposed subdivision, together with the provisions for its design and improvements, is consistent with the General Plan and applicable specific plans of the City.
- (c) **Discharge of Waste.** In connection with their review of a tentative map, the Planning Commission shall determine whether the discharge of waste from the proposed subdivision into the existing sewer system would result in violation of existing requirements prescribed by the California Regional Water Quality Control Board pursuant to Division 7 (commencing with Section 13000) of the Water Code of the State of California. In the event that the Planning Commission finds that the proposed waste discharge would result in or add to violation of requirements of such board, it may disapprove the tentative subdivision map.
- (d) **Limitations on Approval.** A tentative map shall not be approved or conditionally approved by the Planning Commission if it makes any of the following findings:
 - (1) That the proposed map is not consistent with applicable general and specific plans.

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Effective: November 2, 2012

- (2) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
 - (3) That the site is not physically suitable for the type of development.
 - (4) That the site is not physically suitable for the proposed density of development.
 - (5) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
 - (6) That the design of the subdivision or the type of improvements is likely to cause serious public health problems.
 - (7) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the Planning Commission may approve a map if it finds that alternate easements, for access or for use, will be provided and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction.
- (e) **Reports and Recommendations.** Any reports or recommendations on the map or maps of any subdivision submitted to the Planning Commission or City Council shall be submitted in writing to the subdivider at least three (3) days prior to any hearing or action on the map or maps by the Planning Commission or City Council. Such required submission in writing shall be deemed complied with when such reports or recommendations are placed in the mail, bearing proper postage, and directed to the subdivider at his/her address shown on the map.
- (f) **Appeal.** If the subdivider or any interested person is dissatisfied with any action of the Planning Commission with respect to the tentative map, or the kinds, nature and extent of the improvements required by the Planning Commission, he/she may, within fifteen (15) days after such action is taken by the Planning Commission, appeal in writing to the City Council for a public hearing thereon. The City Council shall hear the appeal, upon notice being given in accordance with the provisions of Section 66451.3 of the Government Code and to the appellant and the Planning Commission, within thirty (30) days after the date of filing the appeal, unless the

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Effective: November 2, 2012

appellant consents to a continuance. At the time fixed for the hearing the City Council shall proceed to hear the testimony of the appellant or any witnesses in his/her behalf. It may also hear the testimony of other competent persons respecting the character of the neighborhood in which the subdivision is to be located; the kinds, nature and extent of improvements; or the quality or kinds of development to which the area is best adapted; and any other phase of the matter with respect to which it may desire to inquire into. Upon conclusion of the hearing the City Council shall, within ten (10) days, declare its findings based upon the testimony and documents produced before it. It may sustain, modify, reject or overrule any recommendations or rulings of the Planning Commission and may make such findings as are not inconsistent with the provisions of this chapter and the Subdivision Map Act.

- (g) **Presence of Subdivider.** The subdivider or his/her representative should be present at the time set for the consideration of the tentative map.
- (h) **Extension of Time Limits.** The time limits for acting and reporting on tentative maps as specified in this section may be extended by mutual consent of the subdivider and the Planning Commission or City Council as the case may be.
- (i) **Information To Be Furnished to Community and Economic Development Director.** When the approval or conditioned approval of the tentative map of any subdivision has become final, the subdivider shall furnish the following information to the Community and Economic Development Director and shall receive his/her authorization prior to construction of any of the improvements or preparation of the final map:
 - (1) Typical cross sections and proposed final finished grades of all roads, streets and highways in the proposed new subdivision, together with a profile showing the relation between finished grade and existing ground elevations.
 - (2) Proposed lengths, size and type of any pipes, culverts or structures necessary for drainage, erosion control or the public safety with plans and specifications therefor.
 - (3) Any information required by the conditional approval of the Planning Commission or City Council.
 - (4) Elevations shall be referenced to the Modesto City Datum.

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 September, 2012, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

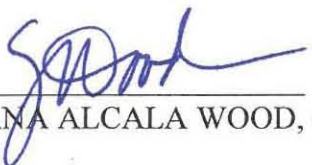
APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3576-C.S.

FINAL ADOPTION CLAUSE

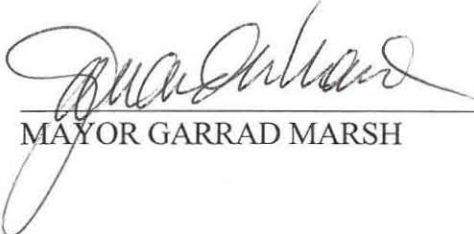
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 2nd day of October, 2012, Councilmember Lopez, who moved its final adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


MAYOR GARRAD MARSH

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: November 2, 2012

3576-C.S.
Effective: November 2, 2012

ORDINANCE NO. 3577-C.S.

AN ORDINANCE AMENDING CHAPTER 5 OF TITLE 7 OF
THE MODESTO MUNICIPAL CODE RELATING TO STREET
TREES.

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

SECTION 1. AMENDMENT OF CODE. Chapter 5 of Title 7 of the Modesto

Municipal Code is hereby amended to read as follows:

CHAPTER 5 - STREET TREES

7-5.01. DEFINITIONS.

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

- (a) **"Department"** shall mean the Parks, Recreation and Neighborhoods Department.
- (b) **"Director"** shall mean the Parks, Recreation and Neighborhoods Director.
- (c) **"Street Tree Plan"** shall mean an official adopted plan for the planting of certain varieties of trees in public rights-of-way or planting easements within the City.
- (d) **"Official Street Trees"** shall be those specified in the Street Tree Plan.
- (e) **"Right-of-way"** shall mean that portion of the public street right-of-way between the curb, or curb line, and the adjacent property line used for the purpose of planting and maintaining City street trees.
- (f) **"Planting Easement"** shall mean that portion of land made available as a public easement for the purpose of planting and maintaining City street trees.
- (g) **"Maintain" or "Maintenance,"** when used in reference to street trees, shall mean and include pruning, spraying, mulching, fertilizing, cultivating, supporting, treating for disease or injury, promoting public

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safety, or any other similar act which promotes the life, growth, health or beauty of street trees not to include the control of vertebrate pests.

- (h) **"Street Tree"** shall mean any tree whose center of trunk at ground level is within the right-of-way or planting easement.

7-5.02. STREET TREE PLAN.

The Department, in cooperation with the Community and Economic Development Department, shall prepare or have prepared a Street Tree Plan. Such plan, when approved by the City Manager, shall be submitted to the Planning Commission, which shall review said plan and submit its recommendations thereon to the Council. After making any revisions thereto which it may deem advisable, the Council shall adopt such plan by resolution. The Director shall, from time to time, recommend any revisions thereto. Amendments to the plan shall be made in the same manner as the original adoption. Said plan shall include the types, varieties, and locations of street trees to be planted. Said plan shall include type of trees to be planted in commercial, industrial and neighborhood zones. The types of trees shall be divided into general varieties which may be modified at the discretion of the Director.

7-5.03. RESPONSIBILITIES, DUTIES AND AUTHORITY OF THE DIRECTOR.

The Director, under the general supervision of the City Manager, shall have the authority and responsibility to do the following:

- (a) Carry out the provisions of this chapter.
- (b) Remove or replace any tree located within a planting right-of-way or easement, in accordance with the provisions of this chapter.
- (c) Enter in or upon any part of a right-of-way or easement or adjacent property as is reasonably necessary for the purpose of planting and maintaining street trees.

7-5.04. PLANTING AND MAINTENANCE.

- (a) Except as otherwise provided in this section, the subdivider of a subdivision or parcel map will supply and plant approximately one (1) tree per lot, excepting corner lots, where two (2) or three (3) trees will be planted. The City shall maintain street trees in all rights-of-way and planting easements within the City.

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- (b) The City, by mutual agreement, may provide and plant street trees in subdivisions outside of the City at a fee to be established by resolution of the Council, which fee shall not be less than that charged within the City.
- (c) No maintenance of street trees will be provided by the City in areas not within the City except by special agreement nor on privately owned property except in rights-of-way or public planting easements.
- (d) The property owner or occupant, as the case may be, shall be responsible for watering street trees located in rights-of-way or easements abutting said property.
- (e) This section shall not prevent any person, firm or public utility from installing and maintaining any overhead wires or underground pipes or conduits lawfully on, over or under public streets or public rights-of-way, subject to the provisions and requirements of Chapter 4 of Title 4 of this Code. The Director or Community and Economic Development Director, when reviewing plans for planting, maintenance or removal of street trees, shall consider the effect upon existing overhead wires or underground pipes or conduits and shall avoid unnecessary disturbance to or relocation of said facilities.

7-5.05. REMOVAL AND MAINTENANCE.

- (a) The Director shall be responsible for inspection, maintenance, removal and replacement of street trees planted within rights-of-way or easements. The Director may cause street trees or other plant material planted in a right-of-way or easement to be removed by the City if they are deemed by the Director to be unhealthy, hazardous, undesirable or causing excessive damage to existing public improvements, or street trees.
- (b) The Director shall have the authority to require property owners to take such action as is necessary to control insects, scales, parasites, fungus, and other injurious pests or plant material that would cause serious injury to street trees and other plant material within the City. The City shall notify the property owner in writing, describing the conditions and stating the control necessary to correct the condition, and establishing a reasonable time within which the corrective steps shall be taken.

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- (c) The Director shall have the authority to require property owners to remove or prune any privately planted tree, shrub, vine, or other plant material if it is determined by the Director to be seriously interfering with the growth and health of any street tree.
- (d) In the event a property owner desires to remove a tree from the right-of-way or easement abutting his/her property, he/she or his/her authorized agent shall make application to the Department. The Director shall determine whether or not such tree is required to be retained in order to preserve the intent and purpose of the Street Tree Plan. In making his/her determination, the Director shall consider the inconvenience or hardship which retention of the tree would cause the property owner, and consider also the condition, age, desirability of variety and location of the tree. If the Director finds that the tree may be removed without violating the intent and spirit of the Street Tree Plan, he/she may authorize the property owner to remove such tree at his/her own expense and liability. If a permit is granted for removal of a street tree, all removal work shall be completed within sixty (60) days from the date of issuance of the permit, and shall be under the general supervision of, and in accordance with, rules established by the Director. All tree stumps shall be removed to a depth specified by the Director. All removal permits shall be void after the expiration of sixty (60) days from the date of issuance, unless extended by the Director.

7-5.06. PROTECTION.

- (a) No person shall remove, trim, prune, spray, or cut any above- or below-ground portions of any street tree in a right-of-way or easement without first obtaining permission from the Director.
- (b) No person shall interfere or cause any person to interfere with any work being done under the provisions of this chapter by any employee of the City, or by any person or firm doing work for the City or under a permit granted by the City.
- (c) No person shall interfere or cause anyone to interfere with or damage any overhead wires or underground pipes or conduits while removing, trimming, pruning, spraying, or cutting any street trees in a right-of-way or easement. The owner of such facilities shall be notified when such work may interfere with or cause damage to the facilities. The cost of repair of the damage to overhead wires, underground pipes or conduits shall be the responsibility of the person, firm or corporation doing or causing the work to be done. The City of Modesto and its officers and employees shall be exempt from the provisions of this subsection.

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- (d) It shall be unlawful for any person to injure or destroy by any means any tree planted or maintained by the City in rights-of-way or easements, including, but not limited to, the following:
- (1) Constructing a concrete sidewalk or driveway or otherwise filling up the ground around any street tree so as to shut off air or water from its roots.
 - (2) Piling building materials, equipment, or other substance around any tree.
 - (3) Pouring any deleterious material on any tree or on the ground near any tree.
 - (4) Posting any sign, poster, notice, or other object on any tree, tree stake or guard, or fastening any guy wire, cable, rope, nails, screws, or other device to any tree, tree stake or guard.
 - (5) Causing or encouraging any fire or burning near or around any tree.
 - (6) Using any mechanical weeding device against a tree.
 - (7) Constructing retaining walls, fences, or other similar improvements which prohibit the planting or maintaining of street trees or otherwise affect their growth.
 - (8) Operating construction equipment in such a manner to cause it to contact the tree.
 - (9) Disrupt the anchorage of the tree or change the grade around the tree.
- (e) No person shall plant a tree or other plant material in a right-of-way or easement other than lawn or other similar planting materials, unless approved by the Community and Economic Development Director.

7-5.07. DUTY TO TRIM TREES.

Notwithstanding other provisions of this chapter, it is hereby made the duty of every person owning or occupying any land or lots of land within the City to keep all private trees extending over any street or alley trimmed up to a height of not

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less than twelve (12) feet, except that a height of not less than seven (7) feet shall be permitted over the sidewalk area, and also to keep said space clear of debris.

7-5.08. COOPERATION WITH OTHER DEPARTMENTS AND AGENCIES.

- (a) Any public utility maintaining any overhead wires or underground pipes or conduits shall obtain permission from the Director before performing any maintenance to said wires, pipes, or conduits, which would cause injury to street trees. Said public utility shall in no way injure, deface, prune, or scar any street tree until their plans and procedures have been approved by the Director.
- (b) The Director shall be permitted to inspect any and all maintenance or operational work performed by public utilities which might affect street trees. During the performance of said work, if in the opinion of the Director, it would cause excessive or unnecessary injury to any street tree, the Director shall have the authority to stop said maintenance and operational work and arrange with said public utility another method of maintenance or operational work satisfactory to the City.
- (c) The provisions of subsections (b) and (c) of this section shall not apply to emergency public utility maintenance work which is performed during nonworking hours for City personnel.

7-5.09. LIABILITY.

Nothing in this chapter shall impose any liability upon the City, or members of the Council, or any of its officials or employees, nor relieve the owner or occupant of any private property from the duty to keep his private property, sidewalks, and rights-of-way abutting such private property in a safe condition, free from hazards to public use.

7-5.10. APPEALS.

Any person excepting to any denial, suspension or revocation by the Director of a permit applied for or held by him/her pursuant to the provisions of this chapter, or excepting to any other administrative action taken by the Director in administering the provisions of this chapter may appeal to the Council. Such an appeal shall be

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The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2012, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

taken in accordance with the procedure prescribed by Chapter 4 of Title 1 of this Code.

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

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

Ord. No. 3577-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 October, 2012, Councilmember Lopez, who moved its final adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


MAYOR GARRAD MARSH

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: November 2, 2012

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Effective: November 2, 2012

ORDINANCE NO. 3578-C.S.

AN ORDINANCE AMENDING SECTIONS 4-4.502, 4-4.503, 4-4.509, 4-4.510, 4-4.511, 4-4.513, 4-4.515, 4-4.516, 4-4.517 AND 4-4.518 OF CHAPTER 4 OF TITLE 4 OF THE MODESTO MUNICIPAL CODE RELATING TO SUBDIVISION OF LAND - PARCEL MAPS.

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

SECTION 1. AMENDMENT OF CODE. Sections 4-4.502, 4-4.503, 4-4.509, 4-4.510, 4-4.511, 4-4.513, 4-4.515, 4-4.516, 4-4.517 and 4-4.518 of Chapter 4 of Title 4 of the Modesto Municipal Code are hereby amended to read as follows:

4-4.502. TENTATIVE PARCEL MAPS.

- (a) Applications for tentative subdivision maps shall be filed with the Secretary of the Planning Commission and shall conform to all requirements for the form of Maps and associated information required to be submitted with map applications as established from time to time by resolution of the City Council. Said submittal requirements shall be made available in writing to applicants upon request. The map application shall not be deemed complete until all such submittal requirements have been fully satisfied. The representative of the Planning Commission shall distribute copies of the tentative parcel map to affected City departments, local utility companies serving the property, and such other individuals or agencies as is deemed advisable. The department, utility company, individual or agency receiving a copy of the tentative parcel map may respond regarding any concerns or requirements within fifteen (15) days from the date the map was mailed. If a reply is not received within said fifteen-day period it shall be assumed that the tentative parcel map conforms with the requirements of the particular department, utility company, individual or agency.
- (b) **Consistency with General Plan.** A tentative parcel map shall not be approved or conditionally approved by the Planning Commission unless the Planning Commission finds that the proposed parcel map, together with the provisions for its design and improvements, is consistent with the General Plan and applicable specific plans of the City.

- (c) **Requirements for Approval.** If the tentative parcel map complies with all of the requirements of this article and the Subdivision Map Act, the Planning Commission may approve the division, subject to the dedication of necessary right-of-way for streets and easements, the installation of all improvements along the frontages of the property so divided, as required by the Commission, and the installation of all necessary utilities and connections to each lot. All lot sizes shall conform to the provisions of the zoning regulations of the City of Modesto.
- (d) **Limitations on Approval.** A tentative parcel map shall not be approved or conditionally approved by the Planning Commission if it makes any of the following findings:
- (1) That the proposed map is not consistent with applicable general and specific plans.
 - (2) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
 - (3) That the site is not physically suitable for the type of development.
 - (4) That the site is not physically suitable for the proposed density of development.
 - (5) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
 - (6) That the design of the subdivision or the type of improvements is likely to cause serious public health problems.
 - (7) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large for access through or use of property within the proposed subdivision. In this connection, the Planning Commission may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easement of record or to easements established by judgment of a court of competent jurisdiction.
- (e) **Improvements.** If the Planning Commission approves the tentative parcel map it may require the construction of reasonable off-site and on-site

improvements for the parcels being created. Requirements for the construction of such off-site or on-site improvements shall be noticed by certificate on the parcel map, on the instrument evidencing the waiver of such parcel map, or by separate instrument and shall be recorded on, concurrently with, or prior to the parcel map or instrument of waiver of a parcel map being filed for record. The construction of such improvements shall be required prior to the subsequent issuance of a permit or other grant of approval for the development of such parcel. The Planning Commission may require the fulfillment of such improvement requirements within a reasonable time following approval of the parcel map and prior to the issuance of a permit or other grant of approval for the development of a parcel upon a finding by the Planning Commission that fulfillment of the improvement requirement is necessary for reasons of:

- (1) The public health and safety; or
- (2) The required construction is a necessary prerequisite to the orderly development of the surrounding area.

If the improvements are required within such a time period, the Planning Commission may require an improvement security to be posted in one of the forms set forth in subsection (b) of Section 4-4.605.

- (f) **Requirement for Street Trees.** As a condition of approval for parcel maps, it is the policy of the City of Modesto to require street trees to be planted and maintained along the street frontages of the affected properties and conform to the City of Modesto Street Tree Plan. The subdivider of a parcel shall be responsible for planting such street trees.
- (g) **Drainage Facilities.** Whenever the City, by ordinance, has adopted a drainage plan for a particular drainage area, pursuant to Section 66483 of the Government Code of the State of California, each subdivider filing a parcel map for the division of land, any part of which is located within the boundaries of such a drainage area and the tentative map of which is filed after the effective date of the addition of this subsection, shall pay to the City at the time of the filing of the parcel map, as a condition of approval thereof, such fees as may be required by said ordinance. The Council may, by resolutions or agreements adopted or entered into from time to time, establish conditions under which such fees may be spread over a period of time.
- (h) **Appeal.** If the property owner or any interested person is dissatisfied with any action of the Planning Commission with respect to the tentative parcel

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

4-4.503. FILING PARCEL MAPS.

- (a) **Filing Within Twenty-Four Months of Tentative Approval.** The subdivider or his/her agent may file a parcel map with the Community and Economic Development Director for his/her examination and certification within twenty-four (24) months after the approval or conditional approval of the tentative map. A map shall be deemed to be filed when it is accepted by the City as being in compliance with the provisions of this chapter and in substantial compliance with the tentative map. The twenty-four (24) 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

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

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

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

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

4-4.509. NOTICE.

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

4-4.510. FAILURE TO COMMENCE WORK.

Whenever the required construction is not commenced within thirty (30) days after delivery of notice or within any period of extension granted pursuant to this

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article, the City Council may authorize the Community and Economic Development Director to have said improvements constructed.

4-4.511. EXTENSION OF TIME TO PERFORM WORK.

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

4-4.513. PROCEDURE.

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

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

The Community and Economic Development Director shall keep an itemized account of the expenses incurred by the City in the construction of any improvements done pursuant to the provisions of this article. Upon the completion of the work, the Community and Economic Development Director shall prepare and file with the City Clerk a report specifying the work done, the itemized and total cost of the work, a description of the location and type of improvements, and the names and addresses of the persons entitled to notice.

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

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

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report, together with any objections or protests which may be filed as hereinafter provided by any person interested in or affected by the proposed charge.

4-4.517. PROTESTS AND OBJECTIONS, HOW MADE.

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

4-4.518. HEARING OF PROTESTS.

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

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.

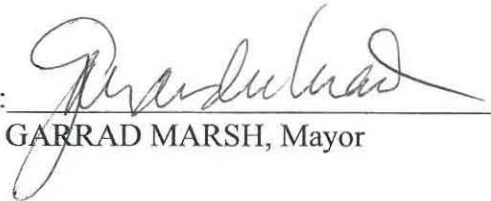
SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth 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 September, 2012, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3578-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 October, 2012, Councilmember Lopez, who moved its final adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


MAYOR GARRAD MARSH

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: November 2, 2012

3578 C.S.
Effective: November 2, 2012

ORDINANCE NO. 3579-C.S.

AN ORDINANCE AMENDING SECTION 9-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO TO REZONE FROM MEDIUM DENSITY RESIDENTIAL ZONE, R-2, TO PROFESSIONAL OFFICE ZONE, P-O, PROPERTY LOCATED AT THE WEST SIDE OF COFFEE ROAD, OPPOSITE THORSEN AVENUE. (MR. LYN BRIGHT).

WHEREAS, a verified application for an amendment to Section 9-3-9 of the Zoning Map was filed by Mr. Lyn Bright on May 21, 2012, to rezone from Medium Density Residential Zone, R-2, to Professional Office Zone, P-O, property located on the west side of Coffee Road, opposite of Thorsen Avenue, and

WHEREAS, after a public hearing held on August 6, 2012, it was found and determined by the Planning Commission that the requested zone change is required by public convenience or necessity, the requested zone change will result in an orderly planned use of land resources, the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan, and

WHEREAS, by Resolution No. 2012-09, adopted on August 6, 2012, the Planning Commission recommended to the Council that the application of Mr. Lyn Bright to amend Section 9-3-9 of the Zoning Map to rezone 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 October 2, 2012, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and

determines that the requested zone change is required by public convenience or necessity, the requested zone change will result in an orderly planned use of land resources, the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan.

This Council also finds and determines that the decision to approve the requested zone change is required by public necessity, convenience, and general welfare for the following reasons:

1. The requested change will not be detrimental to the public health, safety, or welfare because the rezone to Professional Office Zone (P-O) would provide for development that is compatible with surrounding land uses which include professional office, preschool and residential uses.
2. The requested change will result in an orderly planned use of land because Professional Office uses because this section of Coffee Road is transitioning to office uses and other non-residential uses.

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

R-2 to P-O

All that portion of the East half of the Southeast quarter of Section 9, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California described as follows:

Commencing at a point on the West line of a 40-foot road known as Coffee Road lying North 89° 37' West 20 feet and North 0° 50' 30" West 25 feet from the Southeast corner of said Section 9, said point being the Northeast corner of the property conveyed to James D. High by Deed recorded March 1, 1950, in Volume 991 of Official Records, Page 243; thence continue North 0° 50' 30" West along the West line of said Coffee Road a distance of 1082.38 feet to the true point of

beginning of this description; thence North $89^{\circ} 37'$ West, a distance of 278 feet to a point on the East line of Sherwood Manor No. 3, as per Map thereof filed June 21, 1966, in Volume 21 of Maps, Page 50, Stanislaus County Records; thence North $0^{\circ} 50' 30''$ West along the East line of said Sherwood Manor No. 3, a distance of 232.62 feet to the Northeast corner of said Sherwood Manor No. 3; thence South $89^{\circ} 24' 10''$ East along the Easterly prolongation of the North line of said Sherwood Manor No. 3, a distance of 278 feet to a point on the West line of said Coffee Road; thence South $0^{\circ} 50' 30''$ East along the West line of said Coffee Road, a distance of 232.62 feet to the true point of beginning.

Except that portion deeded to the City of Modesto in Deed recorded June 11, 1990, as Instrument No. 1990-51427 Official Records of Stanislaus County.

Including also, the westerly 45 feet of Coffee Road, all being immediately adjacent to the above description.

APN: 013-070-067

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

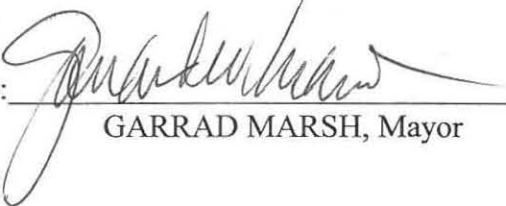
SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth 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 2nd day of October, 2012, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and ordered printed and published by the following vote:


AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

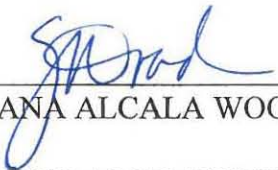
APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

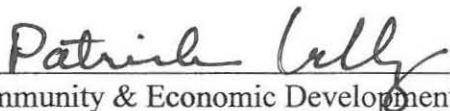
By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community & Economic Development
Department, Planning Division

Ord. No. 3579-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 October, 2012, Councilmember Lopez, who moved its final adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

APPROVED:


MAYOR GARRAD MARSH

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: November 9, 2012

ORDINANCE NO. 3580-C.S.

AN ORDINANCE AMENDING SECTION 2 OF ORDINANCE NO. 3483-C.S. ENTITLED "AN ORDINANCE AMENDING SECTION MAP 26-3-9 OF THE ZONING MAP TO REZONE FROM MEDIUM DENSITY RESIDENTIAL ZONE, R-2, TO PLANNED DEVELOPMENT ZONE, P-D(585), PROPERTY LOCATED ON THE NORTHSIDE OF POPPYPATCH DRIVE WEST OF LINCOLN AVENUE AT 421 LINCOLN AVENUE (STANCO).

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

SECTION 1. AMENDMENT OF ORDINANCE NO. 3483-C.S. Section 2 of Ordinance No. 3483-C.S. is hereby amended to read as follows:

"SECTION 2. USES. The following uses shall be permitted in said P-D(585) 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 10-7.108(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 require by Section 10-7.108(a) or (b) of the Modesto Municipal Code:

An 18-unit housing development for seniors and non-seniors, including supportive housing."

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

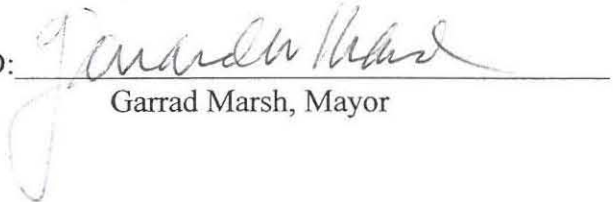
City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Geer, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Geer, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside, Gunderson, Muratore


APPROVED: 
Garrad Marsh, Mayor

ATTEST:


By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community & Economic Development
Department, Planning Division

Ord. No. 3580-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 November, 2012, Councilmember Lopez, who moved its final adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

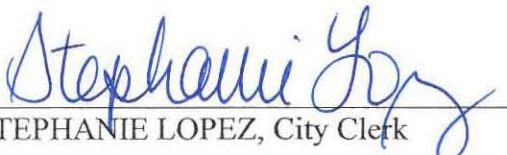
NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

APPROVED:


MAYOR GARRAD MARSH

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: December 6, 2012

ORDINANCE NO. 3581-C.S.

AN ORDINANCE AMENDING SECTION 8-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PROFESSIONAL OFFICE ZONE, P-O, PROPERTY LOCATED ON THE SOUTH SIDE OF STANDIFORD AVENUE, WEST OF MCHENRY AVENUE (WINDWARD PACIFIC BUILDERS)

WHEREAS, a verified application for an amendment to Section 8-3-9 of the Zoning Map was filed by Windward Pacific Builders on July 3, 2012, to reclassify from Low Density Residential Zone, R-1, to Professional Office Zone, P-O, property located on the south side of Standiford Avenue and west of McHenry Avenue, and

WHEREAS, after a public hearing held on September 17, 2012, it was found and determined by the Planning Commission that the requested zone change is required by public convenience or necessity, the requested zone change will result in an orderly planned use of land resources, and the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan, and

WHEREAS, by Resolution No. 2012-13, adopted on September 17, 2012, the Planning Commission recommended to the Council that the application of Windward Pacific Builders to amend Section 8-3-9 of the Zoning Map to rezone the hereinafter described property from Low Density Residential Zone, R-1, 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 October 23, 2012, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines that the requested zone change is required by public convenience or necessity, the

requested zone change will result in an orderly planned use of land resources, the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan.

This Council also finds and determines that the decision to approve the requested zone change is required by public necessity, convenience, and general welfare for the following reasons:

1. The requested change will not be detrimental to the public health, safety, or welfare because rezoning to Professional Office would provide for development that is compatible with surrounding land uses which include professional office and residential uses.
2. The requested change will result in an orderly planned use of land because Professional Office development and uses are generally compatible with residential uses. In addition, portions of Standiford Avenue in the area are designated as Mixed Use in the General Plan and have been developed with office, residential and other non-residential uses. The proposed zoning is consistent with this pattern.
3. The requested change is in accordance with the community's objectives as set forth in the General Plan because the allowable uses of the Professional Office (P-O) Zone are consistent with the site's proposed General Plan Land Use Designation of "Mixed Use", which allows for professional office uses.

SECTION 2. ZONING CHANGE. Section 8-3-9 of the Zoning Map is hereby amended to rezone the following described property from Low Density Residential Zone, R-1, to Professional Office Zone, P-O:

R-1 to P-O

All of Parcel A and Parcel B, according to the Parcel Map filed for record March 27, 1986, in Book 37 of Parcel Maps, at Page 97, Stanislaus County Records, and Parcel A, according to the Record of Survey filed for record March 4, 1960, in Volume 8 of Surveys, at Page 25, Stanislaus County

Records, lying in a portion of the Southeast quarter of Section 8, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Beginning at the intersection of the center line of 50.00 foot wide West Point Drive with the center line of Standiford Avenue, being 90.00 feet wide at this point; thence South 89° 08' 43" East 472.07 feet along said center line of Standiford Avenue to a point which is at the intersection of said center line with the Northerly projection of the East line of said Parcel B of said Parcel Map; thence South 00° 59' 45" East 198.78 feet along said East line of the Northerly projection, and the East line, of said Parcel B, to the Southeast corner thereof; thence North 89° 24' 25" West 296.65 feet long the South lines of said Parcel B and Parcel A of said Parcel Map, to the corner of common to said Parcel A of said Parcel Map, to the corner of common to said Parcel A of said Parcel Map, and to Parcel A of said Record of Survey; thence North 89° 08' 43" West 175.52, more or less, along the South line of said Parcel A of the Record of Survey, to said center line of West Point Drive; thence North 00° 57' 19" West 200.13 feet along said center line to the point of beginning.

CONTAINING: 2.16 acres, 94,160 square feet, more or less.

APN: 055-029-008, 055-029-029, 055-029-030

SECTION 3. ZONING MAP. Section 8-3-9 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 23rd day of October, 2012, by Councilmember Cogdill, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Geer, Lopez, Mayor Marsh

NOES: Councilmembers: None


ABSENT: Councilmembers: Burnside, Gunderson, Muratore

APPROVED: 
GARRAD MARSH, Mayor

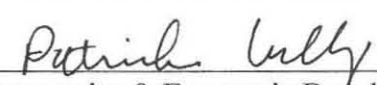
ATTEST:
By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community & Economic Development
Department, Planning Division

Ord. No. 3581-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 November, 2012, Councilmember Lopez, who moved its final adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

APPROVED:


MAYOR GARRAD MARSH

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: December 6, 2012

