

ORDINANCE NO. 3665-C.S.

ORDINANCE AMENDING ARTICLE 19 TO CHAPTER 2 OF TITLE III OF THE MODESTO MUNICIPAL CODE TO CREATE RESIDENTIAL PERMIT PARKING ZONES AND ESTABLISH REGULATIONS THEREFORE

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

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

ARTICLE 19. RESIDENTIAL PARKING PERMIT ZONES

3-2.1900. LEGISLATIVE PURPOSE.

The residential parking requirements established in this chapter are intended to regulate and manage traffic and parking circulation in response to the adverse effects caused in certain areas and neighborhoods of Modesto by motor vehicle congestion, particularly the long-term parking of non-residence by limiting on-street parking availability in a manner that facilitates the ability of residents with residential parking permits to park in close proximity to their residence and promotes sufficient parking availability in a particular area when and where needed. A system of residential parking will serve to promote the safety, health and welfare of all the residents of Modesto by reducing a number of strains on residents of the City. For the reasons set forth in this chapter and pursuant to the authority of Vehicle Code Section 22507, a system of residential parking is enacted for the City.

3-2.1901. PROCEDURE FOR DESIGNATING RESIDENTIAL PARKING PERMIT ZONE

Upon the receipt and verification of the petition prescribed by the City containing the valid signatures and phone numbers of at least sixty-seven (67) percent of the residents and/or owners of real property in a specific residential area proposed for designation, the City Engineer shall direct surveys or studies necessary to determine whether a residential area is suitable as a Residential Parking Permit Zone. Council shall conduct a public hearing to consider whether that residential area should be designated as a residential parking permit zone. Upon a finding by Council that the area proposed for designation has unique residential parking problems, due to the nature, location, frequency or duration of activities or events causing such problems, that outweigh the needs of the general public for access to the area and its facilities, the Council may by resolution establish a residential parking permit zone for said residential area in accordance with the provisions of this Article. Such resolution shall state the findings of necessity for the zone designation, the boundaries of the residential parking permit zone, the applicable

time limitations, the day or days of restriction, and such other conditions as Council deems necessary and in the public interest. Persons occupying residences on streets within a residential parking permit zone shall be exempt from the general restrictions of parking. Such exemptions shall be evidenced by issuance of a valid parking permit displayed in the manner indicated at the time of issuance.

Council shall not consider permit zone establishment for a particular residential area more frequently than once each year.

3-2.1902 . DEFINITIONS OF WORDS AND PHRASES.

- (a) The words and phrases used in this Article shall have the meanings respectively ascribed to them in this section.
- (1) “Vehicle” means an automobile, truck, motorcycle, or other motor-driven form of transportation, not in excess of ten thousand (10,000) pounds gross weight.
 - (2) “Owner” means a natural person over the age of sixteen (16) years who has at least a one-quarter ownership interest in a parcel of real property within a Residential Permit Parking Zone designated pursuant to this Article.
 - (3) “Resident” means a person over the age of sixteen (16) years who lives in a Residential Permit Parking Zone as his or her permanent place of residence, either as a tenant or as owner.
 - (4) “Residential Area” means a contiguous area, containing public streets or highways or parts thereof, in which residents dwell and which have been zoned by the City of Modesto as R-1, R-2, or R-3.
 - (5) “Resident Parking Permit” means any permit issued to a resident of a legal dwelling unit located in a Residential Parking Permit area, who owns a motor vehicle, registered to an address within the zone, for the purpose of parking in a residential permit parking area pursuant to this Article.
 - (6) “Guest Parking Permit” means a person who is a guest visiting residents in a dwelling unit located in a residential permit parking area and is displaying a Guest Parking Permit pursuant to this Article.
 - (7) “Business Owner” shall mean the owner of a business located adjacent to a street or portion of street within a residential permit zone and such owner’s agent.

(8) "Residential Permit Parking Zone" means a residential area as designated in this Article in which a motor vehicle issued a valid permit pursuant to this chapter shall be exempt from the parking restrictions herein established.

(b) Whenever any words or phrases used in this Article are not defined in this section, but are now or hereafter defined in the Vehicle Code of the State of California, such definitions are incorporated herein and shall be deemed to apply to such words and phrases used in this Article as though set forth in full.

3-2.1903. POSTING OF RESIDENTIAL PERMIT PARKING ZONE.

Upon the adoption of a resolution by the Council designating a residential permit parking zone and appropriate parking time restrictions, the City Manager shall order appropriate traffic control devices, including but not necessarily limited to signs to be erected in such areas indicating prominently thereon the parking limitations, periods of the day for its application, and the fact that vehicles issued and displaying a valid permit in the manner indicated at the time of issuance shall be exempt.

3-2.1904. VIOLATIONS

- (a) It is unlawful and a violation of this Section, unless expressly provided to the contrary herein, for any person to stand or park a vehicle on a street within a Residential Permit Parking Zone when posted by signs giving notice thereof and erected pursuant to this Article, without a valid resident parking permit for that zone properly displayed in the manner indicated at the time of issuance. The fine for each such violation is the amount established by resolution.
- (b) It is unlawful and a violation of this Section for a person falsely to represent himself or herself as eligible for a resident parking permit or a guest permit or to furnish false information in an application for any such permits.
- (c) It is unlawful and a violation of this Section for any person to use or display, or permit the use or display of, a resident parking permit or a guest permit pertaining thereto on a vehicle other than that vehicle for which such permit was issued and duly authorized and its purpose. The fine for such violation is the amount established by resolution.
- (d) It is unlawful and a violation of this Section for any person to sell, transfer, or convey, or to offer to sell, transfer, or convey, any parking permit issued pursuant to this article, whether for money or other consideration or without money or consideration. Any such violation shall subject the violator(s) by

revocation of the residential permit(s) and possible denial of a permit(s) at the next renewal cycle for that permit area.

- (e) It is unlawful and a violation of this Section for any person to alter, copy, produce or otherwise create a facsimile or counterfeit parking permit in order to evade parking regulations applicable in a residential area. Any such violation is subject to a civil penalty as specified in the resolution adopted by the City Council pursuant to this Section.

3-2.1905. EXEMPTIONS

- (a) Any vehicle on which is properly displayed in the manner indicated at the time of issuance a valid resident parking permit, a business, or guest permit, pertaining thereto, as provided for herein, may be parked on a street within the residential permit parking zone without limitation of the day or time restrictions established by the Council under Section 3-2.1900. Such parking permit shall not guarantee or reserve the holder thereof an on-street parking space on a street in such residential permit parking zone or exempt the vehicle from any other applicable restrictions, ordinances, or State and local laws.
- (b) Any clearly marked commercial vehicles with commercial license plates parked for the purpose of commercial or residential maintenance or while making a pickup or delivery of goods, wares or merchandise from or to any building or structure located within a residential permit parking zone.
- (c) Any authorized emergency vehicle as defined in California Vehicle Code Section 165 during conduct of official business if such vehicles are identified as such by an official seal or logo.
- (d) Any vehicle where the operator or the passenger being transported by said vehicle displays a valid disabled placard or said vehicle has been issued disabled license plates meeting the requirements of Vehicle Code Section 22511.5.

3-2.1906. ISSUANCE AND DURATION OF PERMITS

Residential Parking Permits shall be issued to vehicles registered to residents at a residential address within the zone, but the actual number of permits will be based on the City's survey findings. The resident will be required to complete an application listing each motor vehicle. The resident will be required to prove ownership or control of each of the vehicles for which an annual permit is issued. Each permit issued by the City shall be valid for a maximum of one (1) year. The requirements governing the manner in which persons qualify for vehicle Parking Permits shall be established by the City Manager designee and includes current California Department of Motor Vehicle registration and proof of current residency, both of which shall reflect the address of the residents that is located

within the permit zone. Residents may also purchase guest permits when approved by resolution in accordance with the policy set by City Council.

3-2.1907 DISPLAY OF PERMITS

- (a) All Parking Permits shall be properly displayed in the manner indicated at the time of issuance by the program designee when parked in the residential parking permit zone for which it was issued.
- (b) Each vehicle issued a parking permit shall be parked in a manner that conforms to all other parking and vehicle regulations and laws established by this Code and by the California Vehicle Code.
- (b) A valid parking permit issued under this chapter shall not guarantee or reserve to the holder on-street parking space on any street or portion of street within the permit parking area for which the permit was issued.

3-2.1908. FEES

The Council may establish, by resolution, fees for the issuance of Residential Parking Permits, Business and Guest Permits, failure to properly display parking permit dismissal fee in lieu of the fine, and a fee for the replacement of lost, damaged, or destroyed permits. There shall be no refund for or setoff of any unused portion of any permit.

3-2.1909. TERMINATION OF PERMITS

Permits shall terminate upon any of the following events:

- (a) The transfer or sale of the vehicle for which a permit has been issued.
- (b) The relocation of the permittee from his or her residence within a Residential Parking Area to another residence, whether within or outside said Zone.
- (c) Upon expiration of the time period for which a permit has been issued.

3-2.1910. REGULATIONS

Administration of Residential Permit Parking Zones, including but not limited to the issuance of permits, collection of fees or fines, physical changes to traffic control devices, or changes to days or hours of restrictions shall be administered in accordance with regulations promulgated from time to time by the City Manager designee.

3-2.1911. DISESTABLISHMENT PROCEDURE FOR RESCINDING OR MODIFYING RESIDENTIAL PARKING PERMIT ZONE

Upon the filing with the City Clerk of a verified petition containing the valid signatures of at least fifty-one (51) percent of the residents and/or owners of real property in a specific residential area or upon the written request of the chief executive officer of a major employer, agency, or institution adjacent to the residential permit parking zone, Council shall conduct a public hearing to consider whether that area should totally or partially cease to be designated as a residential parking permit zone. Upon a finding by Council that a majority of the owners and/or residents no longer wish to participate in the permit parking zone or desire revision of its conditions or that a major employer or institution adjacent to a permit parking zone suffers significant detrimental impacts resulting from the permit parking zone which outweigh residents' interests, Council may by resolution terminate, modify or disestablish the permit parking zone. Such resolution shall state the effective date of termination of the permit parking zone or of partial termination or of the revised conditions. Not more than one reconsideration or disestablishment hearing per zone shall be held annually unless five members of the Council vote to reconsider a particular matter at a lesser interval.

3-2.1912. TERMINATION

Nothing in this Section is intended to limit the City's ability at any time to recommend on its own initiative for public hearing and approval by the Council to modify or to terminate one or more of the residential parking permit zones then in existence.

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

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

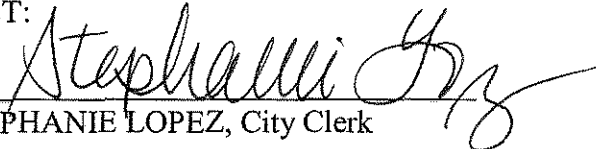
The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2016, by Councilmember Ah You, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

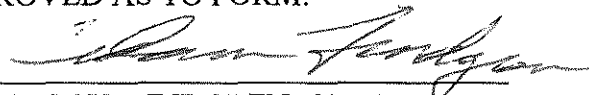
NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
TED BRANDVOLD, Mayor

ATTEST:
By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:
By: 
ADAM U. LINDGREN, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 10th day of January, 2017, Councilmember Ridenour, moved its final adoption, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour,
Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


TED BRANDVOLD, Mayor

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: February 10, 2017

ORDINANCE NO. 3666-C.S.

ORDINANCE AMENDING SECTION 22-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO GENERAL COMMERCIAL ZONE, C-2, PROPERTY LOCATED AT 1115 OAKDALE ROAD WEST OF MORNINGSIDE DRIVE (GFF & R II)

WHEREAS, a verified application for an amendment to Section 22-3-9 of the Zoning Map was filed by GFF & R II on October 6, 2016, to rezone from Low Density Residential Zone, R-1, to General Commercial Zone, C-2, property located at 1115 Oakdale Road, west of Morningside Drive, and

WHEREAS, after a public hearing held on November 21, 2016, the Planning Commission found the following: 1) that the requested zone change will not be detrimental to the public health, safety or welfare because it will provide for new general commercial uses that are compatible with nearby professional office and commercial uses; 2) the requested zone change will result in an orderly planned use of land because the project will provide for new development within vacant infill land that is adjacent to existing professional office and commercial uses; and 3) the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan and any applicable specific plans(s) because the allowable uses in the General Commercial (C-2) Zone are consistent with the site's General Plan Land Use Designation of Mixed Use (MU), which allows for office uses, and

WHEREAS, by Resolution No. 2016-19, adopted on November 21, 2016, the Planning Commission recommended to the Council that the application of GFF & R II to amend

Section 22-3-9 of the Zoning Map to rezone the hereinafter described property from Low Density Residential Zone, R-1, to General Commercial Zone, C-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 10, 2017, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety or welfare because it will provide for new general commercial uses that are compatible with nearby professional office and commercial uses.
2. The requested change will result in an orderly planned use of land because the project will provide for new development within vacant infill land that is adjacent to existing professional office and commercial uses.
3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plan(s) because the allowable uses in the General Commercial (C-2) Zone are consistent with the site's General Plan Land Use Designation of Mixed Use (MU), which allows for office uses.

SECTION 2. ZONING AMENDMENT. Section 22-3-9 of the Zoning Map is hereby amended to rezone the following described property from Low Density Residential Zone, R-1, to General Commercial Zone, C-2:

R-1 to C-2

All of Parcel 2 as shown on that certain map filed for record on December 22, 2011 in Book 56 of Parcel Maps at Page 72, Stanislaus County Records, more commonly known as 1115 Oakdale Road, City of Modesto.

Together with the western 155 feet of Parcel C as shown on that certain map filed on November 2, 1987 in Volume 40 of Parcel Maps, Page 16, Stanislaus County Records, as adjusted by that Lot Line Adjustment filed on January 20, 2004 as "Adjusted Parcel 2", Document No. 2004-0007484-00, Stanislaus County Records.

Including also the west one-half of Oakdale Road, being immediately adjacent to the above-described land.

APN 032-015-047 and western 155 feet of APN 032-015-045

SECTION 3. ZONING MAP. Section 22-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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


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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2017, by Councilmember Ridenour, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and ordered printed and published by the following vote:


AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
TED BRANDVOLD, Mayor

ATTEST:

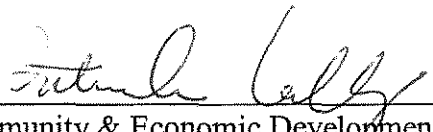
By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community & Economic Development
Department, Planning Division

Ord. No. 3666-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 24th day of January, 2017, Councilmember Grewal, moved its final adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour,
Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

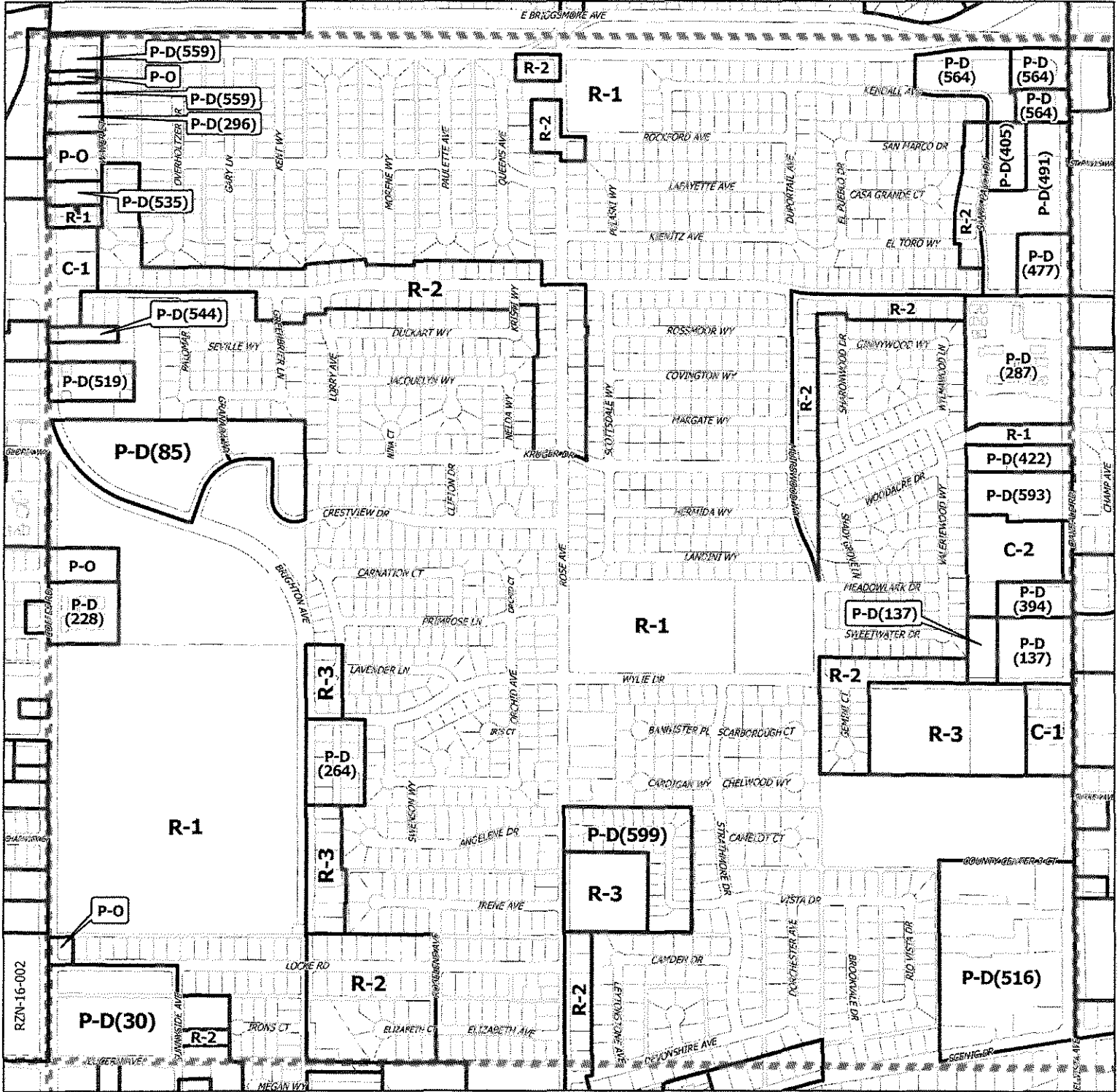
APPROVED:


TED BRANDVOLD, Mayor

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: February 24, 2017



ZONING MAP OF THE CITY OF MODESTO

22-3-9



ORDINANCE NO. 3667-C.S.

ORDINANCE AMENDING TITLE 12, "PARKS, RECREATION, AND NEIGHBORHOODS," CHAPTER 4, ARTICLE 2, SECTION 12-4.202(A)(32) RELATING TO USE OF TOBACCO PRODUCTS AND SMOKING IN PARKS AND ADDING SUB-SECTION 5-8.301(B)(1)(2) TO TITLE 5, "SANITATION AND HEALTH," CHAPTER 8, ARTICLE 3, RELATING TO THE PROHIBITION OF SMOKING IN SPECIFIED UNENCLOSED PLACES

WHEREAS, the Modesto Municipal Code currently prohibits tobacco smoking in public places and places of employment in the City of Modesto, and

WHEREAS, the City wishes to update its regulations to prohibit smoking in all public parks and at entrances and exits of hospitals, and

WHEREAS, it is the intent of the City Council to provide for the public health, safety, and welfare of the public and limit the exposure to secondhand smoke to nonsmokers who access public spaces and to not promote or encourage the use of tobacco by minors, and

WHEREAS, exposure to secondhand smoke anywhere has negative health impacts, and exposure to secondhand smoke does occur at significant levels outdoor, and

WHEREAS, pursuant to the City's police powers authorized in Article XI, Section 7 of the California Constitution, the City has the power to enact regulations for the preservation of public health, safety and welfare of its residents and community. And, pursuant to Government Code section 38771, the City has the power, through its City Council to declare actions and activities that constitute a public nuisance.

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

SECTION 1. AMENDMENTS:

Title 12, "Parks, Recreation, and Neighborhoods," Chapter 4, "Regulations Pertaining to the Use of Park and Recreation Areas and Facilities," Article 2, "Use of Park and Recreation Areas and Facilities," Section 12-4.202(a)(32) of the City's Municipal Code is hereby amended to read as follows:

12-4.202 - General Regulations Governing Use of Parks.

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

"(32) To use tobacco products of any kind, including, but not limited to, chewing tobacco, cigars and cigarettes, and/or smoking or to discard lighted or unlighted cigars or cigarettes in any public park. For purposes of this section, "smoke" shall have the same meaning as section 5-8.103(n) and smoking shall have the same meaning as section 5-8.103(o) of the Modesto Municipal Code."

SECTION 2. ADDITIONS:

Title 5, "Sanitation and Health," Chapter 8, "Smoking Pollution Control," Article 3, "Prohibition of Smoking in Public Places," Section 5-8.301 ("Smoking Prohibited") sub-section (b) shall be added to read as follows:

"(b) Except as otherwise provided, smoking shall be prohibited in the following unenclosed places within the City of Modesto:

- (1) Within 100 feet of the entrance and exit of any hospital. For purposes of this section, "hospital" shall mean a health care institution providing patient treatment with specialized medical and nursing staff and medical equipment;
- (2) Publicly owned parks and trails.

For the purpose of this section, "publicly owned" shall mean real property owned by the City of Modesto."

SECTION 3. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or

applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. This City Council declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

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

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

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

SECTION 5. EFFECTIVE DATE

This Ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 6. PUBLICATION

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

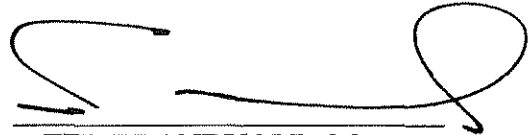
The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of February, 2017, by Councilmember Ah You, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Ah You, Grewal, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: Kenoyer

ABSENT: Councilmembers: None

APPROVED:


TED BRANDVOLD, Mayor

ATTEST:

By:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


ADAM U. LINDGREN, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 7th day of March, 2017, Councilmember Ah You, moved its final adoption, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Madrigal, Ridenour, Zoslocki,
Mayor Brandvold

NOES: Councilmembers: Kenoyer

ABSENT: Councilmembers: None

APPROVED: 

TED BRANDVOLD, Mayor

ATTEST: 

STEPHANIE LOPEZ, City Clerk

Effective Date: April 7, 2017

ORDINANCE NO. 3668-C.S.

ORDINANCE AMENDING SECTION 2 OF ORDINANCE NO. 878-C.S. ENTITLED "AN ORDINANCE AMENDING SECTION MAP 5-4-9 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON (SPORTSMEN OF STANISLAUS)"

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

SECTION 1. AMENDMENT OF ORDINANCE 878-C.S. Section 2 of Ordinance 878-C.S. is hereby amended to read as follows:

"SECTION 2. USES. The following uses shall be permitted in said P-D(37) 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) and (b) of the Modesto Municipal Code:

- a. Private recreational facilities including the following:
 1. Expansion of existing facilities;
 2. Tennis facilities;
 3. Swimming facilities;
 4. Parking area;
 5. General recreation area;
 6. Club activities area.
- b. A Kindergarten-Grade 12 Charter School."

All other Sections of Ordinance 878-C.S. shall remain unchanged.

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

Ordinance 3668-C.S.
Effective: May 4, 2017

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March, 2017, by Councilmember Zoslocki, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 

TED BRANDVOLD, Mayor

ATTEST:

By: 

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

ADAM U. LINDGREN, City Attorney

APPROVED AS TO DESCRIPTION:

By: 

Community & Economic Development
Department, Planning Division

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 4th day of April, 2017, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



MAYOR TED BRANDVOLD

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: May 4, 2017

ORDINANCE NO. 3669-C.S.

AN ORDINANCE AMENDING SECTIONS 10-6.102 AND 10-6.108 OF TITLE 10 OF THE MODESTO MUNICIPAL CODE TO ALLOW DIGITAL FREEWAY BILLBOARDS

WHEREAS, in recent years, billboard companies have started using digital billboards that allow electronic messages to be continuously changed throughout the course of a day; and

WHEREAS, Modesto's Zoning Code currently does not allow billboards; and

WHEREAS, the City of Modesto Community and Economic Development Director has determined that the City should have regulations governing digital freeway billboards, due to their increasing popularity and interest expressed by local business owners; and

WHEREAS, City staff has drafted an amendment to Sections 10-6.102 and 10-6.108 of Title 10 of the Modesto Municipal Code (Zoning Regulations); and

WHEREAS, after a duly noticed public hearing held on January 9, 2017, it was found and determined by the Planning Commission that the requested code amendment will not be detrimental to the public health, safety or welfare because there are development standards that will address the visual impacts of a new digital freeway billboard such as limiting the location, level of brightness, design, and removal of existing landscaping; and

WHEREAS, the requested amendment will require a conditional use permit for any proposed digital freeway billboard and require the removal of at least four legally existing billboards for every new digital freeway billboard. The requested Code amendment will result in an orderly planned use of land because digital freeway billboards will only be allowed along State Highway 99 and on non-residential properties; and

WHEREAS, the requested Code amendment is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan and any applicable specific plans(s) because it does not affect what land uses are allowed in the General Plan's Commercial land use designation, and helps promote economic development, and

WHEREAS, by Resolution No. 2017-01, adopted on January 9, 2017, the Planning Commission recommended to the Council that the proposed amendment to Sections 10-6.102 and 10-6.108 of the Modesto Municipal Code (Zoning Regulations), be approved, and

WHEREAS, this Code amendment was set for a public hearing before the City Council, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed amendment to Sections 10-6.102 and 10-6.108 of the Modesto Municipal Code (Zoning Regulations), and

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

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

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

SECTION 1. FINDINGS. The City Council finds and determines as follows:

1. Pursuant to Section 65860 of the State Planning and Zoning Law (Division 1 of Title 7 of the California Government Code), the proposed Code amendment is consistent with the goals, objectives and policies of the City's General Plan. The proposed amendment is consistent with Community Growth Strategy provided in Chapter II, B.1.a. promoting economic development. Specifically, the amendment will help create, and maintain a well-designed environment which contributes to the community's economic vitality and enhances the quality of life for its residents.
2. The proposed Code amendment is consistent with General Plan goals and policies in that it will result in a reduction in the overall number of billboards and/or specified community benefits. Billboards will be subject to the approval of a

conditional use permit and compliance with specific development standards designed to minimize potential hazards, ensure the aesthetics of the structure are appropriate to the community, that the level of luminance of the sign will not negatively impact traffic or adjacent properties and that the images displayed on the digital billboards are not distracting,

3. The proposed Code amendment will not be detrimental to the public health, safety or welfare because there are development standards that will address the visual impacts of a new digital freeway billboard such as limiting the location, level of brightness, design, and removal of existing landscaping. Also, a conditional use permit is required to review any proposed digital freeway billboard and there is a requirement to remove at least four legally existing billboards for every new digital freeway billboard.
4. The proposed code amendment serves the public health and safety of the community by reducing the overall billboard structures or providing equivalent community benefits, promoting a well-organized and pleasing environment without expenditure of public funds, improving the City's appearance as a whole, providing the City with community messaging opportunities, and promoting economic revitalization by allowing some digital billboard advertising along the freeway corridors.
5. The proposed code amendment establishes criteria for digital freeway billboards that are objective, do not vest City officials with unfettered discretion, and that are aimed at regulating the time, place and manner of digital billboards as distinguished from the content of the digital billboards. The proposed code amendment provides a reasonable graduated response to reducing overall billboards structures and provides a system of control over digital freeway billboards through time, place and manner restrictions on size, location, number of faces, distancing, and illumination to contribute toward the development of a high-quality, pleasing and safe visual environment.
6. The proposed Code amendment will result in an orderly planned use of land because billboards will only be allowed along State Highway 99 and on non-residential properties.
7. The proposed Code amendment is reasonable and beneficial at this time as it will result in a net reduction of billboards in the City, reducing visual blight and making the City attractive, it will improve safety including (but not limited to) through the reduction in old and outmoded billboards, and it will promote the economic vitality of the City's commercial centers.

SECTION 2. AMENDMENT OF CODE. Title 10, "Zoning Regulations," Chapter 6, "Signs," of the Modesto Municipal Code is hereby amended by modifying Sections 10-6.102, "Definitions," and 10-6.108, "Standards for Specific Types of Signs and Land Uses," as shown in EXHIBIT A.

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 11th day of April, 2017, by Councilmember Kenoyer, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour,
Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



TED BRANDVOLD, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney

**EXHIBIT A
CODE-16-001**

1. Title 10, "Zoning Regulations," Chapter 6, "Signs," Section 10-6.102, "Definitions," is hereby amended to add new subsections (f) and (o) to read as follows, and re-alphabetizing subsections (f) through (eee) to account for the new definition:

(f) Billboards. A freestanding sign providing off-premise advertising as defined in Section 10.6.102(jj) with a display in easily changeable copy but is not digital. A billboard is located along a freeway, highway, or major street and is of a large size typically ranging from ten (10) feet by twenty-five (25) feet to fourteen (14) feet by forty-eight (48) feet. Billboards are regulated under the off-premise sign regulations provided in Section 10-6.108 (j).

(o) Digital Freeway Billboard. A freestanding sign with one or more digital display areas located along a freeway. A digital billboard meets the following criteria:

- (1) A freestanding sign which is used for the display of off-premise advertising as defined in Section 10.6.102(jj);
- (2) A freestanding sign which constitutes a principal, separate, or an accessory use, of the parcel on which it is located; and
- (3) A freestanding sign on which display space is made available to either the owner or parties other than the owner or operator of the sign or occupant of the parcel for no cost or in exchange for a rent, fee, lease, or other consideration.

2. Title 10, "Zoning Regulations," Chapter 6, "Signs," Section 10-6.108, "Standards for Specific Types of Signs and Land Uses," subsection (f) is amended as follows:

(f) Electronic Message Board, Video Signs, and Digital Freeway Billboards.

- (1) **Electronic Message Boards.** Electronic Message Boards are allowed only in compliance with this subsection.
 - (i) **Uses.** Electronic Message Boards may be permitted only for the following uses:
 - a) Automobile dealer.
 - b) Theaters with a minimum of two hundred fifty (250) fixed seats.
 - c) Convention centers owned by a public agency.
 - d) The following uses when located on an arterial or expressway or freeway, as designated in the City of Modesto General Plan: Shopping center of five (5)

acres or more, churches, synagogues, temples, mosques, and other similar places of religious worship, community centers owned by a public agency, stadiums, and high schools and colleges having a minimum campus of twenty (20) acres.

- (ii) Requirements and limitations. For all uses allowed to have Electronic Message Board as identified in Section 10-6.108(f)(1)(i), all Electronic Message Board shall be subject to the following requirements and limitations:
- a) Conditional Use Permit. Conditional Use Permit by the Board is required.
 - b) Sign Type. A single Electronic Message Board may only be allowed as one of the signs permitted by Section 10-6.107, including Freeway-Oriented Signs pursuant to Section 10-6.108(h).
 - c) Size Limitation. Electronic Message Boards shall be limited in size as follows:
 - 1) Freestanding Sign. The Electronic Message Board portion of the allowable freestanding sign may not exceed seventy-five (75) percent of the total sign area and must be integrated with the remainder of the sign to form a cohesive design unit.
 - 2) Wall, Canopy and Marquee Signs. Electronic Message Board Wall, Canopy and Marquee signs in the Residential (R-1, R-2 and R-3) and Professional Office (P-O) Zones may not exceed one-half (0.5) square-foot per linear foot of the wall on which the sign is located and in the Commercial and Industrial Zones (C-1, C-2, C-3, C-M, M-1, M-2, D-C) Zone may not exceed one (1) square-foot per linear foot of the wall on which the sign is located.
 - d) Movement. No sign shall display animated messages, including flashing, blinking, fading, rolling, shading, dissolving, or any other effect that gives the appearance of movement.
 - e) Audio. No sign shall include an audio message.
 - f) Duration. No message shall be displayed for a period of time less than eight (8) seconds; however, the Board may increase the minimum required display time if the sign is located within one hundred (100) feet of another Electronic Message Board Sign, traffic signal, flashing warning signs, school crosswalk, train crossings, fire stations, or other situations where a demanding driving environment is deemed to exist.
 - g) Transition. Transition from one message to another message shall be instantaneous as perceived from the human eye. Each sign message shall be complete in itself and shall not continue on a subsequent sign message.
 - h) On-premises signage. Signs may only be used for advertising the business, profession, product, commodity or mercantile-oriented service sold, manufactured, conducted, or offered on the site on which the sign is located.

Noncommercial Off-Premise Advertising is allowed. Commercial Off-Premise Advertising is prohibited.

- i) Sign Placement.
 - 1) Signs allowed in accordance with Section 10-6.108(f)(1)(i)d) shall be located on an arterial, expressway or freeway as designated in the City of Modesto General Plan.
 - 2) Signs shall not be placed to obstruct, or otherwise physically interfere with, an official traffic sign, signal or other device, or physically interfere with the vision of drivers in approaching, merging or intersecting traffic to the satisfaction of the Traffic Engineer.
 - 3) Signs shall not be located in the Clear Vision Triangle.
- j) Brightness. Signs shall utilize automatic dimming technology to adjust the brightness of the sign relative to ambient light so that at no time shall a sign exceed a brightness level of three-tenths (0.3) foot candles above ambient light, as measured using a foot candle (Lux) meter and in conformance with the following process:
 - 1) Light measurements shall be taken with the meter aimed directly at the sign message face, or at the area of the sign emitting the brightest light if that area is not the sign message face, at the following distances:
 - i) A sign that is zero (0) to one hundred (100) square feet in area shall be measured at a distance of one hundred (100) feet from the sign area being measured;
 - ii) A sign that is one hundred one (101) to three hundred fifty (350) square feet in area shall be measured at a distance of one hundred fifty (150) feet from the sign area being measured;
 - iii) A sign that is three hundred fifty (350) to six hundred fifty (650) square feet in area shall be measured at a distance of two hundred (200) feet from the sign area being measured;
 - iv) A sign that is six hundred fifty-one (651) to one thousand (1,000) square-feet in area shall be measured at a distance of two hundred fifty (250) feet from the sign area being measured.
 - 2) An ambient light measurement shall be taken using a foot candle meter at some point between the period of time between thirty (30) minutes past sunset and thirty (30) minutes before sunrise with the sign turned to black screen.
 - 3) Immediately following the ambient light measurement taken in the manner required by this subsection, an operating sign light measurement shall be taken with the sign turned on to full white copy.

- 4) The brightness of the sign conforms with the brightness requirements of this subsection, if the difference between the ambient light measurement and the operating sign light measurement is three-tenths (0.3) foot candles or less.
 - 5) An application for a building permit shall include calculations by a lighting engineer to demonstrate compliance with requirements specified above.
 - 6) Malfunction. All signs shall contain a default mechanism that will cause the sign to revert immediately to a black screen if the sign malfunctions.
- (2) **Video Display Signs.** Video Display Signs are allowed only in compliance with this subsection.
- (i) Uses. Video Display Signs may be permitted only for the following uses:
 - a) Performing Arts Center located at 1000 I Street
 - b) Convention Center located at 1000 L Street
 - (ii) Requirements and limitations. All Video Display Signs shall be subject to the following requirements and limitations:
 - a) Conditional Use Permit by the Board of Zoning Adjustment is required.
 - b) Sign Type. A Video Display Sign may only be allowed as one of the sign permitted by Section 10-7.509(e).
 - c) Audio. No sign shall include an audio message.
 - d) Duration. Any portion of the message that uses a full-motion (animated) video display shall have a minimum duration of two (2) seconds and a maximum duration of five (5) seconds. Calculation of the duration shall not include the number of frames per second used in a video display.
 - e) Transition. There shall be twenty (20) seconds of still image or blank screen following every message using a video display.
 - f) On-premises Signage. Video display signs may only be used for advertising the business, profession, product, commodity or mercantile-oriented service sold, manufactured, conducted, or offered on the site on which the sign is located. Noncommercial off-premise Advertising is allowed in accordance with Section 10-6.108(j). Commercial off-premise Advertising is prohibited.
 - g) Brightness. Signs shall utilize automatic dimming technology to adjust the brightness of the sign relative to ambient light so that at no time shall a sign exceed a brightness level of three-tenths (0.3) foot candles above ambient light, as measured using a foot candle (Lux) meter and in conformance with the following process:

- 1) Light measurements shall be taken with the meter aimed directly at the sign message face, or at the area of the sign emitting the brightest light if that area is not the sign message face, at the following distances:
 - 2) A sign that is zero (0) to one hundred (100) square feet in area shall be measured at a distance of one hundred (100) feet from the sign area being measured;
 - 3) A sign that is one hundred one (101) to three hundred fifty (350) square-feet in area shall be measured at a distance of one hundred fifty (150) feet from the sign area being measured;
 - 4) A sign that is three hundred fifty (350) to six hundred fifty (650) square-feet in area shall be measured at a distance of two hundred (200) feet from the sign area being measured;
 - 5) A sign that is six hundred fifty-one (651) to one thousand (1,000) square-feet in area shall be measured at a distance of two hundred fifty (250) feet from the sign area being measured.
 - 6) An ambient light measurement shall be taken using a foot candle meter at some point between the period of time between thirty (30) minutes past sunset and thirty (30) minutes before sunrise with the sign turned to black screen.
 - 7) Immediately following the ambient light measurement taken in the manner required by the subsection, an operating sign light measurement shall be taken with the sign turned on to full white copy.
 - 8) The brightness of the sign conforms with the brightness requirements of this subsection, if the difference between the ambient light measurement and the operating sign light measurement is three-tenths (0.3) foot candles or less.
 - 9) An application for a building permit shall include calculations by a lighting engineer to demonstrate compliance with requirements specified above.
- h) Malfunction. All signs shall contain a default mechanism that will cause the sign to revert immediately to a black screen if the sign malfunctions.

(3) Digital Freeway Billboards.

- (i) **Purpose and Designation.** Digital billboards may be permitted along Freeway 99 only as billboard relocations or as conversions of an existing billboard in place.
- (ii) **Conditional Use Permit.** Digital freeway billboards must obtain a conditional use permit approval which requires a recommendation by the Planning Commission to the City Council and final approval authority by the City Council. If the Planning Commission

recommends denial or the City Council denies final approval of a conditional use permit, an applicant shall be provided with a written decision regarding the reason(s) for the denial. The Planning Commission shall recommend approval of a conditional use permit for a digital freeway billboard when the following criteria are met:

- a) The proposed digital freeway billboard will meet the findings provided in Section 10-9.703 Required Findings for a Conditional Use Permit.
- b) The proposed digital freeway billboard will not create a hazard to vehicular or pedestrian traffic.
- c) All advertising on the digital freeway billboard will conform with the Outdoor Advertising Act in the California Business and Professions Code and other applicable state and federal rules and regulations.
- d) The development of the digital freeway billboard will result in a public benefit to the City in the form of increasing aesthetics, safety and/or economic revitalization efforts for the City's commercial centers through signage. The public benefit must outweigh any adverse impacts, such as light pollution or visual impact, that might be caused by the advertising display.

(iii) Development Standards.

- a) A new digital freeway billboard may be allowed or a legally existing billboard may be refurbished to become a digital freeway billboard, subject to the development standards below.
 - 1) **Location.** A digital freeway billboard shall be located within 660 feet of State Highway 99 but shall not be located on any parcel with a residential zone or use, and shall be a minimum of 300 feet from any parcel with a residential zone or use.
 - 2) **Number of Faces.** A digital freeway billboard may consist of, at most, two digital display areas, each positioned to be visible only by opposing directions of traffic. Double-faced signs shall not have an interior angle between the face of the panels greater than 45 degrees.
 - 3) **Height.** The maximum height shall be 60 feet for a new digital freeway billboard. Any existing legal nonconforming billboard may maintain its existing height if it is converted to or replaced with a digital freeway billboard.
 - 4) **Area.** The maximum area of each digital display area is 700 square feet.
- 4.5) **Maximum Number of Digital Freeway Billboards.** There shall be a maximum of seven (7) digital freeway billboards within the City limits located on either side of State Highway 99.

- 5) **Distance between Signs.** No digital freeway billboard shall be located within 2,500 feet of any other digital freeway billboard within the City limits located on either side of State Highway 99.
- 6) **Billboard Structure.** The billboard structure supporting and surrounding the digital display area shall be as small as feasibly possible so as to avoid any unnecessary height or width to the sign so as to not call further attention to the sign..
- 7) **Pole Cladding.** Decorative pole covering is required for newly constructed digital freeway billboards as well as any existing traditional billboard that is converted to a digital freeway billboard. Such covering shall be simple and streamlined in material and design so as to not call further attention to the sign.
- 8) **Message Display.** Digital freeway billboards shall display static messages only, and shall not have animation, movement, or the appearance or optical illusion of movement in or on any part of the sign structure, design, or pictorial segment of the sign. Each static message shall not include flashing or scintillating lighting, or varying light intensity.
- 9) **Minimum Display Time.** Each message on the sign must be displayed for a minimum of eight (8) seconds.
- 10) **Illumination.** Digital freeway signs shall operate at brightness levels consistent with Section 10-6.108 (f) (1) (ii) j).
- 11) **Aesthetics.** The sign will not require substantial trimming or reduction of existing vegetation and landscaping. The sign will not obstruct or obscure on-site signs on the same or adjacent properties resulting in the adjacent signs being ineffective.
- 12) **Traffic Safety.** The sign shall not create a visibility hazard to traffic on adjacent streets, freeways, or parking areas. The sign will not reduce parking availability below that required by the standards under this title or pursuant to permits issued under this title. The sign will not interfere with on-site vehicular circulation.
- 13) **Future Technologies.** There may be alternate, preferred, or superior technology available in the future to illuminate digital freeway signs. These alternate technologies may be incorporated into existing legally permitted digital freeway signs in the future without additional permissions from the City Council so long as (i) the requisite maximum brightness standards are met and (ii) no exterior physical change to the digital display area will occur. The owner is responsible for obtaining any required ministerial permits for technology improvements as required by applicable code standards. The City

will prioritize any such required approvals for technology that is superior in energy efficiency over previous generations or types.

- 14) **Community Messaging.** The City shall be provided with access to a minimum of eight seconds of time per display cycle (or 10% of time on an hourly basis if display cycles are not utilized) to allow the City to present messages regarding public safety and City Sponsored Events and Activities. For purposes of this section, City Sponsored Events and Activities are events or activities that meet the following criteria: (1) the event or activity must be held on City property; (2), the City must participate in an official capacity in the planning, preparation or promotion of the event or activity; and (3) the City must be an official sponsor. Access for public safety messages shall be given to public agencies (including the City) for the purpose of displaying public safety messages such as “Amber Alert” messages and emergency-disaster communications.
 - 15) **Quality and Maintenance Plan.** The applicant must establish a quality and maintenance plan in order to ensure implementation of all above-listed development standards and to assure the proper maintenance and repair of the digital freeway sign as needed.
 - 16) **Consistency with State and Federal Law.** In addition to the other requirements set forth herein, the digital freeway billboards shall comply with the requirements of the Outdoor Advertising Act and Regulations, California Business and Professions Code Secs. 5200 et seq., and other state and federal statutes. To the extent of any conflict between the provisions of this Section and state and federal law, state and federal law shall prevail.
- b) **Billboard Removal.** For every one digital freeway billboard installed, the applicant must permanently remove at least four legally existing billboard structures (each of which may have more than one billboard sign face) within the City of Modesto’s Sphere of Influence prior to operation of the digital freeway billboard. An existing billboard being refurbished as a digital freeway billboard may count as one of the four required permanent removals.
 - c) **Operating Agreement.** At the applicant’s request, the City and applicant may enter into an operating agreement in conjunction with the issuance of a conditional use permit for a digital freeway billboard. The City and applicant may use the operating agreement, on a case-by-case basis, to deviate from the development standards in subsection (3) (iii) a) of this section or reduce the required billboard removals under subsection (3) (iii) b) of this section. The City Council will only approve an operating agreement if it determines that the

operating agreement achieves community benefits that are equivalent to those that would be achieved through strict compliance with subsection (3) (iii) a) or (3) (iii) b) of this section. These community benefits may include: safety improvements resulting from such things as the reduction of old and outmoded billboards; using revenue earned under an operating agreement for graffiti abatement, City signage programs or other programs with safety or aesthetic benefits to the City; or economic revitalization of the City's commercial centers through signage and signage agreements.

ORDINANCE 3669-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 25th day of April, 2017, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 

MAYOR TED BRANDVOLD

ATTEST: 

STEPHANIE LOPEZ, City Clerk

Effective Date: May 25, 2017

ORDINANCE NO. 3670-C.S.

ORDINANCE AMENDING SECTION 22-3-9 OF THE CITY OF MODESTO ZONING MAP TO REZONE PROPERTY LOCATED AT 1237 OAKDALE ROAD FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PROFESSIONAL OFFICE, P-O

WHEREAS, a verified application for an amendment to Section 22-3-9 of the Zoning Map was filed by Dr. Tong Sun on November 22, 2016, to rezone from Low Density Residential Zone, R-1, to Professional Office Zone, P-O, property located at 1237 Oakdale Road south of East Orangeburg Avenue, and

WHEREAS, after a public hearing held on February 27, 2017, it was found and determined by the Planning Commission that the requested zone change will not be detrimental to the public health, safety or welfare because it will provide for the reuse of an existing vacant building as professional and medical office uses that are compatible with nearby high density residential, professional office and commercial uses, the requested zone change will result in an orderly planned use of land because the project will provide for the reuse and rehabilitation of an existing vacant building that is adjacent to existing high density residential, professional office and commercial uses, and the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan and any applicable specific plans(s) because the allowable uses in the Professional Office (P-O) Zone are consistent with the site's General Plan Land Use Designation of Mixed Use (MU), which allows for office uses, and

WHEREAS, by Resolution No. 2017-07, adopted on February 27, 2017, the Planning Commission recommended to the Council that the application of Dr. Tong Sun to

Ordinance 3670-C.S.
Effective: May 25, 2017

amend Section 22-3-9 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 April 11, 2017, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety or welfare because it will provide for the reuse of an existing vacant building as professional and medical office uses that are compatible with nearby high density residential, professional office and commercial uses.
2. The requested change will result in an orderly planned use of land because the project will provide for the reuse and rehabilitation of an existing vacant building that is adjacent to existing high density residential, professional office and commercial uses.
3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plan(s) because the allowable uses in the Professional Office (P-O) Zone are consistent with the site's General Plan Land Use Designation of Mixed Use (MU), which allows for office uses.

SECTION 2. ZONING CHANGE. Section 22-3-9 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 1 as shown on that certain map filed for record on July 10, 1985 in Book 36 of Parcel Maps at Page 95, Stanislaus County Records.

Including also the west one-half of Oakdale Road, being immediately adjacent to the above-described land.

APN: 032-015-038 (commonly known as 1237 Oakdale Road, Modesto).

Ordinance 3670-C.S.
Effective: May 25, 2017

SECTION 3. ZONING MAP. Section 22-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of April, 2017, by Councilmember Ridenour, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
TED BRANDVOLD, Mayor

ATTEST:

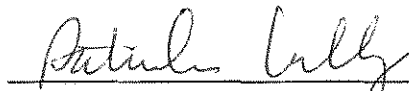
By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney

APPROVED AS TO DESCRIPTION:

By: 
Community & Economic Development
Department, Planning Division

ORDINANCE 3670-C.S.


FINAL ADOPTION CLAUSE


The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 25th day of April, 2017, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour,
Zoslocki, Mayor Brandvold

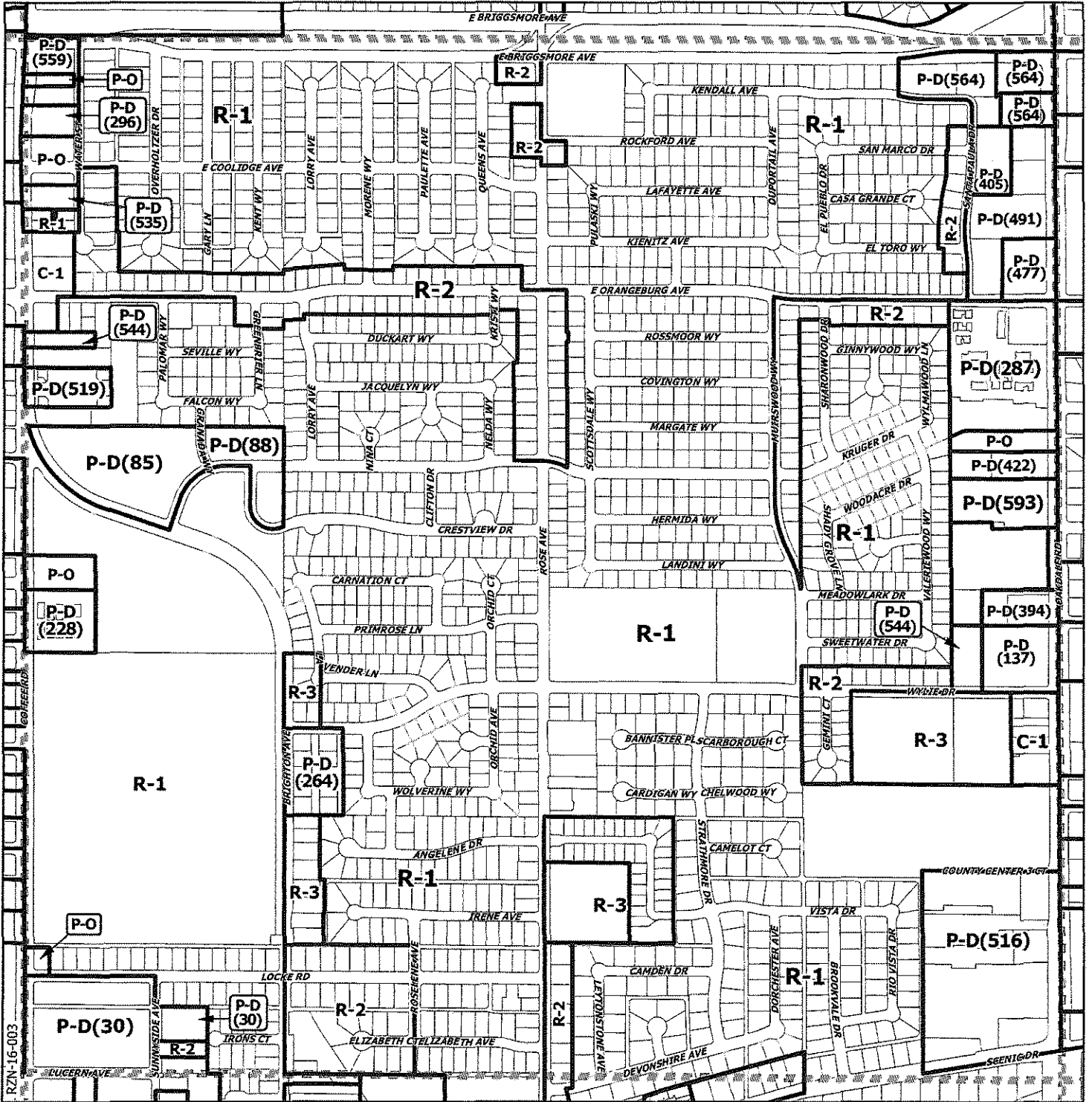
NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
MAYOR TED BRANDVOLD

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: May 25, 2017



ZONING MAP OF THE CITY OF MODESTO

22-3-9


 1 inch = 700 feet
 Ord. 3670-C.S.

ORDINANCE NO. 3671-C.S.

ORDINANCE AMENDING SECTION 21-3-9 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 1105 COFFEE ROAD

WHEREAS, a verified application for an amendment to Section 21-3-9 of the Zoning Map was filed by Mike Sarwari on January 6, 2017, to rezone from Low Density Residential Zone, R-1, to Medium Density Residential Zone, R-2, property located at 1105 Coffee Road, and

WHEREAS, after a public hearing held on February 27, 2017, it was found and determined by the Planning Commission that the requested zone change will not be detrimental to the public health, safety or welfare because it will provide for multi-family residential housing that is compatible with the surrounding neighborhood, the requested zone change will result in an orderly planned use of land because it will allow for the continued use of a legal non-conforming multi-unit residential building and the conversion of a non-conforming commercial building into an additional residential unit, thereby allowing the continued use of the property at a density permitted by the Medium Density Residential (R-2) Zone, and the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan and any applicable specific plans(s) because the allowable uses in the Medium Density Residential (R-2) Zone are consistent with the site's General Plan Land Use Designation of Mixed Use (MU), which allows for residential uses, and

WHEREAS, by Resolution No. 2017-06, adopted on February 27, 2017, the Planning Commission recommended to the Council that the application of Mike Sarwari to

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amend Section 21-3-9 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 April 11, 2017, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety or welfare because it will provide for multi-family residential housing that is compatible with the surrounding neighborhood.
2. The requested change will result in an orderly planned use of land because it will allow for the continued use of a legal non-conforming multi-unit residential building and the conversion of a non-conforming commercial building into an additional residential unit, thereby allowing the continued use of the property at a density permitted by the Medium Density Residential (R-2) Zone.
3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plan(s) because the allowable uses in the Medium Density Residential (R-2) Zone are consistent with the site's General Plan Land Use Designation of Mixed Use (MU), which allows for residential uses.

SECTION 2. ZONING CHANGE. Section 21-3-9 of the Zoning Map is hereby amended to rezone the following described property from Low Density Residential, R-1, to Medium Density Residential, R-2:

R-1 to R-2

That portion of Lot 11 of Rice Colony, as per Map filed February 19, 1904 in Volume 1 of Maps, at Page 54, Stanislaus County Records, described as follows:

Beginning at the southeast corner of said Lot 11; thence westerly along the southerly line of said Lot 11, 330 feet; thence northerly and parallel with the easterly line of Lot 11, 66 feet; thence easterly and parallel to the southerly line,

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330 feet; thence southerly along the easterly lot line 66 feet to the Point of Beginning.

Including also the west one-half of Coffee Road, being immediately adjacent to the above-described land.

APN: 031-042-035 (commonly known as 1105 Coffee Road, Modesto)

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

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

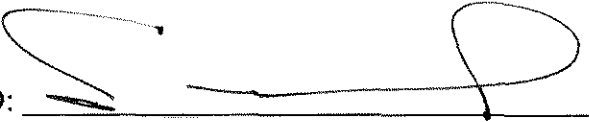
SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of April, 2017, by Councilmember Ridenour, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
TED BRANDVOLD, Mayor

ATTEST:


By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney

APPROVED AS TO DESCRIPTION:

By: 
Community & Economic Development
Department, Planning Division

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ORDINANCE 3671-C.S.

FINAL ADOPTION CLAUSE

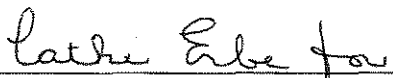
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 2nd day of May, 2017, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour,
Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

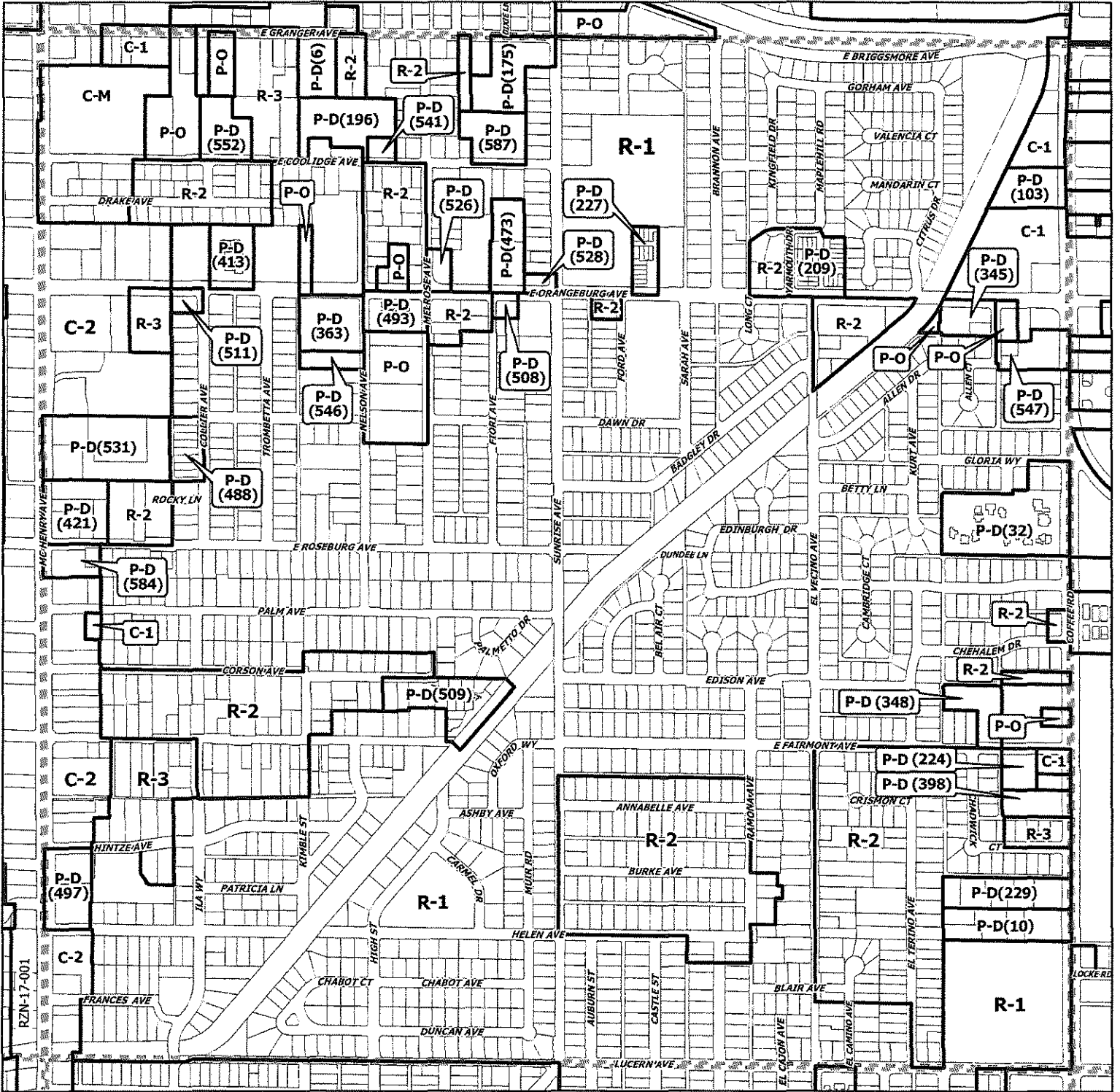
ABSENT: Councilmembers: None

APPROVED: 
TED BRANDVOLD, MAYOR

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: June 1, 2017

Ordinance 3671-C.S.
Effective: June 1, 2017



1 inch = 700 feet

Ord. 3671-C.S.

ZONING MAP OF THE CITY OF MODESTO

21-3-9

**CITY OF MODESTO
CITY COUNCIL
ORDINANCE NO. 3672-C.S.**

AN ORDINANCE AMENDING THE MODESTO MUNICIPAL CODE BY ADDING ARTICLE 11, "CANNABIS BUSINESS TAX" TO CHAPTER 2, "TAXATION" OF TITLE 8, "FINANCE, REVENUE AND TAXATION"

WHEREAS, in 1996 the California voters approved Proposition 215, "The Compassionate Use Act," which provides that qualified patients may obtain and use marijuana for medical purposes with a physician's recommendation and will not be subject to certain criminal penalties under state law; and

WHEREAS, in 2003, the state Legislature enacted Senate Bill 420, the "Medical Marijuana Program Act," as a supplement to The Compassionate Use Act, which allows cities to adopt and enforce rules consistent with the Medical Marijuana Program Act; and

WHEREAS, in 2015, the state Legislature enacted the Medical Marijuana Regulation and Safety Act, which creates a regulatory, permitting, and oversight structure for the medical marijuana industry at the state level but does not impede on land use and police powers of local governments; and

WHEREAS, the City Council of the City of Modesto desires to impose a tax on all cannabis businesses that may operate within Modesto if future land use regulations allow for such businesses; and

WHEREAS, California Constitution Article XIIC, Section 2(b), provides that no local government may impose a general tax unless and until that tax is submitted to the electorate and approved by a majority vote; and

WHEREAS, the tax imposed by this Ordinance is an excise tax on the privilege of conducting business within the City and will only become effective if approved by a majority of the City' voters at the November 7, 2017 municipal election.

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

SECTION 1. Voter Approval. This Ordinance shall impose a general tax, as defined by Article XIIC, Section 1(a) of the California Constitution and Government Code section 53723, on cannabis businesses, and therefore must be approved by a majority of voters voting on the tax. Approval of this Ordinance is therefore subject to and conditioned upon the approval by the voters of the imposition of the general tax imposed by this Ordinance. This Ordinance shall not take effect if a majority of the voters voting in the election on this Ordinance do not vote in favor of it.

SECTION 2. Amendment of Code. Article 11, "CANNABIS BUSINESS TAX," of Chapter 2, "Taxation" of Title 8, "Finance, Revenue and Taxation" of the Modesto Municipal Code is added to read as follows:

Article 11

CANNABIS BUSINESS TAX

Sections:

- 8-2.1101 Purpose of article.
- 8-2.1102 Tax imposed.
- 8-2.1103 Definitions.
- 8-2.1104 Other licenses, permits, taxes, fees or charges.
- 8-2.1105 Payment of tax does not authorize unlawful business.
- 8-2.1106 Registration with tax administrator.
- 8-2.1107 Payment – Location.
- 8-2.1108 Amount of business tax owed.
- 8-2.1109 Payment – Time limits.
- 8-2.1110 Payments and communications made by mail – Proof of timely submittal.
- 8-2.1111 Payment – When taxes deemed delinquent.
- 8-2.1112 Notice not required by City.
- 8-2.1113 Payment – Penalty for delinquency.
- 8-2.1114 Waiver of penalties.
- 8-2.1115 Refunds – Credits.
- 8-2.1116 Refunds and procedures.
- 8-2.1117 Exemptions – Application – Issuance conditions.
- 8-2.1118 Exemptions – General.
- 8-2.1119 Enforcement – Duties of tax administrator and police chief.
- 8-2.1120 Rules and regulations.
- 8-2.1121 Apportionment.
- 8-2.1122 Audit and examination of records and equipment.
- 8-2.1123 Tax deemed debt to City.
- 8-2.1124 Lien – Recordation.
- 8-2.1125 Warrant for collection of tax.
- 8-2.1126 Seizure and sale.
- 8-2.1127 Successor's and assignee's responsibility.

- 8-2.1128 Deficiency determinations.**
- 8-2.1129 Tax assessment – authorized when – nonpayment – fraud.**
- 8-2.1130 Tax assessment – notice requirements.**
- 8-2.1131 Tax assessment – hearing – application and determination.**
- 8-2.1132 Tax assessment – appeal.**
- 8-2.1133 Conviction for article violation – taxes not waived.**
- 8-2.1134 Violation deemed misdemeanor – penalty.**
- 8-2.1135 Effect of state and federal reference/authorization.**
- 8-2.1136 Remedies cumulative.**
- 8-2.1137 Amendment or repeal.**

8-2.1101 Purpose of article.

This article shall be known as the “cannabis business tax” and is enacted solely to raise revenue for the general governmental purposes of the City. All of the proceeds from the tax imposed by this article shall be placed in the City’s general fund and used for the usual current expenses of the City. The cannabis business tax under the provisions of this article is not a sales or use tax and shall not be calculated or assessed as such. The cannabis business tax shall not be separately identified or otherwise specifically assessed or charged to any member, customer, patient, or caretaker.

8-2.1102 Tax imposed.

There is established and imposed a cannabis business tax on every such business operating in the City at the rate set forth in this article.

8-2.1103 Definitions.

The definitions set forth in this section shall govern the application and interpretation of this Article 11.

(A) “Business” shall include all activities engaged in or caused to be engaged in within the City, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to his or her employer.

(B) "Employee" means each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, or commission.

(C) "Engaged in business" means the commencing, conducting, operating, managing or carrying on of a cannabis business and the exercise of corporate or franchise powers, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the City or coming into the City from an outside location to engage in such activities. A person shall be deemed engaged in business within the City if:

- (1) Such person or person's employee maintains a fixed place of business within the City for the benefit or partial benefit of such person;
- (2) Such person or person's employee owns or leases real property within the City for business purposes;
- (3) Such person or person's employee regularly maintains a stock of tangible personal property in the City for sale in the ordinary course of business;
- (4) Such person or person's employee regularly conducts solicitation of business within the City;
- (5) Such person or person's employee performs work or renders services in the City on a regular and continuous basis;
- (6) Such person or person's employee utilizes the streets within the City in connection with the operation of motor vehicles for business purposes.

The foregoing specified activities shall not be a limitation on the meaning of "engaged in business."

(D) "Evidence of doing business" means whenever any person shall, by use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, represent that such person is engaged in cannabis business in

the City, then these facts may be used as evidence that such person is engaged in business in the City.

(E) "Fraud" means any intentional deception, misrepresentation and/or intentional non-payment of taxes to the City.

(F) "Gross receipts," except as otherwise specifically provided, means the total amount actually received or receivable from all sales from the cannabis business, including membership dues and fees; the total amount or compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, memberships, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks or bonds, however designated. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:

- (1) Cash discounts allowed and taken on sales;
- (2) Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as gross receipts;
- (3) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (4) Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
- (5) Receipts from investments where the holder of the investment receives only interest and/or dividends, royalties, annuities, and gains from the sale or exchange of stock or securities solely for a person's own account, not derived in the ordinary course of a business;

(6) Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;

(7) Cash value of sales, trades or transactions between departments or units of the same business;

(8) Transactions between a partnership and its partners;

(9) Receipts from services or sales in transactions between affiliated corporations. An affiliated corporation is a corporation:

(a) The voting and nonvoting stock of which is owned at least eighty percent by such other corporation with which such transaction is had; or

(b) Which owns at least eighty percent of the voting and nonvoting stock of such other corporation; or

(c) At least eighty percent of the voting and nonvoting stock of which is owned by a common parent corporation which also has such ownership of the corporation with which such transaction is had;

(10) Transactions between a limited liability company and its member(s), provided the limited liability company has elected to file as a Subchapter K entity under the Internal Revenue Code and that such transaction(s) shall be treated the same as between a partnership and its partner(s) as specified in subsection (E)(9);

(11) Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business, shall not be excluded when in excess of one dollar;

(12) Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the finance department with the names and the addresses of the others and the

amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.

“Gross receipts” subject to the cannabis business tax shall be that portion of gross receipts relating to business conducted within the City.

(G) “Cannabis” means all parts of the plant *Cannabis sativa* L., *Cannabis indica*, and *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant, whether crude or purified; and every compound, manufacture, oil, salt, derivative, mixture, or preparation of the plant, its seeds or resin, including food products containing cannabis. “Cannabis” also means marijuana as defined by Section 11018 of the California Health and Safety Code and Section 19300.5 of the California Business and Professions Code.

(H) “Cannabis business” means any business activity which entails the distribution, delivery, dispensing, exchanging, bartering or sale of either medical or non-medical cannabis, including but not limited to, cultivating, planting, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, labeling, storing, packaging, wholesale, testing, and/or retail sales of cannabis, products including cannabis, and any ancillary products in the City, whether or not carried on for gain or profit and specifically excludes legal personal cultivation activities allowed under State law and City ordinances.

(I) “Cannabis business tax,” “business tax,” or “cannabis tax” means the tax due for engaging in cannabis business in the City pursuant to this article.

(J) “Medical Cannabis” means cannabis authorized in strict compliance with Health & Safety Code Sections 11362.5, 11362.7 et seq., as such sections may be amended from time to time.

(K) “Non-medical cannabis” means cannabis authorized in strict compliance with any state law pertaining to cannabis that is not medical cannabis.

(L) “Person” means, without limitation, any natural individual, organization, firm, trust, common law trust, estate, partnership of any kind, association, syndicate, club, joint stock company, joint venture, limited liability company, corporation (including foreign,

domestic, and nonprofit), cooperative, receiver, trustee, guardian, or other representative appointed by order of any court.

(M) "Operator" shall mean any person conducting, operating, or maintaining in whole or in part as principal, agent, officer, employee or independent contractor, any cannabis business or medical marijuana business as defined in this chapter, taxable under this article.

(N) "Sale" means and includes any sale, exchange, or barter.

(O) "Tax administrator" or "administrator" means the Director of Finance or such other administrator designated by the City Manager to administer this article.

8-2.1104 Other licenses, permits, taxes, fees or charges.

Nothing contained in this article shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any license or permit required by, under or by virtue of any provision of any other title or chapter of this code or any other ordinance or resolution of the City or under any applicable state or federal law, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required by, under or by virtue of any other title or chapter of this code or any other ordinance or resolution of the City.

8-2.1105 Payment of tax does not authorize unlawful business.

(A) The payment of a business tax required by this article, and its acceptance by the City, shall not entitle any person to carry on any cannabis business unless the person has complied with all of the requirements of this code and all other applicable laws, nor to carry on any cannabis business in any building or on any premises in the event that such building or premises are situated in a zone or locality in which the conduct of such cannabis business is in violation of any law.

(B) No taxes paid under the provisions of this article shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any ordinance of the City.

8-2.1106 Registration with tax administrator.

(A) Each operator of any cannabis business operating in the City shall register the business with the tax administrator and obtain from him or her a cannabis business tax license prior to the commencement of any business operations, which shall be at all times posted in a conspicuous place on the premises.

(B) The license shall, among other things, state the following:

1. The name of the business;
2. The address of the business;
3. The date upon which the license shall expire.

8-2.1107 Payment – location.

The tax imposed under this article shall be paid to the administrator in lawful money of the United States at the offices of the Director of Finance in Modesto, California. "Lawful money" shall mean any coin, currency or negotiable instrument, exchangeable for said coin or currency, which the United States Congress or the State of California has declared to be a national legal tender. The City may impose a fee for processing the negotiable instrument.

8-2.1108 Amount of business tax owed.

(A) Every person engaged in cannabis business in the City shall pay, for the privilege of operating a cannabis business in the City, a business tax at a rate of up to ten percent (10%) of gross receipts. The tax under this article shall not be imposed on cannabis businesses unless and until the City Council, by resolution, takes action to set a tax rate not to exceed ten percent (10%) of gross receipts.

(B) Notwithstanding the maximum tax rate of ten percent (10%) of gross receipts established under subsection (A), the City Council may, in its discretion, at any time by resolution, implement a lower tax rate for all cannabis businesses or establish differing tax rates for different categories of cannabis businesses, as defined in such resolution, subject to the maximum rate of ten (10%) percent of gross receipts. The City Council

may, by resolution, also increase any such tax rate from time to time, not to exceed the maximum tax rate of ten percent (10%) of gross receipts established under subsection (A).

(C) In establishing different tax rates for different categories of cannabis businesses pursuant to subsection (B), the City Council may enact a rate using a basis other than gross receipts. By way of example only and without imposing any limitation on the basis of the tax rate for a category of cannabis business, the rate may be based on the square footage of the building used by or number of employees of a cannabis business. If the City Council establishes a tax rate for a cannabis business on a basis other than gross receipts, in no event shall that tax paid by a cannabis business in that category exceed ten percent (10%) of the business's gross receipts.

8-2.1109 Payment – time limits.

The business tax imposed by this article shall be due and payable as follows:

(A) Each person owing a tax under this article shall, on or before the fifteenth (15th) day of the close of the calendar month in which the tax is due, or at the close of any reporting period which may be established by the tax administrator, prepare a tax statement to the administrator of the total gross receipts and the amount of tax owed for the preceding calendar month. At the time the tax statement is filed, the full amount of the tax owed for the preceding calendar month shall be remitted to the administrator. A tax statement is due following each calendar month, even if there are no taxes due.

(B) All tax statements shall be completed on forms provided by the administrator.

(C) Tax statements and payments for all outstanding taxes owed to the City are immediately due to the administrator upon cessation of business for any reason.

(D) The administrator may establish longer reporting periods for any licensee if the administrator deems it necessary in order to insure collection of the tax and the administrator may require further information in the tax statement.

8-2.1110 Payments and communications made by mail – proof of timely submittal.

Whenever any payment, statement, report, request or other communication received by the administrator is received after the time prescribed by this chapter for the receipt thereof, but is in an envelope bearing a postmark showing that it was mailed on or prior to the date prescribed in this article for the receipt thereof, or whenever the administrator is furnished substantial proof that the payment, statement, report, request or other communication was in fact deposited in the United States mail on or prior to the date prescribed for receipt thereof, the administrator may regard such payment, statement, report, request or other communication as having been timely received. If the due date falls on Saturday, Sunday or a holiday, the due date shall be the next regular business day on which the City Hall building at 1010 10th Street, Modesto, CA 95353 is open. Any payment or correspondence sent via electronic communication will be deemed received upon receipt by the City.

8-2.1111 Payment – when taxes deemed delinquent.

Unless otherwise specifically provided under other provisions of this article, the taxes required to be paid pursuant to this article shall be deemed delinquent if not paid on or before the due date specified in Section 8-2.1109.

8-2.1112 Notice not required by City.

The administrator is not required to send a delinquency or other notice or bill to any person subject to the provisions of this article, and failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this article.

8-2.1113 Payment – penalty for delinquency.

(A) Any person who fails or refuses to pay any business tax required to be paid pursuant to this article on or before the due date shall pay penalties and interest as follows:

- (1) A penalty equal to twenty-five percent (25%) of the amount of the tax in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax; and

(2) An additional penalty equal to twenty-five percent (25%) of the amount of the tax if the tax remains unpaid for a period exceeding one calendar month beyond the due date, plus interest on the unpaid tax and on the unpaid penalties.

(3) In addition to the penalties imposed, any person who fails to remit any tax imposed by this article shall pay interest at the rate of one and one-half percent (1.5%) per month or fraction thereof on the amount of tax, exclusive of penalties, from the last day of the month following the monthly period for which the amount or any portion thereof should have been paid until the date of payment.

(4) Full payment of the tax owed is to be made to the City, except in cases where an alternate payment agreement is reached with the administrator.

(5) The penalties stated herein are cumulative and may be imposed singularly and/or in addition to other legal remedies for nonpayment available to the City.

(B) Whenever a check is submitted in payment of a business tax and the check is subsequently returned unpaid by the bank upon which the check is drawn, and the check is not redeemed prior to the due date, the taxpayer will be liable for the tax amount due plus the return check fee; penalties and interest as provided for in this section; and any amount allowed under state law.

(C) The cannabis business tax due shall be that amount due and payable from the first date on which the person was engaged in cannabis business in the City, together with applicable penalties and interest calculated in accordance with subsection (A).

(D) Any person whose cannabis business tax is delinquent by at least sixty calendar days may be subject to revocation of a City use permit or other City permit associated with the subject cannabis business.

8-2.1114 Waiver of penalties.

The administrator may waive the first and second penalties imposed upon any person if:

(A) The person provides evidence satisfactory to the administrator that failure to pay timely was due to circumstances beyond the control of the person and occurred, notwithstanding the exercise of ordinary care and the absence of willful neglect, and the person paid the delinquent business tax and accrued interest owed the City prior to applying to the administrator for a waiver.

(B) The waiver provisions specified in this subsection shall not apply to interest accrued on the delinquent tax and a waiver shall be granted only once during any twenty-four-month period.

(C) A request for relief from the first and second penalties must be filed in writing within thirty days of the date the remittance was due to the City, but no later than ten (10) days of the City's notice to the operator of the delinquent remittance.

8-2.1115 Refunds – credits.

(A) No refund shall be made of any tax collected pursuant to this article, except as provided in Section 8-2.1116.

(B) No refund of any tax collected pursuant to this article shall be made because of the discontinuation, dissolution or other termination of a business.

(C) Any person entitled to a refund of taxes paid pursuant to this article may elect in writing to have such refund applied as a credit against such person's business taxes for the next calendar month.

8-2.1116 Refunds and procedures.

(A) Whenever the amount of any business tax, penalty or interest has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the City under this article, it may be refunded to the claimant who paid the tax; provided, that a written claim for refund is filed with the administrator within one year of the date the tax was originally due and payable.

(B) The administrator or the administrator's authorized agent shall have the right to examine and audit all the books and business records of the claimant in order to

determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of claimant's books and business records after a request by the administrator to do so.

(C) In the event that the business tax was erroneously paid and the error is attributable to the City, the entire amount of the tax erroneously paid shall be refunded to the claimant. If the error is attributable to the claimant, the City shall retain an amount from the refund reasonably calculated to cover expenses in verifying the error.

8-2.1117 Exemptions – application – issuance conditions.

Any person desiring to claim exemption from the payment of the tax set forth in this article shall make application upon forms prescribed by the administrator and shall furnish such information and make such affidavits as may be required by the administrator.

8-2.1118 Exemptions – general.

Except as may be otherwise specifically provided in this article, the terms hereof shall not be deemed or construed to apply to any person when imposition of the tax upon that person would violate the Constitution of the United States or that of the state of California or preemptive federal or state law.

8-2.1119 Enforcement – duties of tax administrator and police chief.

It shall be the duty of the administrator to enforce each and all of the provisions of this article, and the police chief shall render such assistance in the enforcement of this article as may from time to time be required by the administrator.

8-2.1120 Rules and regulations.

For purposes of apportionment as may be required by law and for purposes of administration and enforcement of this article generally, the administrator, with the

concurrence of the City Attorney, may from time to time promulgate administrative rules and regulations.

8-2.1121 Apportionment.

(A) None of the tax provided for by this article shall be applied so as to occasion an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the Constitutions of the United States or the state of California.

(B) If any case where a business tax is believed by a taxpayer to place an undue burden upon interstate commerce or be violative of such constitutional clauses, the taxpayer may apply to the administrator for an adjustment of the tax. It shall be the taxpayer's obligation to request in writing for an adjustment within one year after the date of payment of the tax. If the taxpayer does not request in writing within one year from the date of payment, then taxpayer shall be conclusively deemed to have waived any adjustment for that year and all prior years.

(C) The taxpayer shall, by sworn statement and supporting testimony, show the method of business and the gross volume of business and such other information as the administrator may deem necessary in order to determine the extent, if any, of such undue burden or violation. The administrator shall then conduct an investigation and shall fix as the tax for the taxpayer an amount that is reasonable and nondiscriminatory, or if the tax has already been paid, shall order a refund of the amount over and above the tax so fixed. In fixing the tax to be charged, the administrator shall have the power to base the tax on a percentage of gross receipts or any other measure which will assure that the tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the tax as prescribed by this article.

(D) Should the administrator determine that the gross receipt measure of tax to be the proper basis, the administrator may require the taxpayer to submit a sworn statement of the gross receipts and pay the amount of tax as determined by the administrator.

8-2.1122 Audit and examination of records and equipment.

(A) The administrator shall have the power to audit and examine all books and records of persons engaged in cannabis business including both state and federal income tax returns, California sales tax returns, or other evidence documenting the gross receipts of persons engaged in cannabis business, and, where necessary, all equipment of any person engaged in cannabis business in the City for the purpose of ascertaining the amount of business tax, if any, required to be paid by the provisions hereof, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to the provisions of this article. If such person, after written demand by the administrator, refuses to make available for audit, examination or verification such books, records or equipment as the administrator requests, the administrator may, after full consideration of all information within his or her knowledge concerning the cannabis business and activities of the person so refusing, make an assessment in the manner provided in Sections 8-2.1126 through 8-2.1128 of any taxes estimated to be due.

(B) It shall be the duty of every person liable for the collection and payment to the City of any tax imposed by this article to keep and preserve, for a period of at least four years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the City, which records the administrator shall have the right to inspect at all reasonable times.

(C) The City may recoup the costs, expenses, and fees associated with any audit, including, but not limited to, investigation costs, audit expenses, internal staff costs, administrative overhead, third-party contractor costs and fees, and attorneys' fees.

8-2.1123 Tax deemed debt to City.

The amount of any tax, penalties and interest imposed by the provisions of this article shall be deemed a debt to the City and any person carrying on any cannabis business without first having paid such tax shall be jointly and severally liable to the City in an action in the name of the City in any court of competent jurisdiction for the amount of the applicable tax, penalties, and interest imposed on such business and for attorneys' fees in the enforcement of this article. The City may collect amounts owed through any legal means, such as special assessments, real property liens, personal property liens, attachments, charging orders, garnishments, Franchise Tax Board Intercepts, and seizures of business property.

8-2.1124 Lien – recordation.

If any amount required to be paid to the City under the ordinance codified in this article is not paid when due, the administrator, upon expiration of the second delinquency period referenced in Section 8-2.1113(A)(2), may, within four years after the amount is due, record in the office(s) of the county recorder(s) of any county in the state of California a certificate specifying the amount of tax, penalties and interest due, the name and address of the operator liable for the same and the fact that the administrator has complied with all provisions of this article in the determination of the amount required to be paid. From the time of the recording, the amount required to be paid together with penalties and interest shall constitute a lien upon any and all real property in any county owned by the operator or thereafter acquired by the operator. The lien shall have the force, effect, and priority of a judgment lien and shall continue for ten (10) years from the time of filing of the certificate unless sooner released or otherwise discharged.

8-2.1125 Warrant for collection of tax.

At any time within four years after any operator is delinquent in the payment of any amount herein required to be paid off after the last recording of a certificate of lien under Section 8-2.1124, the administrator may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the City under this article. The warrant shall be directed to any sheriff, qualified law enforcement officer, marshal or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution. The administrator may pay or advance to the sheriff, law enforcement officer, marshal or constable the same fees, commissions and expenses for his or her services as are provided by law for similar services pursuant to a writ of execution.

8-2.1126 Seizure and sale.

At any time within four years after any operator is delinquent in the payment of any amount, the administrator may forthwith collect the amount in the following manner: The administrator shall seize any property, real or personal, of the operator and sell the

property, or a sufficient part of it, at public auction to pay the amount due together with any penalties and interest imposed for the delinquency and any costs incurred on account of the seizure and sale. Any seizure made to collect taxes due shall be only of the property of the operator not exempt from execution under the provisions of the California Code of Civil Procedure.

8-2.1127 Successor's and assignee's responsibility.

If any operator, while liable for any amount under this article, sells, assigns or otherwise transfers the business, whether voluntarily or involuntarily, the operator's subsequent successor, assign or other transferee, or other person or entity obtaining ownership or control of the business, shall satisfy any tax liability owed to the City associated with the business. Failure to do so for the benefit of the City will result in the successor being personally liable to the City for the full amount of the tax liability, which includes interest and penalties.

The successor operator, assign, purchaser, transferee, or other person or entity seeking to obtain ownership or control of the business shall notify the administrator of the date of transfer at least thirty days prior to the transfer date; or if the agreement to sell, transfer, or otherwise dispose of the business was made less than thirty days prior to the date of transfer, notice shall be provided immediately.

The successor operator, assign, purchaser, transferee, or other person or entity who obtains ownership or control of the business shall be deemed to have complied with the requirement of this section to satisfy the unpaid tax liability if that person or entity complies with the requirements of California Revenue and Taxation Code Section 7283.5 by withholding from the purchase price an amount sufficient to cover the tax liability, or by otherwise paying the tax liability until the administrator provides a "Tax Clearance Certificate" showing that it has been paid and stating that no amount is due through the date of transfer.

The administrator, within ninety days of receiving a written request from a successor operator, assign, purchaser, transferee, or other person or entity who obtains or attempts to obtain ownership or control of the business, may issue a "Tax Clearance Certificate" stating either the amount of tax liability due and owing for the business, or

stating that there is no tax liability due and owing for the business. The administrator may also request financial records from the current or former owner or operator to conduct an audit of the tax that may be due and owing. After completing the audit within ninety days after the date that the records were made available, the administrator may issue a tax clearance certificate within thirty days of completing the audit, stating the amount of the tax liability owed, if any. If the City determines that the records provided for an audit are insufficient, the administrator may rely on the facts and information available to estimate any tax liability associated with the property. The administrator may issue a tax clearance certificate stating the amount of the tax liability, if any, based on such facts and information available. A written application for a hearing on the amount assessed on the tax clearance certificate must be made within ten (10) days after the serving or mailing of the certificate. The hearing provision of Section 8-2.1131 shall apply. If an application for a hearing is not made within the time prescribed, the tax clearance certificate shall serve as conclusive evidence of the tax liability associated with the property as of the date specified on the certificate.

8-2.1128 Deficiency determinations.

If the administrator is not satisfied that any statement filed as required under the provisions of this article is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession within three years of the date the tax was originally due and payable. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a business, a deficiency determination may be made at any time within three years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under Sections 8-2.1129 through 8-2.1131.

8-2.1129 Tax assessment – authorized when – nonpayment – fraud.

(A) Under any of the following circumstances, the administrator may make and give notice of an assessment of the amount of tax owed by a person under this article at any time:

- (1) If the person has not filed any statement required under the provisions of this article;
- (2) If the person has not paid any tax due under the provisions of this article;
- (3) If the person has not, after demand by the administrator, filed a corrected statement, or furnished to the administrator adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this article; or
- (4) If the administrator determines that the nonpayment of any business tax due under this article is due to fraud, a penalty of forty percent of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this article.

(B) The notice of assessment shall separately set forth the amount of any tax known by the administrator to be due or estimated by the administrator, after consideration of all information within the administrator's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this article, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

8-2.1130 Tax assessment – notice requirements.

The notice of assessment shall be served upon the person either by handing it to him or her personally, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as he or she shall register with the administrator for the purpose of receiving notices provided under this article; or, should the person have no address registered with the administrator for such purpose, then to such person's last known

address. For the purposes of this section, a service by mail is complete at the time of deposit in the United States mail.

8-2.1131 Tax assessment – hearing – application and determination.

Within ten (10) days after the date of service, the person may apply in writing to the administrator for a hearing on the assessment. If an application for a hearing before the City is not made within the time herein prescribed, the tax assessed by the administrator shall become final and conclusive. Within thirty days of the receipt of any such application for hearing, the administrator shall cause the matter to be set for hearing before him or her not later than thirty-five days after the receipt of the application, unless a later date is agreed to by the administrator and the person requesting the hearing. Notice of such hearing shall be given by the administrator to the person requesting such hearing not later than five days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the administrator should not be confirmed and fixed as the tax due. After such hearing, the administrator shall determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in Section 8-2.1130 for giving notice of assessment. The amount determined to be due shall be payable after fifteen days unless appealed.

8-2.1132 Tax assessment – appeal.

Any operator aggrieved by any decision of the tax administrator with respect to the amount of such tax, penalties, or any amount determined to be owed, may appeal the decision in accordance with the procedure established by Chapter 4 of Title 1 of this Code.

8-2.1133 Conviction for article violation – taxes not waived.

The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this article or of any state law requiring the payment of all taxes.

8-2.1134 Violation deemed misdemeanor – penalty.

Any person violating any of the provisions of this article, or any regulation or rule passed in accordance herewith, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars or by imprisonment for a period of not more than six months, or by both such fine and imprisonment.

8-2.1135 Effect of state and federal reference/authorization.

(A) Unless specifically provided otherwise, any reference to a state or federal statute in this article shall mean such statute as it may be amended from time to time; provided, that such reference to a statute herein shall not include any amendment thereto, or to any change of interpretation thereto by a state or federal agency or court of law, with the duty to interpret such law, to the extent that such amendment or change of interpretation would, under California law, require voter approval of such amendment or interpretation, or to the extent that such change would result in a tax decrease. To the extent voter approval would otherwise be required or a tax decrease would result, the prior version of the statute, or interpretation thereof, shall remain applicable; for any application or situation that would not require voter approval or result in a decrease of a tax, provisions of the amended statute, or new interpretation thereof, shall be applicable to the maximum possible extent.

(B) To the extent that the City's authorization to collect or impose any tax imposed under this article is expanded as a result of changes in state or federal law, no amendment or modification of this article shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the authorization up to the full amount of the tax imposed under this article.

8-2.1136 Remedies cumulative.

All remedies and penalties prescribed by this article or which are available under any other provision of law or equity, including but not limited to the California False Claims Act (Government Code Section 12650 et seq.) and the California Unfair Practices Act (Business and Professions Code Section 17070 et seq.), are cumulative. The use of

one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this article.

8-2.1137 Amendment or repeal.

This article of the Modesto Municipal Code may be repealed or amended by the City Council without a vote of the people. However, as required by Chapter XIII C of the California Constitution and Government Code section 53750(h), voter approval is required for any amendment provision that would increase the rate of any tax levied pursuant to this article beyond the maximum amount of ten percent (10%) of a cannabis business's gross receipts or revise the methodology by which the tax is calculated, if the revision would result in an increased tax being levied on any cannabis business. The people of the City of Modesto affirm that the following actions shall not constitute an increase of the rate of a tax:

- (A) The restoration of the rate of the tax to a rate that is no higher than the maximum ten percent (10%) tax rate set by this article, if the City Council has previously acted to reduce the rate of the tax;
- (B) The City Council's adoption of a resolution, as authorized by Section 8-2.1108(A), to raise the tax rate provided the tax rate is not raised to a rate higher than ten percent (10%) of a cannabis business's gross receipts;
- (C) An action that interprets or clarifies the methodology of calculating the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this article;
- (D) The establishment of a class of persons that are exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception specifically set forth in this article); or
- (E) The collection of the tax imposed by this article, even if the City had, for some period of time, failed to collect the tax.

SECTION 3. CEQA.

The approval of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The Cannabis Business Tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required.

SECTION 4. Severability.

If any section, subsection, sentence, clause or phrase of this Article is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Article. The City Council hereby declares that it would have passed the ordinance codified in this Article, and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of this Article would be subsequently declared invalid or unconstitutional.

SECTION 5. Effective Date.

The City Clerk shall certify the adoption of this Ordinance, and the City Clerk shall cause this Ordinance or a summary thereof to be published as required by law. If this Ordinance is approved by a majority of the voters as set forth in Section 1 of this Ordinance, it shall take effect immediately upon certification of the election results by the City Council.

APPROVED by the following vote of the People of the City of Modesto at the November 7, 2017 election: 82 % voting in favor; and

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 28th day of November, 2017, Councilmember Madrigal moved its final adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Ah You, Greway, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____

MAYOR TED BRANDVOLD

ATTEST: _____

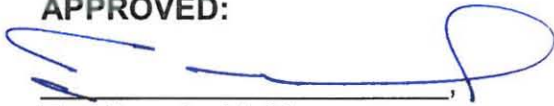
STEPHANIE LOPEZ, City Clerk

Effective Date: November 28, 2017

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of June, 2017, by Councilmember Kenoyer, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and ordered printed and published and **ADOPTED** this 27th day of June, 2017 by the following roll call vote:

AYES:	Ah You, Grewal, Kenoyer, Madrigal, Mayor Brandvold
NOES:	Ridenour, Zoslocki
ABSTAIN:	None
ABSENT:	None

APPROVED:




Ted Brandvold, Mayor

ATTEST:



Stephanie Lopez, City Clerk

APPROVED AS TO FORM:



Adam U. Lindgren, City Attorney

ORDINANCE NO. 3673-C.S.

AN ORDINANCE ADOPTING THE FY 2017-2018 ANNUAL AND MULTI-YEAR OPERATING BUDGETS AND THE 2017-2018 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 Acting City Manager presented the Draft Operating Budget and Capital Improvement Program for the 2017-2018 Fiscal Year to the Effective Government Committee at workshops held on May 22 and May 24, 2017, and

WHEREAS, the Effective Government Committee reviewed the Draft Operating and Multi-Year Operating Budgets and the Capital Improvement Program in a series of televised public workshops on May 22, and May 24, 2017 and

WHEREAS, the Effective Government Committee recommended the Acting City Manager's Draft Operating and Multi-Year Budgets to the full City Council for consideration, and

WHEREAS, the Effective Government Committee recommended the proposed Capital Improvement Program budget to the full City Council for consideration, and

WHEREAS, the City Council approved the combining of the Acting City Manager's Draft Budget and the Mayor's Final Budget Modifications to create a Final Proposed Budget on June 13, 2017 at a City Council meeting with a 4-2 vote, and

WHEREAS, in accordance with the City Charter, a duly noticed public hearing was scheduled on June 27, 2017 during which the City Council considered the recommendations of the Effective Government Committee relating to the Draft Operating and Multi-year budgets and the Capital Improvement Program, and

ORDINANCE 3673-C.S.
Effective: July 1, 2017

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 Final 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 1, 3, 5, 6, 7 and 8 (Exhibit 1 - FY 2017-18 Mayor's Approved Reduction List, Exhibit 3 - FY 2017-18 Final Proposed Operating and Multi-Year Budget Addendum, Exhibit 5 - Fund Summary, Exhibit 6 - Transfer In/Out List, Exhibit 7 - Non-Capital Budget Worksheet, and Exhibit 8 - FY 2017-18 Final Proposed Transfers Addendum) are hereby adopted as the Fiscal Year 2017-2018 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 4 and incorporated herein by reference are hereby adopted for the Fiscal Year 2017-2018.

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 other amounts previously approved for spending on Capital Improvement Projects are hereby adopted as the 2017-2018 Capital Improvement

ORDINANCE 3673-C.S.
Effective: July 1, 2017

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 7 - Non-Capital Budget Worksheet).

SECTION 5. COUNCIL POLICIES. That the Policy Issues outlined in the 2017-2018 Final Proposed Operating and Multi-Year Budgets have been reviewed and are adopted hereby as shown in Exhibit 3 (Exhibit 3 - FY 2017-2018 Proposed Policies).

SECTION 6. 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. Upon adoption of this ordinance, the effective date for FY 2017-2018 Annual and Multi-Year Operating Budgets and the 2017-2018 Capital Improvement Program shall be retroactive to July 1, 2017.

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

ORDINANCE 3673-C.S.
Effective: July 1, 2017

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of June, 2017, by Councilmember Ah You, who moved its adoption, and passage to print, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Ah You, Grewal, Madrigal, Ridenour, Zoslocki,
Mayor Brandvold

NOES: Councilmembers: Kenoyer

ABSENT: Councilmembers: None

APPROVED: 
TED BRANDVOLD, Mayor

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(seal)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney

ORDINANCE 3673-C.S.
Effective: July 1, 2017

ORDINANCE 3673-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of July, 2017, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour,
Zoslocki, Mayor Brandvold


NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 

TED BRANDVOLD, MAYOR

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: July 1, 2017

ORDINANCE 3673-C.S.
Effective: July 1, 2017

ORDINANCE NO. 3674-C.S.

AN ORDINANCE AMENDING THE PRECISE PLAN FOR AREA NO. 23 IN THE VILLAGE ONE SPECIFIC PLAN AREA TO AMEND THE CONFIGURATION OF 57 SINGLE-FAMILY RESIDENTIAL LOTS WITH ALLEY ACCESS TO 59 STREET-ACCESSED SINGLE-FAMILY RESIDENTIAL LOTS, PROPERTY LOCATED WEST OF CLAUS ROAD AND NORTH OF FLOYD AVENUE

WHEREAS, the City Council, on October 16, 1990, adopted the Village One Specific Plan, pursuant to California Government Code Section 65450 et. seq., to implement the Modesto Urban Area General Plan in this area, and

WHEREAS, the Village One Specific Plan is divided into 35 precise plan areas, and a precise plan is required prior to development in each area, and

WHEREAS, a Precise Plan for Area No. 23 was approved by the City Council by Ordinance No. 3373-C.S. on December 7, 2004, and

WHEREAS, an application has been filed by New FH, LLC for an Amendment to Precise Plan of Area No. 23 to amend the configuration of 57 single-family residential lots with alley access to 59 street-accessed single-family lots, property located west of Claus Road and North of Floyd Avenue, and

WHEREAS, a public hearing was held by the Planning Commission on May 1, 2017, in Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, after considering public comments, the Planning Commission, by Resolution No. 2017-10, recommended to the City Council approval of amendments to Precise Plan Area No. 23, and

WHEREAS, said matter was set for a public hearing to consider said recommendations of the Planning Commission.

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

SECTION 1. After a public hearing held on June 27, 2017, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California this Council declares that amendments to the Precise Plan for Area No. 23 of the Village One Specific Plan are required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed Precise Plan Amendment to amend the configuration of 57 alley-accessed single-family residential lots to allow for 59 street-accessed single-family residential lots and facilitate the re-subdivision of said lots into a 59-lot single-family residential subdivision is consistent with the Village One Specific Plan and Modesto Urban Area General Plan.
2. The Modesto Area General Plan designates the proposed development site as Village Residential (VR), which allows for a mixture of uses, including single-family residential uses of an average of 6.5 dwelling units to the acre.

SECTION 2. APPROVAL OF AMENDMENT TO THE PRECISE PLAN.

The City Council has reviewed and considered the amendments to the Precise Plan for Area No. 23 of the Village One Specific Plan to amend the configuration of 57 alley-accessed single-family residential lots to allow for 59 street-accessed single-family residential lots as recommended by the Planning Commission, and the Council does hereby approve said amendments to the Precise Plan for Area No. 23 of the Village One Specific Plan, attached hereto.

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 27th day of June, 2017, by Councilmember Madrigal, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Zoslocki,
Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Ridenour

APPROVED: 
TED BRANDVOLD, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney

ORDINANCE 3674-C.S.


FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th Day of July, 2017, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Zoslocki,
Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Ridenour

APPROVED: 
MAYOR, TED BRANDVOLD

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: August 5, 2017

ORDINANCE NO. 3675-C.S.

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

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

SECTION 1. AMENDMENT OF CODE. Section 3-2.1401.1 of the Modesto

Municipal Code is amended to read as follows:

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

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

<u>NAME OF STREET OR PORTION AFFECTED</u>	<u>DECLARED PRIMA FACIE SPEED LIMIT</u>	<u>DATE SURVEYED</u>
BANGS AVENUE, between Dale Road and McHenry Avenue *ES10	45 miles per hour	February 1, 2012
BLUE GUM AVENUE, between Morse Road and Carpenter Road *ES 10	35 miles per hour	February 4, 2010
BRIGGSMORE AVENUE, between Claus Road and Santa Fe Railroad Tracks *ES10	45 miles per hour	December 22, 2011
BRIGGSMORE AVENUE, between Coffee Road and Oakdale Road *ES10	50 miles per hour	July 1, 2009

BRIGGSMORE AVENUE, between McHenry Avenue and Coffee Road *ES10	45 miles per hour	June 24, 2009
BRIGGSMORE AVENUE, westbound and eastbound between Oakdale Road and Claus Road *ES10	50 miles per hour	December 22, 2011
BRIGGSMORE AVENUE, between Prescott Road and Tully Road	45 miles per hour	February 3, 2015
BRIGGSMORE AVENUE, between Tully Road and McHenry Avenue *ES10	45 miles per hour	June 24, 2009
BRIGHTON AVENUE, between Coffee Road and Locke Road	30 miles per hour	May 8, 2013
CALIFORNIA AVENUE, between Carpenter Road and Martin Luther King Drive	30 miles per hour	January 17, 2013
CARPENTER ROAD, between Blue Gum Avenue and Woodland Avenue *ES 10	40 miles per hour	February 2, 2010
CARPENTER ROAD, between Woodland Avenue and Maze Boulevard *ES10	40 miles per hour	February 16, 2012
CARPENTER ROAD, between Maze Boulevard and Paradise Road *ES10	50 miles per hour	February 2, 2010
CARVER ROAD, between Bangs Avenue and Pelandale Avenue *ES10	35 miles per hour	December 22, 2011
CARVER ROAD, between Pelandale Avenue and Brixton Lane *ES10	30 miles per hour	December 28, 2011

CARVER ROAD, between Brixton Lane and Briggsmore Avenue *ES10	30 miles per hour	December 28, 2011
CARVER ROAD, between Briggsmore Avenue and Orangeburg Avenue *ES10	30 miles per hour	December 28, 2011
CARVER ROAD, between Orangeburg Avenue and 9th Street *ES10	30 miles per hour	December 28, 2011
CELESTE DRIVE, between Coffee Road and Oakdale Road	30 miles per hour	May 8, 2013
CLARATINA AVENUE, between Coffee Road and Oakdale Road *ES10	55 miles per hour	July 1, 2009
CLAUS ROAD, between Sylvan Avenue and Briggsmore Avenue *ES10	50 miles per hour	January 26, 2012
CLAUS ROAD, between Briggsmore Avenue and Scenic Drive *ES10	45 miles per hour	January 26, 2012
CLAUS ROAD, between Scenic Drive and Yosemite Boulevard *ES10	45 miles per hour	January 26, 2012
COFFEE ROAD, between Claratina Avenue and Sylvan Avenue *ES10	40 miles per hour	December 15, 2009
COFFEE ROAD, between Sylvan Avenue and Floyd Avenue *ES10	40 miles per hour	February 8, 2010
COFFEE ROAD, between Floyd Avenue and Briggsmore Avenue *ES10	40 miles per hour	February 26, 2010
COFFEE ROAD, between Briggsmore Avenue and Scenic Drive *ES10	40 miles per hour	February 8, 2010

COLLEGE AVENUE, between Rumble Road and Bowen Avenue *ES10	30 miles per hour	February 4, 2010
COLLEGE AVENUE, between Bowen Avenue and Princeton Avenue	35 miles per hour	September 29, 2015
COLLEGE AVENUE, between Princeton Avenue and Needham Avenue	25 miles per hour	September 29, 2015
CREEKWOOD DRIVE, between Claus Road and Yosemite Boulevard *ES10	35 miles per hour	February 26, 2010
CROWS LANDING ROAD, between 7th Street and Hatch Road	35 miles per hour	May 8, 2013
CROWS LANDING ROAD, between Hatch Road and Whitmore Avenue *ES10	35 miles per hour	February 2, 2010
DALE ROAD, northbound and southbound, between Bangs Avenue and Kiernan Avenue*ES10	40 miles per hour	December 20, 2011
DALE ROAD, between Bangs Avenue and Snyder Avenue*ES10	35 miles per hour	February 1, 2012
DALE ROAD, between Snyder Avenue and Veneman Avenue*ES10	35 miles per hour	February 1, 2012
DALE ROAD, between Veneman Avenue and Standiford Avenue*ES10	30 miles per hour	February 1, 2012
EASTRIDGE DRIVE, between Orangeburg Avenue and Scenic Drive *ES10	30 miles per hour	February 11, 2010

EL VISTA AVENUE, between Scenic Drive and Yosemite Boulevard *ES10	35 miles per hour	August 13, 2009
EMERALD AVENUE, between Maze Boulevard and California Avenue *ES10	30 miles per hour	February 5, 2010
EVERGREEN AVENUE, between Orangeburg Avenue and Carver Road *ES10	30 miles per hour	February 22, 2012
FINE AVENUE, between Hillglen Avenue and Merle Avenue	30 miles per hour	May 8, 2013
FLOYD AVENUE, between Coffee Road and Oakdale Road*ES10	30 miles per hour	February 23, 2012
FLOYD AVENUE, between McHenry Avenue and Coffee Road*ES10	30 miles per hour	February 24, 2012
FLOYD AVENUE, eastbound and westbound, between Oakdale Road and Roselle Avenue*ES10	35 miles per hour	January 26, 2012
FLOYD AVENUE, between Roselle Avenue and Claus Road *ES10	40 miles per hour	June 24, 2009
G STREET, between 9 th Street and 17 th Street *ES10	25 miles per hour	December 14, 2009
GRANGER AVENUE, between Tully Road and McHenry Avenue *ES10	35 miles per hour	February 26, 2010

GRANGER AVENUE, between McHenry Avenue and Sunrise Avenue *ES10	35 miles per hour	February 26, 2010
H STREET, between 9 th Street and 17 th Street *ES10	25 miles per hour	February 4, 2010
HASHEM DRIVE, between Sylvan Avenue and Oakdale Road*ES10	30 miles per hour	April 23, 2012
HATCH ROAD, between Carpenter Road and Crows Landing Road*ES10	45 miles per hour	February 15, 2012
JEFFERSON STREET, between Maze Boulevard and Paradise Road	25 miles per hour	March 25, 2015
KANSAS AVENUE, between Morse Road and Rosemore Avenue	40 miles per hour	March 30, 2015
KANSAS AVENUE, between Rosemore Avenue and Carpenter Road *ES10	40 miles per hour	February 10, 2010
KANSAS AVENUE, between Carpenter Road and Emerald Avenue *ES10	35 miles per hour	February 10, 2010
KANSAS AVENUE, between Emerald Avenue and Franklin Street*ES10	30 miles per hour	December 20, 2011
KODIAK DRIVE, between La Force Drive and Roselle Avenue	30 miles per hour	May 8, 2013
LA LOMA AVENUE, between Burney Street and Yosemite Boulevard*ES10	30 miles per hour	March 20, 2012
LAKEWOOD AVENUE, between Briggsmore Avenue and Scenic Drive *ES10	35 miles per hour	February 11, 2010

LINCOLN AVENUE, between Dry Creek and Yosemite Boulevard*ES10	35 miles per hour	February 15, 2012
MABLE AVENUE, between Coffee Road and Oakdale Road*ES10	30 miles per hour	March 21, 2012
MARTIN LUTHER KING DRIVE, between Maze Boulevard and Paradise Road*ES10	30 miles per hour	February 16, 2012
MCCLURE ROAD, between Dry Creek Drive and Yosemite Ave	30 miles per hour	January 13, 2013
MERLE AVENUE, between Oakdale Road and Roselle Avenue*ES10	30 miles per hour	December 23, 2014
MERLE AVENUE, between Roselle Avenue and Claus Road *ES10	35 miles per hour	February 25, 2010
MILLBROOK AVENUE, between Sylvan Avenue and Floyd Avenue	25 miles per hour	January 10, 2013
MILLER AVENUE, between La Loma Avenue and El Vista Avenue *ES10	35 miles per hour	February 25, 2010
MITCHELL ROAD, between Finch Road and the southerly City limits *ES10	50 miles per hour	December 29, 2011
MORRIS AVENUE, between McHenry Avenue and Coffee Road *ES10	30 miles per hour	March 22, 2012
MORSE ROAD, between Blue Gum Avenue and Kansas Avenue*ES10	40 miles per hour	February 22, 2012
MT. VERNON DRIVE, between Prescott Road and College Avenue *ES10	30 miles per hour	February 3, 2010

NEECE DRIVE, between Tuolumne Boulevard and Rouse Avenue*ES10	35 miles per hour	February 22, 2012
NEEDHAM STREET, between 9th Street and L Street*ES10	35 miles per hour	March 6, 2012
NORWEGIAN AVENUE, between McHenry Avenue and Coffee Road *ES10	35 miles per hour	February 26, 2010
OAKDALE ROAD, between Claratina Avenue and Sylvan Avenue *ES10	45 miles per hour	March 7, 2012
OAKDALE ROAD, between Sylvan Avenue and Floyd Avenue *ES10	45 miles per hour	March 7, 2012
OAKDALE ROAD, between Floyd Avenue and Briggsmore Avenue	40 miles per hour	February 3, 2015
OAKDALE ROAD, between Briggsmore Avenue and Scenic Drive *ES10	40 miles per hour	February 4, 2010
ORANGEBURG AVENUE, between Briggsmore Avenue and Martin Avenue *ES10	35 miles per hour	April 25, 2007
ORANGEBURG AVENUE, between Martin Avenue and McHenry Avenue*ES10	40 miles per hour	March 21, 2012
ORANGEBURG AVENUE, between McHenry Avenue and Coffee Road *ES10	40 miles per hour	March 22, 2012
ORANGEBURG AVENUE, between Coffee Road and Oakdale Road *ES10	35 miles per hour	March 22, 2012

ORANGEBURG AVENUE, between Oakdale Road and Lakewood Avenue*ES10	35 miles per hour	May 17, 2012
ORANGEBURG AVENUE, between Lakewood Avenue and Claus Road *ES10	35 miles per hour	May 23, 2013
PARADISE ROAD, between Carpenter Road and Martin Luther King Drive*ES10	35 miles per hour	May 23, 2012
PARADISE ROAD, between Martin Luther King Drive and Washington Street*ES10	30 miles per hour	May 23, 2012
PARKER ROAD, between Santa Fe and Church Street *ES10	45 miles per hour	February 4, 2010
PELANDALE AVENUE, between Sisk Road and Dale Road*ES10	45 miles per hour	December 20, 2011
PELANDALE AVENUE, between Dale Road and Prescott Avenue *ES10	50 miles per hour	March 5, 2010
PELANDALE AVENUE, between Prescott Avenue and Carver Road *ES10	50 miles per hour	March 5, 2010
PELANDALE AVENUE, between Carver Road and Tully Road *ES10	50 miles per hour	March 5, 2010
PELANDALE AVENUE, between Tully Road and McHenry Avenue *ES10	50 miles per hour	March 5, 2010
PRESCOTT ROAD, between Snyder Avenue and Standiford Avenue	35 miles per hour	September 22, 2016

PRESCOTT ROAD, between Standiford Avenue and Rumble Road	35 miles per hour	September 22, 2016
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	February 3, 2015
ROSE AVENUE, between Floyd Avenue and Briggsmore Avenue	30 miles per hour	September 14, 2016
ROSE AVENUE, between Briggsmore Avenue and Scenic Drive	30 miles per hour	September 14, 2016
ROSEBURG AVENUE, between Carver Road and Tully Road	30 miles per hour	September 14, 2016
ROSEBURG AVENUE, between Tully Road and McHenry Avenue *ES10	30 miles per hour	February 11, 2010
ROSEBURG AVENUE, between McHenry Avenue and Sunrise Avenue *ES10	30 miles per hour	February 4, 2010
ROSELLE AVENUE, between Sylvan Avenue and Floyd Avenue	40 miles per hour	April 21, 2015
ROSELLE AVENUE, between Floyd Avenue and Briggsmore Avenue	40miles per hour	February 3, 2015
ROSEMORE AVENUE, between Blue Gum Avenue and Kansas Avenue	30 miles per hour	September 22, 2016

ROUSE AVENUE, between Colorado Avenue and Neece Drive *ES10	30 miles per hour	February 5, 2010
RUMBLE ROAD, between Sisk Road and Conant Avenue *ES10	30 miles per hour	December 15, 2009
RUMBLE ROAD, between Conant Avenue and Tully Road *ES10	30 miles per hour	February 4, 2010
RUMBLE ROAD, between Tully Road and McHenry Avenue *ES10	30 miles per hour	February 4, 2010
RUMBLE ROAD, between McHenry Avenue and Coffee Road	30 miles per hour	April 21, 2015
SANTA CRUZ AVENUE, between Yosemite Boulevard and Legion Park Drive *ES10	30 miles per hour	February 9, 2010
SCENIC DRIVE, between Burney Street and Coffee Road *ES10	30 miles per hour	April 23, 2012
SCENIC DRIVE, between Coffee Road and Oakdale Road *ES10	40 miles per hour	July 8, 2009
SCENIC DRIVE, between Oakdale Road and Lakewood Avenue *ES10	40 miles per hour	February 10, 2010
SCENIC DRIVE, between Lakewood Avenue and Lillian Drive *ES10	40 miles per hour	July 8, 2009
SCENIC DRIVE, between Lillian Drive and Claus Road *ES10	40 miles per hour	July 8, 2009
SIERRA DRIVE, between G Street and 7th Street *ES10	30 miles per hour	February 25, 2010

SISK ROAD, between Pelandale Avenue and Standiford Avenue *ES10	40 miles per hour	December 20, 2011
SISK ROAD, between Standiford Avenue and Briggsmore Avenue *ES10	40 miles per hour	December 20, 2011
SNYDER AVENUE, between Dale Road and Prescott Road	30 miles per hour	March 25, 2015
SNYDER AVENUE, between Prescott Road and Tully Road	30 miles per hour	April 21, 2015
STANDIFORD AVENUE, between Sisk Road and Prescott Road *ES 10	45 miles per hour	February 4, 2010
STANDIFORD AVENUE, between Prescott Road and Tully Road *ES10	40 miles per hour	February 4, 2010
STANDIFORD AVENUE, between Tully Road and McHenry Avenue *ES10	40 miles per hour	February 4, 2010
SUNRISE AVENUE, between Floyd Avenue and Lucern Avenue *ES10	30 miles per hour	February 9, 2010
SUTTER AVENUE, between Paradise Road and Robertson Road *ES10	30 miles per hour	March 5, 2010
SYLVAN AVENUE, between McHenry Avenue and Coffee Road *ES10	40 miles per hour	February 4, 2010
SYLVAN AVENUE, between Coffee Road and Oakdale Road *ES10	40 miles per hour	February 4, 2010
SYLVAN AVENUE, between Oakdale Road and Roselle Avenue *ES10	45 miles per hour	June 24, 2009

SYLVAN AVENUE, between Roselle Avenue and Claus Road	45 miles per hour	January 8, 2015
SYLVAN MEADOWS DRIVE, between Dragoo Park Drive and Coffee Road *ES10	25 miles per hour	August 2, 2012
TENAYA DRIVE, between Empire Avenue and the easterly city limit on Tenaya Drive *ES10	30 miles per hour	December 29, 2011
TULLY ROAD, between Bangs Avenue and Standiford Avenue *ES10	45 miles per hour	December 14, 2009
TULLY ROAD, between Standiford Avenue and Briggsmore Avenue *ES10	35 miles per hour	December 14, 2009
TULLY ROAD, between Briggsmore Avenue and Coldwell Avenue *ES10	35 miles per hour	December 14, 2009
TULLY ROAD, between Coldwell Avenue and 9 th Street	25 miles per hour	April 11, 2016
TUOLUMNE BOULEVARD, between Paradise Road and 7th Street *ES10	35 miles per hour	February 2, 2010
UNION AVENUE, between Tully Road and McHenry Avenue *ES10	30 miles per hour	December 15, 2009
VENEMAN AVENUE, between Dale Road and Regency Park Drive *ES10	30 miles per hour	December 15, 2009
VIRGINIA AVENUE, between Roseburg Avenue and Needham Street *ES10	30 miles per hour	December 11, 2010

WHITMORE AVENUE, between Ustick Road and Crows Landing Road *ES10	45 miles per hour	February 2, 2010
WHITMORE AVENUE, between Crows Landing Road and Morgan Road *ES10	40 miles per hour	February 2, 2010
WOODLAND AVENUE, between Morse Road and Carpenter Road *ES10	30 miles per hour	February 2, 2010
WOODLAND AVENUE, between Carpenter Road and 9th Street	30 miles per hour	March 25, 2015
WOODROW AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	March 25, 2015
5TH STREET, between L Street and Sierra Drive *ES10	30 miles per hour	February 4, 2010
6TH STREET, between M Street and Sierra Drive	30 miles per hour	February 26, 2015
7TH STREET BRIDGE, between B Street and River Road	30 miles per hour	August 30, 2000
9TH STREET, between Carpenter Road and Tully Road	40 miles per hour	April 4, 2016
9TH STREET, between Tully Road and L Street *ES10	35 miles per hour	March 5, 2010
9TH STREET, between D Street and Morton Boulevard *ES10	35 miles per hour	February 4, 2010

SCHOOL ZONE REDUCED SPEED LIMITS

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

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

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

SECTION 2. SEVERABILITY . If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or

applications of this Ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable. This City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

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

SECTION 4. SAVINGS. The provisions of this ordinance shall not affect any proceedings, suit or prosecution heretofore or hereafter commenced under the provisions of the Municipal Code as they existed prior to the effective date of this ordinance. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred under the provisions of the Municipal Code as they existed prior to the effective date of this ordinance shall be discharged or affected by the adoption of this ordinance; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted or proceeded with in all respects as if this ordinance had not been adopted.

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of July, 2017, by Councilmember Kenoyer, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
TED BRANDVOLD, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney

ORDINANCE 3675-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 July, 2017, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour,
Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
TED BRANDVOLD, MAYOR

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: August 11, 2017

ORDINANCE NO. 3676-C.S.

AN ORDINANCE AMENDING ARTICLE 18 OF TITLE 2, CHAPTER 1, "STANDING COMMITTEES" OF THE MODESTO MUNICIPAL CODE TO CHANGE THE NAMES OF THE STANDING COMMITTEES

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

SECTION 1. AMENDMENT OF CODE. Article 18 of Title 2, Chapter 1 is hereby amended to read as follows:

2-1.18 - Standing Committees.

The standing committees of the Council shall be the Safety and Communities Committee, the Economic Development Committee, the Finance Committee, the Appointments Committee, and the Audit Committee, each of which committees shall consist of three (3) members of the Council appointed by the Mayor. The responsibilities of the Appointments and Audit Committee shall be to review and make recommendations for appointments to City Boards, Commissions, and Committees, and such other responsibilities established from time to time by resolution of the City Council.

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

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

SECTION 4. PUBLICATION. At least two (2) days prior to its final adoption,

Ordinance 3676-C.S.
Effective October 5, 2017

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

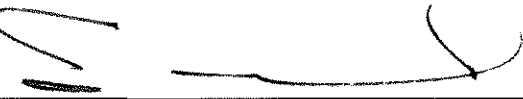
The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2017, by Councilmember Kenoyer, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____



TED BRANDVOLD, Mayor

ATTEST:

By _____

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____

ADAM U. LINDGREN, City Attorney

Ordinance 3676-C.S.
Effective October 5, 2017

ORDINANCE 3676-C.S.

FINAL ADOPTION CLAUSE

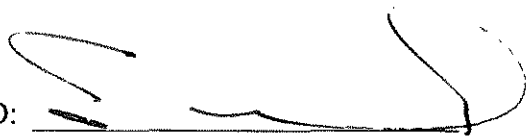
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of September, 2017, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour,
Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

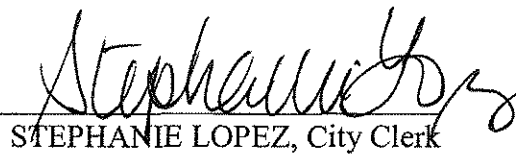
ABSENT: Councilmembers: None

APPROVED:



MAYOR TED BRANDVOLD

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: October 5, 2017

Ordinance 3676-C.S.
Effective October 5, 2017

ORDINANCE NO. 3677-C.S.

AN ORDINANCE AMENDING SECTION 16-3-9 OF THE ZONING MAP TO REZONE FROM PLANNED DEVELOPMENT ZONE, P-D(237), TO PLANNED DEVELOPMENT ZONE, P-D(602), PROPERTY LOCATED AT 1192 NORWEGIAN AVENUE

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

SECTION 1. ZONING CHANGE. Section 16-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Planned Development Zone, P-D(237), to Planned Development Zone, P-D(602):

P-D(237) to P-D(602)

All that portion of Section 16, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, Stanislaus County, California, described as follows:

All of Parcel "A" as shown on the map filed in Volume 21 of Parcel Maps at Page 81, Stanislaus County Records.

Including also the southerly 30-feet of Norwegian Avenue, all being immediately adjacent to the above-described property.

APN: 120-048-013

SECTION 2. USES. The following uses shall be permitted in said P-D(602)

Zone:

1. A senior assisted and independent living housing development for residents 55 years and older comprised of two, single-story residential buildings and common areas, together with a storage building for the sole use of the residents of the housing development;
2. Existing radio broadcasting tower with cellular equipment and cellular equipment lease area, on an as-is basis in accordance to Article 4, Chapter 3 of Title 10 of the Modesto Municipal Code.

Ordinance 3677-C.S.
Effective October 5, 2017

SECTION 3. ZONING MAP. Section Map 16-3-9 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 8th day of August, 2017, by Councilmember Grewal, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers:

ABSENT: Councilmembers:

APPROVED: 
TED BRANDVOLD, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney

APPROVED AS TO DESCRIPTION:

By: 
Community & Economic Development
Department, Planning Division

Ordinance 3677-C.S.
Effective October 5, 2017

ORDINANCE 3677-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 September, 2017, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour,
Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____

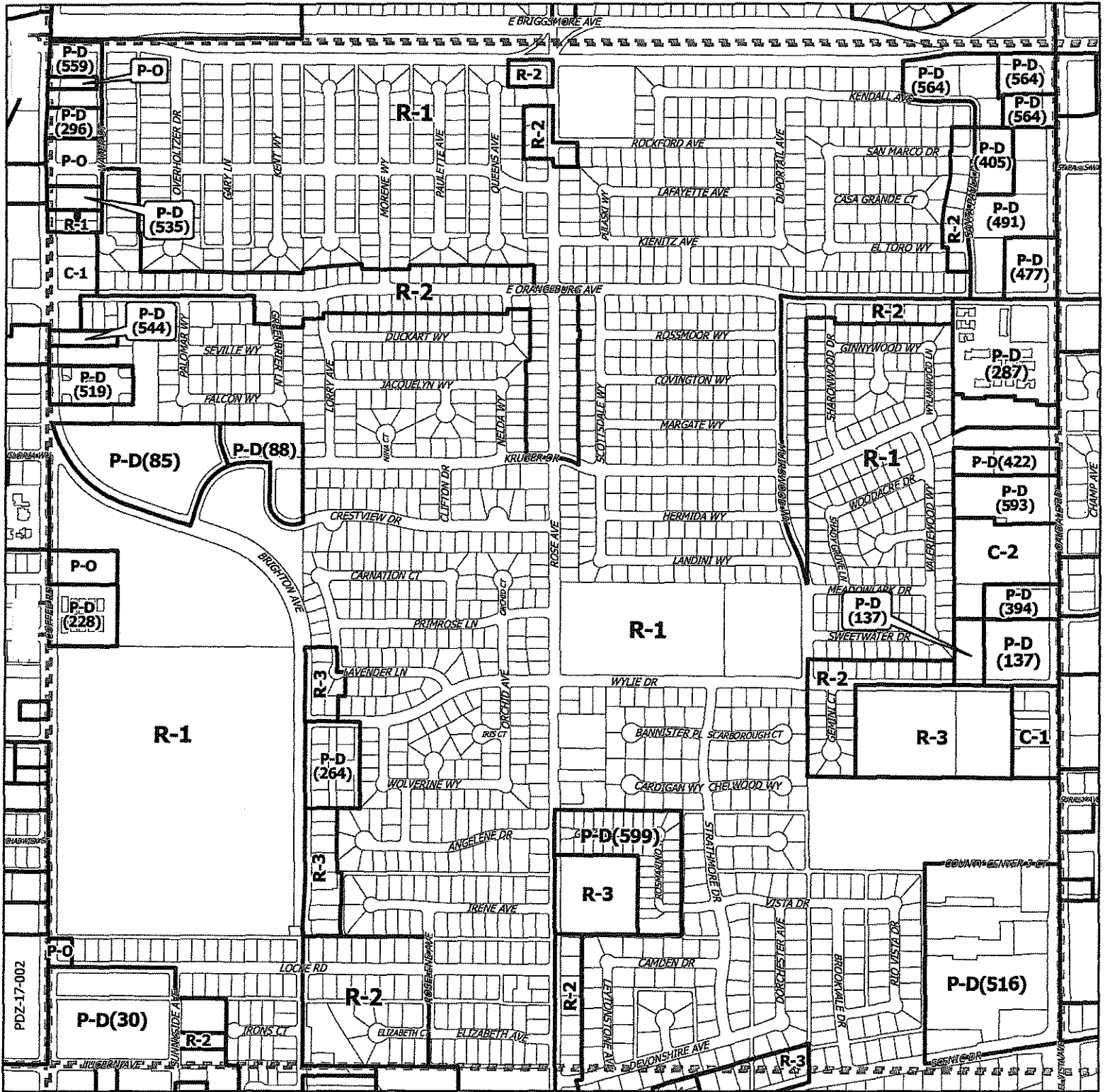
MAYOR, TED BRANDVOLD

ATTEST: _____

STEPHANIE LOPEZ, City Clerk

Effective Date: October 5, 2017

Ordinance 3677-C.S.
Effective October 5, 2017



1 inch = 700 feet
 Mod. 3677-C.S.

ZONING MAP OF THE CITY OF MODESTO

22-3-9

ORDINANCE NO. 3678-C.S.

AN ORDINANCE AMENDING SECTIONS 11-1.01, 11-1.02, 11-1.03, 11-1.04, 11-1.05, 11-1.06, 11-1.14, 11-1.15 AND 11-1.16 OF CHAPTER 1 OF TITLE 11 OF THE MODESTO MUNICIPAL CODE RELATING TO WATER RATES AND REGULATIONS

WHEREAS, at premises where backflow prevention assemblies are installed, regulations of the State Water Resources Control Board (SWRCB) require the water user and property owner inspect these assemblies for water tightness and reliability; and

WHEREAS, the City oversees approximately 5,300 backflow prevention assemblies in the Modesto System; and

WHEREAS, the City desires to update the Municipal Code to ensure annual testing of all of the City water system's backflow prevention assemblies.

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

SECTION 1. AMENDMENT OF CODE. Sections 11-1.01, 11-1.02, 11-1.03, 11-1.04, 11-1.05, 11-1.06, 11-1.14, 11-1.15 AND 11-1.16 of Chapter 1 of Title 11 of the Modesto Municipal Code are hereby amended to read as follows:

11-1.01 - Management and System.

The management, control and care of the municipal water system of the City shall be vested in the Director of Utilities under the general direction of the City Manager.

11-1.02 - Definitions.

As used in this Chapter, the following terms have the meaning set forth below unless the context indicates otherwise:

"Customer" mean a Person who, according to the City's records, receives water service to a parcel of property.

"Person" means any natural person, firm, joint venture, joint stock company, partnership, public or private association, club, company, corporation, business trust, organization, public or private agency, government agency or institution, school district, college, university, any other user of water provided by the City, or the manager, lessee, agent, servant, officer or employee of any of them or any other entity which is recognized by law as the subject of rights or duties.

"Property Owner" means the owner of a parcel whose name and address appears on the last Stanislaus County equalized secured property tax assessment roll, or in the case of any public entity, the State of California, or the United States, means the representative of that public entity at the address of that entity known to the City.

"Water User" means any person obtaining water from the municipal water works.

11-1.03 - Water Services. General.

(a) Water from the municipal water works shall be delivered to property owners both within and without the corporate limits of the City in accordance with the terms of this chapter. The City will furnish the service complete from its main to the property owner's property line, in case of an alley; to the curblines from a street main when the sidewalk is adjacent to property owner's property line; and to the back of sidewalk from a street main when the sidewalk is adjacent to the curblines. The property owner shall furnish, install and maintain all piping to the City service.

(b) Property owners' responsibility. Property Owners are responsible for water used on their parcels or premises, although payments will be accepted from non-property owner water users. When payments are not received in accordance with the provisions of this Chapter, the service may be disconnected and shall not be restored until the delinquent water charges, including the cost of water delivered, applicable surcharges, as well as the cost of reconnecting the service, have been paid.

(c) Property Owners shall be responsible for the maintenance of water pipes, water faucets, water plumbing fixtures, and all other water services appliances from the point the water meter exits into the plumbing of the property owner. No Property Owner, water user or manager or any other person responsible for the day-to-day operation of any parcel or premises shall fail to

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initiate steps to repair any leaking, broken or defective pipes, faucets, plumbing fixtures, other water appliances, sprinklers, watering or irrigation systems within twenty-four (24) hours after the Property Owner, water user or manager or other responsible person knew or should have known of such leaks, breaks or defects.

11-1.04 - Water Service Installation Charges.

Water service installation charges shall be paid by a requesting property owner or water user and shall be in accordance with a schedule approved by the Council from time to time by resolution.

The Director of Utilities is hereby authorized to waive the water service installation charges and require water services to be installed in conjunction with the subdivision of land by developers of subdivisions.

(a) Connection Charge. At the time that a property is connected to the City water system, the property owner or water user shall pay a proportionate share towards the construction and maintenance of the City water system. Payment shall be in accordance with a schedule approved by the Council from time to time by resolution.

(b) Payment of Connection Charge. In the case of new subdivisions or parcel maps, this charge shall be paid at the time of filing the final subdivision or parcel map. If no parcel or subdivision map is required for the development of the property, then the fee shall be collected upon the issuance of the building permit.

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

extensions of water 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. Exception: The City Manager's decision on the extension of water services into unincorporated areas shall be final without City Council approval in all cases where no service upgrades to the city's existing utility system are required, and the property to be served is within the former Del Este Water service area, and areas defined from time to time by City Council resolution.

(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 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 Director of Utilities 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 Director of Utilities 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.

(e) Water Mains Installed by Developers. Notwithstanding the charges set forth in subsections (a) and (b) of this section, the Director of Utilities 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. 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.

11-1.06 - Metered Services.

(a) All hotels, lodging houses, single-family dwellings located within the City's outlying water systems, multiple-family dwellings, campgrounds, office buildings, eating houses, commercial establishments, industrial plants, theaters, hospitals, laundries, dance halls, warehouses, bus stations, milk plants, manufacturing establishments, service stations, wash racks, cooling systems and any or all other places offering services to the public or commodities for sale, as well as owners of gardens using water for irrigation of flowers and vegetables to be used commercially, must be equipped with meters as soon as possible and shall be charged for water on the metered rate as specified by resolution of the City Council.

(b) New single-family dwellings issued a building permit on or after October 1, 1991, within the City of Modesto water system shall be equipped with a meter.

(c) Where clusters of single-family dwellings are located on a single parcel of property, service may be provided by a metered connection for each individual unit or a single metered connection serving all units under one (1) ownership.

(d) All buildings of any kind whatsoever, whether industrial, commercial or residential, heretofore or hereafter equipped with water using heat pumps or refrigeration units shall be equipped with meters and shall be charged for water on the metered rate as specified by resolution of the City Council.

(e) Each swimming pool and bathing pool heretofore or hereafter

constructed shall be metered except those located on residential property and equipped with a filtering system meeting the standards approved by the Community Development Director; provided, further, that every swimming pool and bathing pool heretofore or hereafter constructed which is used commercially or by a closed membership association or corporation shall be metered. The connection fee and water rates for pools required to be metered shall be as provided for other metered connections.

(f) For all metered services, the City will furnish, install and maintain all meters, with the property owner or water user to pay the cost of the meter, installation and maintenance. The cost of meters and installation shall be in accordance with a schedule approved by the Council from time to time by resolution and on file in the offices of the City Clerk, Director of Utilities and Finance Director. In the case of existing meters under the ownership of the property owner, the City will assume responsibility for maintenance and replacement of the meters upon receipt of transfer of title from the owner. Said title shall be in a form satisfactory to the Director of Utilities.

11-1.14 - Rules and Regulations.

In addition to all other provisions and requirements of this chapter, the Council may, from time to time by resolution, establish additional rules and regulations concerning the operation of the municipal water system, the use of water, and water conservation. These provisions shall apply to all property owners, customers and water users regardless of whether the property owner, customer, or water user shall have a contract for water service with the City or not. Failure to comply with any provision, requirement, rule, or regulation under this chapter shall be unlawful and may be punishable as an infraction.

(a) Should the Director of Utilities, or his/her designee, determine that any water user has committed acts which violate the regulations of the Drought Contingency Plan, as provided by resolution, the water user and property owner shall be notified in the following manner:

(1) Shall be served with a Notice of Violation either personally, by mail, or by posting such notice at the water user's, customer's or property owner's business or place of residence. Such notice shall:

- (i) Identify the date, time, and circumstances of violation.
- (ii) Notify that further violations may result in penalty fees being assessed.

(2)Should a water user violate the regulations of the Drought Contingency Plan after being served with a Notice of Violation, that water user and property owner shall be served with a Notice of Intention to Impose a Penalty. Said notice shall:

- (i) Identify the date, time, and circumstances of violation;
- (ii) State the amount of penalty to be imposed;
- (iii) Advise the water user, customer or property owner of his/her appeal rights as provided herein.

The Notice of Intention to Impose a Penalty shall be served in the same manner as the Notice of Violation.

(3)After a Notice of Intention to Impose a Penalty is served, a penalty shall be assessed to the utility account of the water user in an amount as set by Council resolution from time to time. Penalties will be assessed for violations occurring within a one (1) year time period and will be progressive in nature. The penalty may be collected in the same manner as any unpaid water service charges.

(4)A water user, customer, or property owner shall have the right to appeal either the Notice of Violation or the imposition of the penalty assessed to his/her utility account. The water user or property owner must request an appeal hearing in writing within fifteen (15) days from the date of service of the Notice of Violation; or within fifteen (15) days of the service of the Notice of Intention to Impose a Penalty. The request for hearing shall be addressed to the Director of Utilities and shall be deemed served only when received by the City. Failure to properly serve the request for hearing within the fifteen (15) day period shall be deemed a waiver of the right to appeal the matter, and the penalty will be assessed against the property owner's, customer's or water user's account.

(5)The appeal hearing shall be held before the Director of Utilities, or his/her designee, who shall make a factual finding on the existence of a violation in this matter. The water user, customer, or property owner shall be allowed to present such witnesses and evidence as he/she may desire and may be represented by an attorney or other representative of his/her choosing. The hearing officer shall give written notice by mail to the property owner, customer or water user of the date and time of the appeal hearing. Said hearing shall not be held sooner than ten (10) days from receipt of the request for hearing and not

longer than thirty (30) days. The decision of the hearing officer shall be final. If a violation is found the penalty shall be assessed to the property owner's, customer's or water user's account.

(6)The City Council hereby designates the Water Division personnel as the persons authorized to investigate violations and to serve any notices required by the provisions of this subsection.

(b) All water services installed shall have a wheel valve where the service pipe enters the house and/or structure.

(c) No person shall supply water in any way for use outside of the premises to which the service is assigned or appurtenant except by permission from the Director of Utilities.

(d) Access to service connections and water meters must be provided at all times.

(e) All water users, customers and property owners must keep the service pipes in good order at their own expense and may be held liable for damages which may result from their failure to do so. When leaky faucets or fixtures are discovered and not immediately repaired, the water service may be disconnected. Authorized employees of the City of Modesto shall be admitted at all reasonable hours to all parts of any premises supplied with water, except the interior of dwellings, but including the meter box, to see that the regulations contained in this chapter are observed and complied with.

(f) It shall be unlawful for any person to interfere with the City service lines, valves or meters or to construct a bypass around a meter or service.

(g) In making plumbing connections, the water user, customer and property owner shall comply with the regulations of the State and County Department of Public Health and the State Water Resources Control Board. Such regulations prohibit (1) unprotected cross-connections between a public supply and any unapproved source of water and (2) water service to premises where there is a possibility of contaminated water backflowing into the public water system. In addition, approved backflow assemblies shall be installed on water services when (1) another source of water, whether cross-connected or not, is in use or is available for use; or (2) contaminating liquid substances of any kind are used, produced or processed. The City's Cross Connection Specialist or designee shall

determine the type, design and layout of backflow prevention assemblies required at each premises; and the assemblies shall be installed at the expense of the water user, customer and property owner. The control assemblies shall be inspected, tested and approved by the City's Cross Connection Specialist or designee as a condition of service to the premises.

(h) Regulations of the State Water Resources Control Board require the water user and property owner at premises on or for which backflow prevention assemblies are installed to inspect these assemblies for water tightness and tested for reliability at least once per year or more often depending on conditions and to take corrective actions as required to maintain the integrity of the domestic water system.

(1) As a condition of connection to the municipal water system, the City reserves the right at all time to inspect and test all backflow prevention assemblies maintained by water users and property owners and to undertake corrective actions up to and including termination of water service to a non-compliant water user and/or property owner until the corrective action is taken. All costs incurred by the City performing such tests and taking such corrective action shall be a cost of the water user and property owner as set forth below. If a City inspection cannot be made without undue difficulty because of an obstruction or other interference, the property owner and/or water user will be notified and requested either to correct the condition or have the inspection made at his/her own expense and witnessed by the City.

(2) Annually, the City will provide customers or property owners of any premises on or for which backflow prevention assemblies are installed with a "Notification of Annual Compliance Testing" which shall require that the backflow assembly be tested within thirty days of the notice. Inspections and testing shall be done by persons certified with the State of California as a Backflow Prevention Assembly Tester and on the City's certified testers list. City will be notified of the results of the test and any corrective action taken by the Tester.

(3) If testing indicates that the assembly(s) fail, the City shall notify the property owner, customer or water user of the inspection findings, listing the corrective actions to be taken. Within thirty days of this inspection findings notice, property owner, customer or water user must complete all corrective actions including the installation of backflow assemblies and provide notice to the City of such corrective action taken.

(4) If no inspection or testing is arranged to be performed by the property owner and/or water user within 30 days of Notification of Annual Compliance Testing, the City will arrange testing, necessary repairs and if necessary order that the property owner, customer or water user replace a failed backflow assembly(s) with all costs and fees incurred to be charged as provided in subsection (6).

(5) Whenever after providing the notices set forth above, the City is required to undertake inspection, testing or corrective action of a backflow prevention assembly due to the failure of the property owner, customer or water user to arrange to have such inspection, testing and or corrective action taken, the property owner, customer or water user shall incur a processing fee charge and shall be required to reimburse all costs incurred by the City.

(6) All processing fees, any other fees and all costs incurred by the City for the corrective actions required to be made in order to be in compliance and costs incurred by the City enforcing and/or implementing the provisions of this subsection (h) shall be invoiced to the property owner, customer or water user separate from the water user's utility billing account and shall become a civil debt of the owner and water user to the City. After invoice, any amount unpaid shall be collected pursuant to the provisions of Chapter 6 of Title 11 of the Municipal Code.

(i) When the City finds water uses that represent a clear and immediate hazard to the potable water supply that cannot be immediately abated, the City shall institute the procedure for discontinuing water service. Conditions or water uses that create a basis for water service termination shall include, but are not limited to, the following items:

(1) Property owner, customer or water user refusal to install a required backflow assembly device,

(2) Property owner, customer or water user refusal to test a backflow assembly device,

(3) Property owner, customer or water user refusal to repair a faulty backflow assembly device,

(4) Property owner, customer or water user refusal to replace a faulty backflow assembly device,

(5) Direct or indirect connection between the public water system and a sewer line,

(6) Unprotected direct or indirect connection between the public water system and a system or equipment containing contaminants,

(7) Unprotected direct or indirect connection between the public water system and an auxiliary water system,

(8) A situation which presents an immediate health hazard to the public water system.

For conditions 1-4, The City will take corrective actions at the customer, water user or property owner's expense including applicable fees. The City shall reserve the right to terminate water services to the affected property owner, customer or water user until the corrective action is taken.

For conditions 5-8, the City will take the following steps: (1) make reasonable effort to advise property owner, customer or water user of intent to terminate water service; and (2) terminate water supply and lock service valve. The water service will remain inactive until correction of violations has been approved by the City's Cross Connection Specialist or designee.

(j) Independent fire sprinkler systems and private fire hydrant systems shall have a "double-check detector backflow assembly" installed in the service. If the City's Cross Connection Specialist or designee determines that an independent fire sprinkler system or private fire hydrant system is being used for other than fire prevention and suppression purposes, he/she may install an appropriate backflow assembly. The cost of such installation shall be paid by the property owner, customer or water user.

(k) When a water connection fee is paid for a particular parcel, it shall be credited to subsequent owners of that parcel. Refunds shall be made for duplicate payments. Additional fees will be required where there are zoning, use or density changes that will increase the fees.

(l) If a Property Owner, customer or water user refuses or fails to eliminate a cross-connection and disconnecting water service would cause significant disruption to building occupants and/or emergency response agencies, the Director of Utilities may test, repair and/or replace a Backflow Prevention Assembly, or take other required action to eliminate the cross-connection. The

Property Owner, customer or water user shall be required to pay for all costs of such action.

(m) Whenever the Director of Utilities determines that an existing or potential unprotected cross-connection poses an imminent risk of hazard to the Public Water System and requires immediate abatement, the Director of Utilities may immediately shut off water service to the Property at the meter until the cross-connection has been eliminated and necessary payments have been made for turn-on services as specified under regulations adopted by the Director of Utilities.

11-1.15 - Interpretation.

The Director of Utilities is hereby empowered to make interpretations of this chapter whenever a question may arise as to the necessity for, type of manner or method in which materials, meters or backflow control assemblies shall be installed. Said interpretation shall be in writing, and a copy thereof shall be filed in the office of the Director.

11-1.16 - Records.

The Director of Utilities shall keep complete records of all permits issued and other official work performed under the provisions of this chapter.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”)

The City Council hereby finds that the adoption of this Ordinance is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) of the State CEQA Guidelines. Specifically, this Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment because it does not authorize the construction of any new structures or other physical changes to the environment.

SECTION 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.

Ordinance No. 3678-C.S.
Effective: October 26, 2017

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 12th day of September, 2017, by Councilmember Kenoyer, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 

TED BRANDVOLD, Mayor

ATTEST:

By: 

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

ADAM U. LINDGREN, City Attorney

ORDINANCE NO. 3678-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 26th day of September, 2017, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour,
Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 

MAYOR TED BRANDVOLD

ATTEST: 

STEPHANIE LOPEZ, City Clerk

Effective Date: October 26, 2017

Ordinance No. 3678-C.S.
Effective: October 26, 2017

ORDINANCE NO. 3679-C.S.

AN ORDINANCE AMENDING SECTION 19-3-9 OF THE ZONING MAP TO REZONE FROM HIGHWAY COMMERCIAL (C-3), TO PLANNED DEVELOPMENT ZONE, P-D(603), PROPERTY LOCATED AT 1240 N. 9TH STREET

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

SECTION 1. ZONING CHANGE. Section 19-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Highway Commercial (C-3) Zone, to Planned Development Zone, P-D(603):

C-3 to P-D(603)

All that portion of Section 19, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, Stanislaus County, California, described as follows:

Beginning at the Northwest corner of said parcel recorded February 28, 1957; thence along the north line of last said parcel, north 89° 35' east, 294.24 feet; thence from a tangent that bears south 15° 37' 55" east, along a curve to the right having a radius 1,500 feet, through an angle of 12° 56' 20", a distance of 338.74 feet; thence south 2° 41' 35" east, 38.66 feet to the southwesterly line of said parcel recorded January 16, 1957; thence along 1957, north 43° 23' west, 509.35 feet to the point of beginning.

Including also the easterly 55-feet of N. 9th Street, all being immediately adjacent to the above-described property.

APN: 029-005-012

SECTION 2. USES. The following uses shall be permitted in said P-D(603)

1. Light Industrial (M-1) uses

SECTION 3. ZONING MAP. Section Map 19-3-9 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.

Ordinance 3679-C.S.
Effective: November 23, 2017

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of October, 2017, by Councilmember Kenoyer, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
TED BRANDVOLD, Mayor

ATTEST:

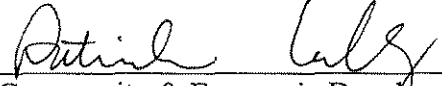
By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney

APPROVED AS TO DESCRIPTION:

By: 
Community & Economic Development
Department, Planning Division

Ordinance 3679-C.S.
Effective: November 23, 2017

ORDINANCE 3679-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 October, 2017, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour,
Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
MAYOR, TED BRANDVOLD

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: November 23, 2017

Ordinance 3679-C.S.
Effective: November 23, 2017

ORDINANCE NO. 3680-C.S.

ORDINANCE AMENDING SECTION 5-6.301 OF THE MODESTO MUNICIPAL CODE PERTAINING TO DEFINITIONS AND SECTIONS 5-6.103 OF THE MODESTO MUNICIPAL CODE PERTAINING TO SEWER EASEMENTS

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

SECTION 1. AMENDMENT OF CODE. Section 5-6.103 “Definitions” subsection (a) of the Modesto Municipal Code is hereby amended and the following definitions shall read as follows:

Section 5-6.103 Definitions

Director. The Director of Utilities for the City or such other persons as may be designated by the Director of Utilities to perform the services or make the determinations permitted or required in this chapter to be made by the Director of Utilities for the City;

Sanitary Sewage, see Domestic Wastewater/Sanitary Sewage:

Section 5-6.103 “Definitions” subsection (a) of the Modesto Municipal Code is hereby amended to delete the following definition:

Section 5-6.103 Definitions

Approval authority. The State of California Water Resources Control Board, except for certain EPA oversight functions

SECTION 2. AMENDMENT OF CODE. Section 5-6.301 “Connection to Sewage System Required” of the Modesto Municipal Code is hereby amended to read as follows:

Section 5-6.301 Connection to Sewage System Required

Every building or structure in the Sewer District located where sewer service is available and in which plumbing fixtures are installed shall be connected to the sewage system within the time period provided for in Section 5-6.302. This requirement shall apply to any building or structure existing on July 1, 1967, as well as any building or structure thereafter constructed.

For the purpose of this section, sewer service is available to any building or structure when a sewer lateral/sewer main is located within one hundred (100) feet from the property line of the lot on which the building or structure is located. Sewer service is available to new development when a sewer lateral/sewer main is located within one hundred (100) feet of any property line of the new development.

Every house sewer line, sewer lateral/sewer main, subtrunk sewer, and trunk sewer constructed after November 28, 2017, shall be located within a utility easement, public right-of-way, or within the parcel served. After November 28, 2017, any new house sewer line, sewer lateral/sewer main, subtrunk sewer, or trunk sewer not located within a dedicated utility easement, shall convey flows from the parcel on which it is located and no other parcel.

SECTION 3. SEVERABILITY

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

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

The City Council hereby finds that the adoption of this Ordinance is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) of the State CEQA Guidelines. Specifically, this Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment because it does not authorize the construction of any new structures or other physical changes to the environment.

SECTION 5. PUBLICATION

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

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

SECTION 6. 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.

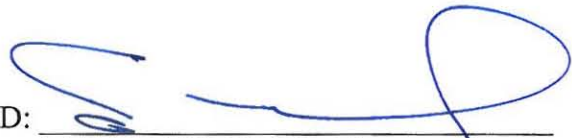
The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of November, 2017, by Councilmember Kenoyer, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



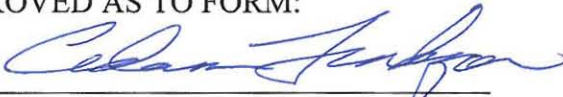
TED BRANDVOLD, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney


FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of December, 2017, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Ah You, Kenoyer, Grewal, Madrigal, Ridenour,
Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

APPROVED: 
TED BRANDVOLD, Mayor

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: January 4, 2018

ORDINANCE NO. 3681-C.S.

ORDINANCE AMENDING TITLE 4, "PUBLIC WELFARE, SAFETY AND HEALTH" CHAPTER 2, "MISDEMEANORS," SECTION 4-2.06, "ELECTRIFIED FENCES PROHIBITED" AND AMENDING TITLE 10 "ZONING REGULATIONS," CHAPTER 4, "DEVELOPMENT STANDARDS," ARTICLE 4 "GENERAL DEVELOPMENT STANDARDS," SECTION 10-4.406, "WALLS AND FENCES," SUBSECTION G, "SECURITY FENCING"

WHEREAS, the current Zoning Code does not allow electrified fences, and

WHEREAS, a security business, Electric Guard Dog, has requested an amendment to the Modesto Municipal Code to allow electric fences electrified fences would deter vandalism and break-ins for businesses with outdoor assets, and

WHEREAS, City staff has drafted an amendment to Modesto Municipal Code Sections 4-2.06 and 10-4.406 that would allow electrified fences, and

WHEREAS, the draft amendment to the Modesto Municipal Code has been prepared consistent with California Civil Code Section 835, and

WHEREAS, a public hearing was held by the Planning Commission on October 16, 2017 in the Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, after a duly noticed public hearing held on October 16, 2017, it was found and determined by the Planning Commission that the requested code amendment will not be detrimental to the public health, safety or welfare because there are development standards addressing electric fence design and operation that will ensure safety; and

WHEREAS, the requested amendment will result in an orderly planned use of land because electrified fences do not affect the planned land use and how land is developed; and

WHEREAS, the requested Code amendment is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan and any applicable specific plans(s) because it addresses the compatibility issue by limiting electrified fences to the industrial zones, and

WHEREAS, by Resolution No. 2017-25, adopted on October 16, 2017, the Planning Commission recommended to the Council that the proposed amendment to Sections 4-2.06 and 10-4.406 of the Modesto Municipal Code, be approved, and

WHEREAS, this Code amendment was set for a public hearing before the City Council, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed amendment to Sections 4-2.06 and 10-4.406 of the Modesto Municipal Code, and

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

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

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

SECTION 1. FINDINGS. The City Council finds and determines as follows:

1. The proposed change will not be detrimental to the public health, safety or welfare because there are development standards that will make the electrified fences safe.
2. The proposed change will result in an orderly planned use of land because electrified fences do not affect the planned land use and how land is developed.
3. The proposed change is in accordance with the community's objectives as set forth in the General Plan because it addresses the compatibility issue by limiting electrified fences to the industrial zones.
4. The proposed amendment is exempt from CEQA pursuant to CEQA Guidelines section 15061(b) (3) of the State CEQA Guidelines. Specifically, this amendment

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

SECTION 2. AMENDMENT OF CODE. Title 4, "Public Welfare, Safety and Health" Chapter 2, "Misdemeanors," Section 4-2.06, "Electrified Fences Prohibited" and Title 10 "Zoning Regulations," Chapter 4, "Development Standards," Article 4 "General Development Standards," Section 10-4.406, "Walls and Fences," Subsection G, "Security Fencing" are hereby amended as follows:

A. Title 4, "Public Welfare, Safety and Health," Chapter 2, "Misdemeanors," Section 4-2.06 shall be amended to read as follows:

Electrified Fences shall comply with all of the requirements set forth in Section 10-4.406(g) of the Modesto Municipal Code.

B. Title 10, "Zoning Regulations," Chapter 4, "Development Standards," Article 4, "General Development Standards," Section 10-4.406, "Walls and Fences," Subsection (g), "Security Fencing" shall be amended to read as follows:

(g) Security Fencing. Concertina wire, serpentine wire, barbed wire, razor wire, and other similar fencing materials capable of inflicting significant physical injury or discomfort and shall only be permitted for non-residential uses subject to all of the following requirements:

- (1) These materials, excluding electric fences, may be used only at heights of six (6) feet or more. In no event shall these fencing materials protrude into or over the public right-of-way.
- (2) In the C-1 and C-2 and C-3 zones, these fence materials are prohibited along the front and street-side property lines and within the front and street-side yard setback areas, but may be located along the rear or interior side property lines or within the rear or interior side setback areas.
- (3) Electric Fences shall only be permitted in the M-1 and M-2 zones subject to a building permit and the following standards:
 - i. Electric fences are only allowed around industrial outdoor storage areas or contractor's equipment or storage yard. No electric fence shall be permitted,

installed, or used unless it is completely surrounded by a nonelectric fence or wall that is at least six feet in height.

- ii. Electric fences may have a maximum height of 10 feet and shall not exceed two (2) feet higher than surrounding nonelectric fence or wall.
- iii. The space between an electric fence and perimeter wall or fence may not exceed 12 inches and shall be kept clean and free of litter, debris, and vegetation.
- iv. Electric fences shall be installed as to be as minimally intrusive as possible. Fences should utilize horizontal electrified wires and minimal vertical support beams.
- v. The energizer for electric fences must be driven by a commercial storage battery not to exceed 12 volts DC. The electric charge produced by the fence upon contact shall not exceed the energizer characteristics set forth in paragraph 22.108 and depicted in Figure of International Electrotechnical Commission (IEC) Standard 60335-2-76.
- vi. The electric fence must also comply with all applicable local and state regulations including California Civil Code Section 835 and the California Building Code, as amended from time to time.
- vii. Electric fences shall be clearly identified with warning signs that read, at minimum, "Danger – Electric Fence" at an interval of not less than 30 feet and at least one sign per side of the area to be fenced. Warning signs shall be placed at each gate and access point, and adjacent to other signs relating to chemical, radiological, or biological hazards.
- viii. Electric fences equipped with monitored alarm systems may require an alarm use permit.
- ix. All applicants issued permits to install or use an electric fence or the property owner who owns the land upon which an electric fence shall be installed shall agree, as a condition of permit issuance, to defend, indemnify and hold harmless the City of Modesto and its agents, officers, volunteers and employees from any and all claims, judgments, actions or proceedings arising out of any personal injury, including death, or property damage caused by the electric fence or the installation or maintenance of the electric fence. This indemnification language will be included in the permit application.

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 5th day of December, 2017, by Councilmember Grewal, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour,
Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

APPROVED: 

TED BRANDVOLD, Mayor

ATTEST: 

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

ADAM U. LINDGREN, City Attorney

ORDINANCE NO. 3681-C.S.

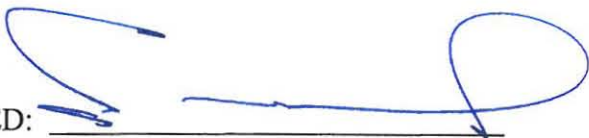
FINAL ADOPTION CLAUSE

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 December, 2017, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
MAYOR, TED BRANDVOLD

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: January 11, 2018