

ORDINANCE NO. 2375-C.S.

AN ORDINANCE AMENDING SECTION MAP 14-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON. (ARLO AND JAMES HILKEY)

WHEREAS, a verified application for an amendment to Section 14-3-9 of the Zoning Map was filed by Arlo and James Hilkey on August 12, 1985, to reclassify from Low Density Residential Zone, R-1, to Medium Density Residential Zone, R-2, and Medium-High Density Residential Zone, R-3, the hereinafter described property, and

WHEREAS, after public hearing held on September 16, 1985, it was found and determined by the Planning Commission that rezoning of the property as requested is required by public necessity, convenience and general welfare, and

WHEREAS, by Resolution No. 85-192, adopted on September 16, 1985, the Planning Commission recommended to the Council that the application of Arlo and James Hilkey to amend Section 14-3-9 of the Zoning Map to reclassify the hereinafter described property from Low Density Residential Zone, R-1, to Medium Density Residential Zone, R-2, and Medium-High Density Residential Zone, R-3, be approved,

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

SECTION 1. COUNCIL FINDINGS. After a public hearing held on October 22, 1985, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, this Council finds and determines that the requested rezoning is in accordance with the general plan and will serve the public

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

1. The proposed R-2 and R-3 zoning conforms to the zoning pattern called for in the Orchard Neighborhood Zoning and Development Policy most recently adopted by the Planning Commission and City Council in mid-1981.
2. Due to subdivision and development patterns established to the west and southwest, the overall density of the surrounding area will not exceed but will be less than the anticipated density.

SECTION 2. ZONING CHANGE. Section 14-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, to Medium Density Residential Zone, R-2, and Medium-High Density Residential Zone, R-3:

R-1 to R-2

ALL that certain real property situate in a portion of Lots 15 & 16 of the OREGON COLONY, as recorded in Volume 4 of Maps, at Page 48, Stanislaus County Records, and lying in a portion of the North half of Section 14, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, and lying in the City of Modesto, State of California, more particularly described as follows:

COMMENCING at the Northwest corner of Lot 5, as shown on the Official Map of the Hilkey Subdivision, as recorded in Volume 26 of Maps, at Page 43, Stanislaus County Records; said corner lying on the South right-of-way line of Floyd Avenue; thence South 89°33'14" East, 472.75 feet along said South right-of-way line of Floyd Avenue; thence South 0°25'10" East, 1,292.40 feet; thence North 89°33'24" West, 472.69 feet; thence North 0°25'17" West, 1,292.48 feet to the point of beginning of this description.

Including also the Southerly 30.00 feet of Floyd Avenue immediately adjacent to the above described portion of said Lot 5.

Excepting therefrom the Southerly 45.00 feet of the Westerly 166.29 feet of said Lot 5.

R-1 to R-3

ALL that certain real property situate in a portion of Lot 16 of the Oregon Colony, as recorded in Volume 4 of Maps, at Page 48, Stanislaus County Records, and lying in a portion of the North half of Section 14, Township 3 South, Range 9 East, Mount Diablo Base and Meridian and lying in the City of Modesto, State of California, more particularly described as follows:

COMMENCING at the Northeast corner of Lot "6" of the Hilkey Subdivision, as recorded in Volume 26 of Maps, at Page 43, Stanislaus County Records, said corner lying on the South right-of-way line of Floyd Ave.; thence South  $0^{\circ}25'10''$  East, 1,292.38 feet; thence North  $89^{\circ}33'24''$  West, 350.00 feet; thence North  $0^{\circ}25'10''$  West, 1,292.40 feet to the said South right-of-way line of Floyd Ave.; thence South  $89^{\circ}33'14''$  East, along said South right-of-way of Floyd Ave.; 350.00 feet to the point of beginning.

Including also the Southerly 30.00 feet of Floyd Avenue immediately adjacent to the above described property.

SECTION 3. ZONING MAP. Section 14-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 22 day of October, 1985, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bright, Lang, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger.

NOES: Councilmembers: None.

ABSENT: Councilmembers: None.

APPROVED: Peggy Mensinger  
PEGGY MENSINGER, Mayor

ATTEST:

By Norrine Coyle  
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto  
STAN T. YAMAMOTO, Acting City Attorney

APPROVED AS TO DESCRIPTION:

By William J. Smith  
Department of Planning and Community  
Development

Ordinance 2375 C.S.  
Exhibit A – Map

Oversized map folded and bound within Ordinance Book. Unable to  
remove safely for scanning.

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 November, 19 85, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Whiteside, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Bright, Lang, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

APPROVED *Peggy Mensinger*  
MAYOR PEGGY MENSINGER

ATTEST: *Norrine Coyle*  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 5, 1985

ORDINANCE NO. 2376 -C.S.

AN ORDINANCE AMENDING SECTION 3-2.1509 OF ARTICLE 15 OF CHAPTER 2 OF TITLE III OF THE MODESTO MUNICIPAL CODE RELATING TO ENFORCEMENT OF PARKING METER FINES.

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

SECTION 1. AMENDMENT OF CODE. Section 3-2.1509 of Article 15 of Chapter 2 of Title III of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 3-2.1509. ENFORCEMENT. It shall be the duty of each police officer to take the number of any meter at which any vehicle is overparked, as provided in this article, the State vehicle license number of such vehicle, the time and date of such overparking, and the make of such vehicle, and issue, in writing, and attach to such vehicle a citation for illegal parking in the same form and subject to the same procedure provided for by laws of the State of California applicable to the traffic violations within the City.

Any operator or owner of a vehicle to whom a citation has been issued may, within fifteen (15) days of the date of the issuance of said citation, mail by first class mail, postage prepaid, to the address designated on the back of the citation, the proper bail payment as shown on the bail schedule which is printed on the face of the citation, which bail schedule shall have been adopted or amended from time to time by Resolution of the City Council. The failure of such owner or operator to make such payment within said fifteen (15) days shall render such owner or operator subject to the penalties provided for in this Code for violation of the provisions of this article.

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 22 day of October, 1985, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Whiteside, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bright, Lang, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger.  
NOES: Councilmembers: None.  
ABSENT: Councilmembers: None.

APPROVED:

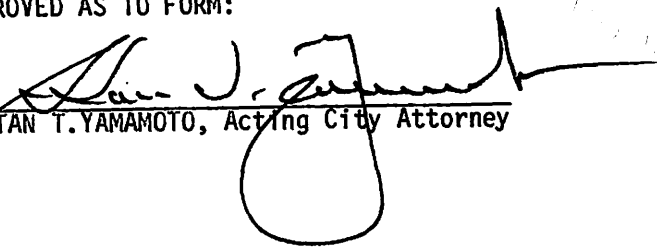
  
PEGGY MENSINGER, Mayor

ATTEST:

By   
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
STAN T. YAMAMOTO, Acting 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 November, 1985, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Whiteside, was upon roll call carried and the ordinance adopted by the following vote:

- AYES: Councilmembers: Bright, Lang, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger
- NOES: Councilmembers: None
- ABSENT: Councilmembers: None

APPROVED *Peggy Mensinger*  
MAYOR PEGGY MENSINGER

ATTEST: *Norrine Coyle*  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 5, 1985

ORDINANCE NO. 2377 -C.S.

AN ORDINANCE GRANTING AN EXCLUSIVE FIVE-YEAR BUS BENCH FRANCHISE TO DEBEE LOYD ADVERTISING, INCORPORATED, FOR THE RIGHT, PRIVILEGE AND PERMISSION TO PLACE, CONSTRUCT AND MAINTAIN BENCHES WITH ADVERTISING THEREON AT DESIGNATED LOCATIONS ALONG THE STREETS IN THE CITY OF MODESTO.

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

SECTION 1. DEFINITIONS.

(a) Grantee: Shall mean Debee Loyd Advertising, a California corporation.

(b) Bench: A seat located upon public property along the public way for the accommodation of passersby or persons awaiting transportation.

(c) Street: Any public thoroughfare or way including the sidewalk, the parkway and other public property fronting upon a public way.

(d) Quarterly Period: A period of three (3) consecutive months. The quarters begin on the first day of January, April, July and October of each year.

SECTION 2. BENCHES PROHIBITED. No person shall install or maintain any bench with advertising thereon along any street in the City except in accordance with the provisions of this franchise.

SECTION 3. FRANCHISE GRANTED. The City of Modesto hereby grants to Debee Loyd Advertising, Inc., a California corporation, for a term commencing January 1, 1986, and ending on December 31, 1990, the exclusive franchise for the right, privilege and permission to place, construct and maintain benches with advertising thereon at designated locations along the streets in the City of Modesto.

SECTION 4. PAYMENT. For the privilege herein granted, the Grantee shall pay to the City of Modesto Nine and no/100ths (\$9.00) Dollars per quarter per bench installed and in place. No later than the tenth day of the month following the close of each quarterly period, Grantee shall submit a report to the Director of Finance stating the total number of benches in place on the last day of the preceding month and providing the following information for each bench: (a) bench number, (b) bench location, (c) name of business on abutting property, and (d) name of advertiser on bench. The fee shall be paid according to the number of benches in place on the last day of the quarterly period, whether or not there is advertising thereon and shall be paid on or before the tenth day of the month following the close of the quarterly period. These payments shall be in lieu of payment to the City of a percentage of gross receipts or other license fees under the provisions of Chapter I of Title VI of the Modesto Municipal Code.

Grantee payment to City shall be for a minimum of one-hundred fifty (150) benches, even if fewer benches are in place. Grantee's payment to City for a minimum of one-hundred fifty (150) benches shall not provide grantee relief from the requirement to maintain a minimum of one-hundred fifty (150) benches in place during the term of this agreement.

SECTION 5. PLACEMENT OF BENCHES. No benches shall be placed or installed under the provisions of this franchise until the insurance policy and performance bond required by Sections 15 and 16, respectively, of this franchise shall be filed with the City Clerk.

SECTION 6. BENCH INSTALLATION SCHEDULE/MINIMUM NUMBER OF BENCHES. Grantee shall begin placement of benches no earlier than January 8, 1986, and

shall have in place by January 13, 1986, a minimum of fifty (50) benches. By January 31, 1986, a minimum of one-hundred fifty (150) benches shall be in place. Thereafter, Grantee shall maintain a minimum of one-hundred fifty (150) benches in place during the term of this franchise, whether or not advertising is placed thereon.

SECTION 7. GENERAL CONDITIONS. This franchise is granted upon and subject to each and all of the conditions set forth in the following sections.

SECTION 8. ADVERTISING SPACE. No advertising matter or sign whatever shall be displayed upon any bench except upon the front surface of the backrest. No advertisement or sign on any bench shall display the words, "Stop," "Look," "Drive-in," "Danger" or any other word, phrase, symbol or character that might interfere with, mislead or distract traffic. Bus schedules shall be placed on every bus bench. No advertising other than bus schedules shall be placed on any benches erected and maintained in areas zoned as residential by the zoning regulations of the City. Commercial advertising shall not be placed on any bench where such advertising is prohibited by the laws of the City. No advertising which does not meet with the approval of the City Manager shall be placed or maintained on any of said benches. Bus schedules shall be on a minimum of eight inches by four inches (8" x 4") and shall be placed on the upper right corner of the front of the bench back.

SECTION 9. APPROVAL OF LOCATION. Benches shall be placed, maintained and relocated as required by the City Manager. The benches contemplated are designed for the convenience of those using the buses in the City and shall be placed upon the streets traversed by public transit buses in the City. The benches may not be installed at any place except public carrier

stops except with the express approval of the Council. No bench shall be installed or maintained:

(a) In any alley;

(b) At any location where the distance from the face of the curb to the property line is less than ten feet (10'); provided that whenever, in the opinion of the City Manager, observance of this requirement would result in inconvenience or hardship, this requirement may be waived by the City Manager; or

(c) At any location distant more than fifty feet (50') from the nearest intersecting street; provided that whenever, in the opinion of the City Manager, observance of this requirement would result in inconvenience or hardship, this requirement may be waived by the City Manager; or

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

SECTION 10. RATIO OF BENCHES BETWEEN COMMERCIAL AND RESIDENTIAL AREAS. For each seven (7) benches installed in areas zoned for commercial uses, at least one bench shall be installed in areas zoned for residential uses.

SECTION 11. MAINTENANCE OF BENCHES. All benches must be cleaned regularly and when needed, and must be maintained in good repair in a safe and

sightly condition. The City Manager's decision as to the state of repair and condition shall be conclusive. Grantee shall inspect each bench periodically to assure full compliance with the provisions of this section.

SECTION 12. CLEANING AROUND BENCHES. Grantee shall regularly and when needed remove trash and other debris from around each bench. The City Manager's decision as to the need for trash and debris removal shall be conclusive. Grantee shall inspect each bench location periodically to ensure full compliance with the provisions of this section.

SECTION 13. REMOVAL OF BENCHES. No bench after being installed on the streets or sidewalks of the City shall be removed by the Grantee during the term of this franchise except with the consent of the City Manager. The City Manager may, for a cause considered by him reasonable, order the Grantee to remove any bench. When the City Manager orders the bench removed, the Grantee shall remove it within thirty (30) days at his own expense. If he shall fail to do so, the City Manager may order the removal of the bench, and destroy or sell it at his discretion, and may, in addition, bill the Grantee for the removal or destruction in a sum not in excess of Twenty and no/100ths Dollars (\$20.00) per bench.

SECTION 14. LOCATION OF BENCHES. The front of all benches shall be placed not less than eighteen inches (18") nor more than thirty inches (30") from the curb line and parallel thereto; provided that whenever, in the opinion of the City Manager, observance of this requirement would result in inconvenience or hardship, this requirement may be varied by the City Manager. No bench shall seat fewer than four (4) people. No bench shall be placed so as to injuriously obstruct passage on the sidewalk or street. No

bench shall be placed within fifteen feet (15') of any fire hydrant. No bench shall be more than forty-two (42") inches high nor more than thirty inches (30") wide, nor more than eight feet (8') long, except that, with the consent of the City Manager, two (2) eight foot (8') long benches may be attached together.

SECTION 15. INDEMNITY AND INSURANCE. The Grantee shall indemnify and hold harmless the City of Modesto, its officers, agents and employees, from and against any and all liabilities, claims, demands, actions, losses, damages and costs, including costs of defense thereof, caused by, arising from or in any manner connected directly or indirectly with the rights, privileges and permissions granted by this franchise including but not limited to the placement, construction or maintenance of benches on streets and sidewalks in the City of Modesto. Upon demand Grantee shall, at its own expense, defend the City of Modesto, its officers, agents and employees, against all such liabilities, claims, demands, actions, losses, damages and costs. The Grantee shall, at all times during the existence of this franchise, maintain in full force and effect at its own cost and expense a comprehensive general liability insurance policy with minimum limits of public liability protection of One Hundred Thousand and no/100ths (\$100,000.00) Dollars per single occurrence for bodily injury, sickness and disease, including death resulting therefrom (hereinafter called "bodily injury"), and Three Hundred Thousand and no/100ths Dollars (\$300,000.00) in the aggregate per occurrence for "bodily injury"; and One Hundred Thousand and no/100ths Dollars (\$100,000.00) for property damage. Grantee may maintain in lieu, thereof, a Combined Single Limits insurance policy with limits of Three Hundred Thousand and no/100ths Dollars (\$300,000.00) per occurrence for both bodily injury and property damage.

The liability policy and a Certificate of Insurance which is to be furnished to the City shall declare that contractual liability coverage is in full force and effect and that the policy is extended to cover any liability assumed by the Grantee under the terms of this franchise, and shall also contain a cancellation clause declaring that the insurance coverage may not be cancelled nor coverage or the limits of liability be reduced until thirty (30) days after receipt by the City Clerk of the City of Modesto of a written notice of such intended cancellation or reduction in the coverage or limits of liability.

SECTION 16. PERFORMANCE BOND. The Grantee shall post a performance bond in the sum of Three Thousand and no/100ths Dollars (\$3,000.00) guaranteeing its performance of the conditions of this franchise and stating that the said sum of Three Thousand and no/100ths Dollars (\$3,000.00) shall be forfeited to the City as liquidated damages in the event that Grantee shall fail to perform the conditions of its franchise. Said bond shall be furnished by a surety company authorized to do business in the State of California and shall be approved by the City Attorney.

SECTION 17. DEFAULT. In the event that either party shall fail or neglect to do or perform each and all of the terms and conditions of this franchise on his or its part to be performed, the aggrieved party may give the party in default thirty (30) days' written notice to correct the conditions in default, and if the party in default refuses or neglects to make such corrections within the thirty (30) day period, the aggrieved party may terminate this franchise. Should Grantee herein default, it will remove all benches within thirty (30) days of the termination of this franchise if requested to do so by City.

SECTION 18. INSPECTION OF BOOKS. The City shall have the right at all reasonable times to examine all books, papers, and records of the Grantee for the purpose of verifying the statements or reports required and for any other purpose whatsoever connected with this franchise.

SECTION 19. DEFACING BENCHES PROHIBITED. No person shall tamper with or deface any bench placed under the franchise granted by this ordinance.

SECTION 20. PENALTY. It shall be unlawful for any person to violate the provisions of Section 19 of this franchise, or to cause, permit or suffer the same to be done; and any person who does shall be deemed guilty of a misdemeanor, and upon conviction of any such violation, such person shall be punished by a fine of not more than One Thousand and no/100ths Dollars (\$1,000.00) or by imprisonment for not more than one year or by both such fine and imprisonment.

SECTION 21. TRANSFER OR ASSIGNMENT. This franchise may not be sold, transferred, assigned or otherwise disposed of, in whole or in part, without the prior written consent of the City Council. The Council may grant or deny any such request and may impose such conditions as it may deem to be in the public interest. Any attempted disposition made without such consent shall be void.

SECTION 22. REPEALS. Ordinance No. 1911-C.S. and Ordinance No. 2259-C.S. are hereby repealed effective January 1, 1986.

SECTION 23. EFFECTIVE DATE. This ordinance shall become effective January 1, 1986 or thirty (30) days from and after its final passage and adoption, provided that Grantee, prior to said effective date, shall have filed with the City Clerk written acceptance thereof and an agreement to be

bound by and comply with all of the requirements thereof, and delivers to the City Clerk the bond and insurance policies required to be furnished pursuant to the provisions of Sections 15 and 16 thereof.

SECTION 24. 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 5 day of November, 1985, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

- AYES: Councilmembers: Bright, Lang, Muratore, Sutton, Whiteside, Mayor Mensinger.
- NOES: Councilmembers: Patterson.
- ABSENT: Councilmembers: None.

APPROVED: Peggy Mensinger  
PEGGY MENSINGER, Mayor

ATTEST:

By Norrine Coyle  
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto  
STAN T. YAMAMOTO, Acting, City Attorney  
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FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 12th day of November, 19 85, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Whiteside, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Lang, Muratore, Sutton, Whiteside,  
Mayor Mensinger

NOES: Councilmembers: Patterson

ABSENT: Councilmembers: McGrath

APPROVED *Peggy Mensinger*  
MAYOR PEGGY MENSINGER

ATTEST: *Norrine Coyle*  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: January 1, 1986

ORDINANCE NO. 2378-C.S.

AN ORDINANCE GRANTING TO EMPIRE WASTE MANAGEMENT, INC., A CALIFORNIA CORPORATION, A LICENSE FOR THE COLLECTION OF GARBAGE IN THE CITY OF MODESTO. (AREA C.)

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

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

SECTION 2. A license to collect garbage including industrial garbage and salvageable waste, in the City of Modesto is hereby granted conditioned on the sale and transfer by Lorraine and Jake Stokes and Gerald L. Stokes to Empire Waste Management, Inc., of all of the outstanding stock of - Modesto Garbage Company, Inc., subject to the following terms and conditions:

(a) This license shall be for a term of eight (8) calendar years commencing on January 1, 1986. During every third calendar year of the term of this license, including both the initial term and any extensions thereof, the Licensee may make application to the City to extend the term of this license to eight (8) calendar years commencing on January 1 of the following calendar year. Applications for extensions of this license shall be submitted and considered in accordance with the provisions of Chapter 5 of Title V of the Modesto Municipal Code.. The initial term of this license, or any extensions thereof, may be terminated under the provisions of this ordinance or the provision of Chapter 5 of Title V of the Modesto Municipal Code. Nothing herein shall be deemed or construed to impair or affect in any way the right of the City to acquire the equipment and assume the operations of the Licensee at any time during the initial term of this license or any extensions thereof by purchase of the Licensee's equipment at a fair and just market value, which shall not include any amount for the license itself or for any of the rights or privileges granted by this license.

(b) This license shall be an exclusive license to collect garbage except industrial garbage and salvageable waste, within the area delineated and marked as Area C on that certain map entitled "Garbage Areas" dated July 11, 1972, on file in the office of the City Clerk, and to which reference is hereby made. This license shall be a nonexclusive license to collect industrial garbage and salvageable waste.

(c) In accepting this license, Licensee thereby agrees to serve the area covered by the license for the term herein specified in compliance with the provisions of this ordinance and the provisions of Chapter 5 of Title V of the Modesto Municipal Code.

(d) This license shall automatically extend to any portion of the Licensee's service area, as shown on the map referred to in paragraph (b) above, which is hereafter annexed to the City, except that City may permit any person or firm licensed by the County of Stanislaus and then serving such area or portion thereof to continue to serve such area or portion thereof for such period of time, not to exceed five (5) years from the date of annexation, as the City deems proper. The Licensee, when required to serve new portions of the City, shall promptly extend its routes and services and, when necessary, shall hire additional personnel and obtain additional equipment.

(e) Rates and charges to be charged by the Licensee for the collection of garbage shall be established by the Council by resolution. Service charges and costs of operation of the Licensee will be reviewed annually by the City and, if deemed necessary by the City Council, rate adjustments made to be effective on or after January 1 of each year.

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

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

(g) The City reserves the right to revise the provisions of Chapter 5 of Title V of the Modesto Municipal Code, from time to time, as required in order to protect the public health, safety and welfare of the City.

(h) The Licensee shall comply with all existing and future State and Federal laws, and all ordinances and regulations which may in any manner affect the Licensee's operations under the terms and conditions of this license.

(i) The Director of Utility Services of the City of Modesto shall administer and supervise the Licensee's operations under the terms of this license and in accordance with the provisions of Chapter 5 of Title V of the Municipal Code.

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

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

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

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

The Licensee shall provide the City annually, within ninety (90) days of the end of the preceding fiscal year ending June 30th, with five (5) copies of an annual balance sheet and profit and loss statement. Financial statements submitted by the Licensee to the City shall be regarded by the City as confidential financial records of the Licensee, and shall not be released as a public record for inspection by any party other than authorized City officers.

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

(l) The Licensee shall collect and remove from any and all premises, within twenty-four (24) hours, and no later, after notice, demand or request, any and all garbage which Licensee shall have failed to collect and remove at the regularly scheduled time. The customer's failure to place garbage for collection at the regularly scheduled time shall not be deemed a missed collection.

(m) The Licensee shall collect garbage at least once each calendar week, on a Monday through Friday basis for residential collections, and on a Monday through Saturday basis for commercial and industrial collections. For purposes of such collection, the Licensee shall divide the City into collection routes. Such collection routes shall be each wholly within the City limits, and shall be approved by the Director of Utility Services. Upon approval of the proposed routes by the Director of Utility Services, the Licensee shall prepare route books as soon as possible which shall indicate the address of each service, number of containers, frequency of collection, and such other pertinent information as the Director of Utility Services may require. The Licensee shall keep route books up to date at all times. The Licensee shall give reasonable notice to the general public as to the days and times for collection on each route. No changes in collection schedules shall be made without the approval of the Director of Utility Services and reasonable notice thereof to the customers concerned by the Licensee.

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

(n) The Licensee shall make garbage collection service available on request to all schools, public agencies, institutions, and other non-residential premises at the same rates established for business locations. In special cases where unusual quantities of materials or special type of materials, or where special methods of handling and/or disposing is required, the Director of Utility Services may permit independent arrangements with the Licensee.

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

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

(p) The Licensee shall supply all occupants or premises in the Licensee's service area with printed information cards approved by the Director of Utility Services containing information regarding amounts of

garbage which will be collected, complaint procedures, charges, regulations and days of collection. Such cards shall be distributed as required by the Director of Utility Services, and, in addition, upon request by occupants or owners of any premises and in advance of route, charge or regulation changes.

(q) The Licensee shall not litter any premises or public property in making collections of garbage, nor shall garbage be allowed to leak, blow or fall from collection vehicles; however, if in spite of normal precautions against spillage, a litter is made on any premises or public property, the Licensee shall immediately remove same and clean up the area of spillage. The Licensee shall, without delay, after removing garbage from any container replace the container in its designated position on the premises with its cover on, and shall repair or replace at its expense any containers damaged as a result of its handling thereof, normal wear and tear excepted. The Licensee shall close all gates after making collections and shall avoid crossing private or public planted areas and climbing or jumping over hedges and fences. Licensee's personnel shall make all collections in a quiet and orderly manner and shall refrain from making unnecessary disturbances and noise. If, for any reason, garbage is not picked up, such as overweight container, not in container, etc., the Licensee shall attach a tag to the container explaining the reason therefor, and shall maintain a log or record of such refusals.

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

(r) All equipment used for the collection and hauling of garbage shall be approved by the Director of Utility Services and shall be so constructed and maintained as to prevent leakage, spillage, or overflow. Trucks shall not be loaded in excess of requirements of the State of California Motor Vehicle Code.

All trucks and equipment shall be clearly identified by an assigned equipment number and with the firm name and local telephone number affixed thereto. Collection trucks shall be painted a color approved by the Director of Utility Services, and shall be equipped with such safety devices and warning lights required by the State of California Motor Vehicle Code.

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

(s) All garbage collection vehicles shall be well maintained, properly identified, painted, clean and in satisfactory mechanical condition. The Licensee shall institute a complete and comprehensive system of preventative maintenance on all vehicles and shall keep them lubricated and in good repair. Records in a form approved by the Director of Utility Services to provide data on operating, maintenance and repair costs shall be kept on each piece of equipment.

(t) For purposes of this paragraph the following definitions shall apply:

(1) "Interruption of service" shall mean:

(aa) Any time period during which garbage collection services by the Licensee are interrupted by a labor dispute and scheduled collections are discontinued or substantially reduced; or

(ab) Any time period after notice by the City of the termination of the license by reason of a breach or default by the Licensee and until other suitable equipment can reasonably be purchased or otherwise acquired by the City for such purpose.

(2) "Equipment" shall mean any and all vehicles and equipment used by the Licensee for the purpose of performing the services provided for in the license at any time within the ninety (90) days immediately prior to the commencement of the interruption of service.

(3) "Payment for use" shall have the following meaning:

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

(ab) In the case of a piece of equipment not subject to a contract, "payment for use" shall mean the reasonable rental value of such piece of equipment for such period of time during which the City possesses and uses such piece of equipment pursuant to this paragraph during an interruption of service. Such payment shall, at the expiration of the term of the interruption of such service, be applied against any sums then owed to

the City by the Licensee, or, if none, it shall be paid by the City to the Licensee.

(4) "Contract" shall mean any conditional sales contract, mortgage, encumbrance, lease, rental agreement or other agreement which provides for retention of title to said equipment or grants a security interest therein, that may exist at the commencement of the interruption of service with regard to a piece of equipment.

(5) "Notice" shall mean written notification actually received by the person to be notified or mailed to him by registered or certified mail at the most recent address furnished by him to the City Clerk of the City of Modesto. As to the holder of a contract, the City shall be required to give notice only if the holder's identity is known to the City and the holder has furnished his address to said City Clerk.

In the event of an interruption of service, the City shall be entitled to have the temporary possession of all or any portion of the equipment of Licensee on the condition that the City shall, from time to time, make the payment for use as provided in subparagraph (3) hereof. Upon taking such temporary possession, City shall forthwith give notice thereof to the Licensee and to the then holder of a contract on such equipment, if any. Such temporary use shall not be deemed to be a breach of the terms of any contract regarding said equipment, but it shall otherwise be subject to the terms of such contract which are not in conflict herewith, except that the City shall not be required to make any payment other than the payment for use prescribed in subparagraph (3) hereof. The making by the City of the payment for use prescribed in subparagraph (3) hereof shall be deemed to be compensation only for the temporary use of such equipment and the City shall not thereby acquire any ownership interest in such equipment.

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

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

to the Licensee, subject to the terms of any contract that may then exist with regard to such equipment.

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

(u) All vehicles and equipment used by the Licensee for the collection and hauling of garbage shall be solely owned by Licensee, except that the Licensee may, with the prior approval of the City Manager, enter into conditional sales contracts, mortgages, encumbrances, leases, rental agreements, and other appropriate agreements for the purpose of purchasing, leasing or renting vehicles and equipment to be used in providing the services provided for in this license. All such documents shall provide for temporary possession by the City as set forth in the foregoing section and shall provide that such temporary possession shall not be deemed a breach of the agreement.

(v) Garbage collected by the Licensee shall be disposed of at the Geer Road sanitary landfill. The City reserves the right to designate other sanitary landfill areas for disposal, and other methods of disposal. Disposal of garbage at the sanitary landfill will be in accordance with regulations in effect for the same as they now exist or may hereafter be amended. Industrial garbage collected by the Licensee may be disposed of at such other locations as are approved by the Health Officer.

(w) The Licensee shall have the full and exclusive right to all salvageable materials collected in connection with the collection of garbage under this license, and shall have the sole right to any and all funds received from the sale of said salvageable materials. Such funds shall be accounted for as part of the gross revenues of Licensee.

Salvaging or scavenging by the Licensee, or any of its employees, is prohibited on the collection routes. Salvaging at a suitable location is encouraged, however.

(x) The Licensee agrees to keep the Director of Utility Services advised as to any current developments in recycling programs, and to participate in such recycling programs when it can be done on a sound economical basis. The Licensee agrees to cooperate on any reasonable basis with local civic organizations who desire to participate in a recycling program. The term recycling as used herein means any process which has as its goal the conversion of garbage, rubbish or salvageable waste into a usable product.

(y) The Licensee shall file with the City Clerk and maintain during the term of this license a corporate surety bond or other form of security satisfactory to the City Attorney in the sum of One Hundred Thousand and no/100ths (\$100,000.00) Dollars. Said bond or security shall be conditioned upon the faithful performances of the terms and conditions of this license and the provisions of Chapter 5 of Title V of the Modesto Municipal Code.

(z) Licensee agrees, in connection with the performance of all operations under or pursuant to this license, to be an Equal Opportunity Employer and not to discriminate against any employee or applicant for employment because of race, creed, color, national origin or handicap.

SECTION 3. REPEALS. Ordinance No. 2313-C.S. is hereby repealed effective December 31, 1985.

SECTION 4. EFFECTIVE DATE. This ordinance shall become effective from and after January 1, 1986; provided, however, that the license hereby granted shall not become effective unless and until Licensee files with the City Clerk written acceptance thereof and an agreement to be bound by and comply with all of the requirements thereof, in a form satisfactory to the City Attorney, and delivers to the City Clerk the bond and insurance policies required to be furnished, pursuant to the provisions of this ordinance and of Chapter 5 of Title V of the Modesto Municipal Code.

SECTION 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 5 day of November, 1985, by Councilmember Whiteside who moved its introduction and passage to print, which motion being duly seconded by Councilmember Lang, was upon roll call carried and order printed and published by the following vote:

AYES: Councilmembers: Bright, Lang, Muratore, Patterson, Whiteside, Mayor Mensinger.

NOES: Councilmembers: None.

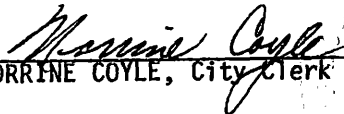
ABSENT: Councilmembers: Sutton.

APPROVED:

  
PEGGY MENSINGER, Mayor

ATTEST:


By

  
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

  
STAN T. YAMAMOTO, Acting 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 12th day of November, 1985, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Lang, Muratore, Patterson, Whiteside, Mayor Mensinger

NOES: Councilmembers: None

ABSENT: Councilmembers: McGrath, Sutton

APPROVED *Peggy Mensinger*  
MAYOR PEGGY MENSINGER

ATTEST: *Norrine Coyle*  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: January 1, 1986

ORDINANCE NO.2379 -C.S.

AN ORDINANCE GRANTING TO EMPIRE WASTE MANAGEMENT, INC., A CALIFORNIA CORPORATION, A LICENSE FOR THE COLLECTION OF GARBAGE IN THE CITY OF MODESTO. (AREA D.)

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

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

SECTION 2. A license to collect garbage including industrial garbage and salvageable waste, in the City of Modesto is hereby granted conditioned on the sale and transfer by Lorraine and Jake Stokes and Gerald L. Stokes to Empire Waste Management, Inc., of all of the outstanding stock of Modesto Garbage Company, Inc., subject to the following terms and conditions:

(a) This license shall be for a term of eight (8) calendar years commencing on January 1, 1986. During every third calendar year of the term of this license, including both the initial term and any extensions thereof, the Licensee may make application to the City to extend the term of this license to eight (8) calendar years commencing on January 1 of the following calendar year. Applications for extensions of this license shall be submitted and considered in accordance with the provisions of Chapter 5 of Title V of the Modesto Municipal Code.. The initial term of this license, or any extensions thereof, may be terminated under the provisions of this ordinance or the provision of Chapter 5 of Title V of the Modesto Municipal Code. Nothing herein shall be deemed or construed to impair or affect in any way the right of the City to acquire the equipment and assume the operations of the Licensee at any time during the initial term of this license or any extensions thereof by purchase of the Licensee's equipment at a fair and just market value, which shall not include any amount for the license itself or for any of the rights or privileges granted by this license.

(b) This license shall be an exclusive license to collect garbage except industrial garbage and salvageable waste, within the area delineated and marked as Area D on that certain map entitled "Garbage Areas" dated July 11, 1972, on file in the office of the City Clerk, and to which reference is hereby made. This license shall be a nonexclusive license to collect industrial garbage and salvageable waste.

(c) In accepting this license, Licensee thereby agrees to serve the area covered by the license for the term herein specified in compliance with the provisions of this ordinance and the provisions of Chapter 5 of Title V of the Modesto Municipal Code.

(d) This license shall automatically extend to any portion of the Licensee's service area, as shown on the map referred to in paragraph (b) above, which is hereafter annexed to the City, except that City may permit any person or firm licensed by the County of Stanislaus and then serving such area or portion thereof to continue to serve such area or portion thereof for such period of time, not to exceed five (5) years from the date of annexation, as the City deems proper. The Licensee, when required to serve new portions of the City, shall promptly extend its routes and services and, when necessary, shall hire additional personnel and obtain additional equipment.

(e) Rates and charges to be charged by the Licensee for the collection of garbage shall be established by the Council by resolution. Service charges and costs of operation of the Licensee will be reviewed annually by the City and, if deemed necessary by the City Council, rate adjustments made to be effective on or after January 1 of each year.

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

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

(g) The City reserves the right to revise the provisions of Chapter 5 of Title V of the Modesto Municipal Code, from time to time, as required in order to protect the public health, safety and welfare of the City.

(h) The Licensee shall comply with all existing and future State and Federal laws, and all ordinances and regulations which may in any manner affect the Licensee's operations under the terms and conditions of this license.

(i) The Director of Utility Services of the City of Modesto shall administer and supervise the Licensee's operations under the terms of this license and in accordance with the provisions of Chapter 5 of Title V of the Municipal Code.

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

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

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

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

The Licensee shall provide the City annually, within ninety (90) days of the end of the preceding fiscal year ending June 30th, with five (5) copies of an annual balance sheet and profit and loss statement. Financial statements submitted by the Licensee to the City shall be regarded by the City as confidential financial records of the Licensee, and shall not be released as a public record for inspection by any party other than authorized City officers.

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

(l) The Licensee shall collect and remove from any and all premises, within twenty-four (24) hours, and no later, after notice, demand or request, any and all garbage which Licensee shall have failed to collect and remove at the regularly scheduled time. The customer's failure to place garbage for collection at the regularly scheduled time shall not be deemed a missed collection.

(m) The Licensee shall collect garbage at least once each calendar week, on a Monday through Friday basis for residential collections, and on a Monday through Saturday basis for commercial and industrial collections. For purposes of such collection, the Licensee shall divide the City into collection routes. Such collection routes shall be each wholly within the City limits, and shall be approved by the Director of Utility Services. Upon approval of the proposed routes by the Director of Utility Services, the Licensee shall prepare route books as soon as possible which shall indicate the address of each service, number of containers, frequency of collection, and such other pertinent information as the Director of Utility Services may require. The Licensee shall keep route books up to date at all times. The Licensee shall give reasonable notice to the general public as to the days and times for collection on each route. No changes in collection schedules shall be made without the approval of the Director of Utility Services and reasonable notice thereof to the customers concerned by the Licensee.

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

(n) The Licensee shall make garbage collection service available on request to all schools, public agencies, institutions, and other non-residential premises at the same rates established for business locations. In special cases where unusual quantities of materials or special type of materials, or where special methods of handling and/or disposing is required, the Director of Utility Services may permit independent arrangements with the Licensee.

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

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

(p) The Licensee shall supply all occupants or premises in the Licensee's service area with printed information cards approved by the Director of Utility Services containing information regarding amounts of

garbage which will be collected, complaint procedures, charges, regulations and days of collection. Such cards shall be distributed as required by the Director of Utility Services, and, in addition, upon request by occupants or owners of any premises and in advance of route, charge or regulation changes.

(q) The Licensee shall not litter any premises or public property in making collections of garbage, nor shall garbage be allowed to leak, blow or fall from collection vehicles; however, if in spite of normal precautions against spillage, a litter is made on any premises or public property, the Licensee shall immediately remove same and clean up the area of spillage. The Licensee shall, without delay, after removing garbage from any container replace the container in its designated position on the premises with its cover on, and shall repair or replace at its expense any containers damaged as a result of its handling thereof, normal wear and tear excepted. The Licensee shall close all gates after making collections and shall avoid crossing private or public planted areas and climbing or jumping over hedges and fences. Licensee's personnel shall make all collections in a quiet and orderly manner and shall refrain from making unnecessary disturbances and noise. If, for any reason, garbage is not picked up, such as overweight container, not in container, etc., the Licensee shall attach a tag to the container explaining the reason therefor, and shall maintain a log or record of such refusals.

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

(r) All equipment used for the collection and hauling of garbage shall be approved by the Director of Utility Services and shall be so constructed and maintained as to prevent leakage, spillage, or overflow. Trucks shall not be loaded in excess of requirements of the State of California Motor Vehicle Code.

All trucks and equipment shall be clearly identified by an assigned equipment number and with the firm name and local telephone number affixed thereto. Collection trucks shall be painted a color approved by the Director of Utility Services, and shall be equipped with such safety devices and warning lights required by the State of California Motor Vehicle Code.

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

(s) All garbage collection vehicles shall be well maintained, properly identified, painted, clean and in satisfactory mechanical condition. The Licensee shall institute a complete and comprehensive system of preventative maintenance on all vehicles and shall keep them lubricated and in good repair. Records in a form approved by the Director of Utility Services to provide data on operating, maintenance and repair costs shall be kept on each piece of equipment.

(t) For purposes of this paragraph the following definitions shall apply:

(1) "Interruption of service" shall mean:

(aa) Any time period during which garbage collection services by the Licensee are interrupted by a labor dispute and scheduled collections are discontinued or substantially reduced; or

(ab) Any time period after notice by the City of the termination of the license by reason of a breach or default by the Licensee and until other suitable equipment can reasonably be purchased or otherwise acquired by the City for such purpose.

(2) "Equipment" shall mean any and all vehicles and equipment used by the Licensee for the purpose of performing the services provided for in the license at any time within the ninety (90) days immediately prior to the commencement of the interruption of service.

(3) "Payment for use" shall have the following meaning:

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

(ab) In the case of a piece of equipment not subject to a contract, "payment for use" shall mean the reasonable rental value of such piece of equipment for such period of time during which the City possesses and uses such piece of equipment pursuant to this paragraph during an interruption of service. Such payment shall, at the expiration of the term of the interruption of such service, be applied against any sums then owed to

the City by the Licensee, or, if none, it shall be paid by the City to the Licensee.

(4) "Contract" shall mean any conditional sales contract, mortgage, encumbrance, lease, rental agreement or other agreement which provides for retention of title to said equipment or grants a security interest therein, that may exist at the commencement of the interruption of service with regard to a piece of equipment.

(5) "Notice" shall mean written notification actually received by the person to be notified or mailed to him by registered or certified mail at the most recent address furnished by him to the City Clerk of the City of Modesto. As to the holder of a contract, the City shall be required to give notice only if the holder's identity is known to the City and the holder has furnished his address to said City Clerk.

In the event of an interruption of service, the City shall be entitled to have the temporary possession of all or any portion of the equipment of Licensee on the condition that the City shall, from time to time, make the payment for use as provided in subparagraph (3) hereof. Upon taking such temporary possession, City shall forthwith give notice thereof to the Licensee and to the then holder of a contract on such equipment, if any. Such temporary use shall not be deemed to be a breach of the terms of any contract regarding said equipment, but it shall otherwise be subject to the terms of such contract which are not in conflict herewith, except that the City shall not be required to make any payment other than the payment for use prescribed in subparagraph (3) hereof. The making by the City of the payment for use prescribed in subparagraph (3) hereof shall be deemed to be compensation only for the temporary use of such equipment and the City shall not thereby acquire any ownership interest in such equipment.

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

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

to the Licensee, subject to the terms of any contract that may then exist with regard to such equipment.

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

(u) All vehicles and equipment used by the Licensee for the collection and hauling of garbage shall be solely owned by Licensee, except that the Licensee may, with the prior approval of the City Manager, enter into conditional sales contracts, mortgages, encumbrances, leases, rental agreements, and other appropriate agreements for the purpose of purchasing, leasing or renting vehicles and equipment to be used in providing the services provided for in this license. All such documents shall provide for temporary possession by the City as set forth in the foregoing section and shall provide that such temporary possession shall not be deemed a breach of the agreement.

(v) Garbage collected by the Licensee shall be disposed of at the Geer Road sanitary landfill. The City reserves the right to designate other sanitary landfill areas for disposal, and other methods of disposal. Disposal of garbage at the sanitary landfill will be in accordance with regulations in effect for the same as they now exist or may hereafter be amended. Industrial garbage collected by the Licensee may be disposed of at such other locations as are approved by the Health Officer.

(w) The Licensee shall have the full and exclusive right to all salvageable materials collected in connection with the collection of garbage under this license, and shall have the sole right to any and all funds received from the sale of said salvageable materials. Such funds shall be accounted for as part of the gross revenues of Licensee.

Salvaging or scavenging by the Licensee, or any of its employees, is prohibited on the collection routes. Salvaging at a suitable location is encouraged, however.

(x) The Licensee agrees to keep the Director of Utility Services advised as to any current developments in recycling programs, and to participate in such recycling programs when it can be done on a sound economical basis. The Licensee agrees to cooperate on any reasonable basis with local civic organizations who desire to participate in a recycling program. The term recycling as used herein means any process which has as its goal the conversion of garbage, rubbish or salvageable waste into a usable product.

(y) The Licensee shall file with the City Clerk and maintain during the term of this license a corporate surety bond or other form of security satisfactory to the City Attorney in the sum of One Hundred Thousand and no/100ths (\$100,000.00) Dollars. Said bond or security shall be conditioned upon the faithful performances of the terms and conditions of this license and the provisions of Chapter 5 of Title V of the Modesto Municipal Code.

(z) Licensee agrees, in connection with the performance of all operations under or pursuant to this license, to be an Equal Opportunity Employer and not to discriminate against any employee or applicant for employment because of race, creed, color, national origin or handicap.

SECTION 3. REPEALS. Ordinance No. 2314-C.S. is hereby repealed effective December 31, 1985.

SECTION 4. EFFECTIVE DATE. This ordinance shall become effective from and after January 1, 1986; provided, however, that the license hereby granted shall not become effective unless and until Licensee files with the City Clerk written acceptance thereof and an agreement to be bound by and comply with all of the requirements thereof, in a form satisfactory to the City Attorney, and delivers to the City Clerk the bond and insurance policies required to be furnished, pursuant to the provisions of this ordinance and of Chapter 5 of Title V of the Modesto Municipal Code.

SECTION 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 5 day of November, 1985, by Councilmember Whiteside who moved its introduction and passage to print, which motion being duly seconded by Councilmember Lang, was upon roll call carried and order printed and published by the following vote:

- AYES: Councilmembers: Bright, Lang, Muratore, Patterson, Whiteside, Mayor Mensinger.
- NOES: Councilmembers: None.
- ABSENT: Councilmembers: Sutton.

APPROVED: *Peggy Mensinger*  
PEGGY MENSINGER, Mayor

ATTEST:  
By *Norrine Coyle*  
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:  
By *Stan T. Yamamoto*  
STAN T. YAMAMOTO, Acting 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 12th day of November, 1985, Councilmember Muratore moved its final adoption, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Lang, Muratore, Patterson, Whiteside, Mayor Mensinger

NOES: Councilmembers: None

ABSENT: Councilmembers: McGrath, Sutton

APPROVED *Peggy Mensinger*  
MAYOR PEGGY MENSINGER

ATTEST: *Norrine Coyle*  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: January 1, 1986

ORDINANCE NO. 2380 -C.S.

AN ORDINANCE AMENDING SECTION MAP 14-3-9 OF THE ZONING MAP TO REZONE FROM PLANNED DEVELOPMENT ZONE, P-D(242), TO PLANNED DEVELOPMENT ZONE, P-D(390), PROPERTY LOCATED AT THE NORTHEAST CORNER OF MERLE AVENUE AND TEMESCAL DRIVE (H. R. REMINGTON PROPERTIES)

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

SECTION 1. ZONING CHANGE. Section 14-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Planned Development Zone, P-D(242), to Planned Development Zone, P-D(390):

All that certain real property situate in a portion of Section 14, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, State of California, described as follows:

All of Lots "A" and "B" as shown on that certain subdivision map of Orchard Grove No. 1 filed in the office of the Recorder of Stanislaus County, California, on July 8, 1981, in Volume 29 of Maps, page 97.

Including the southerly 40.00 feet of Belharbour Drive immediately adjacent to above mentioned Lot "B".

Also including the easterly 30.00 feet of Temescal Drive immediately adjacent to above mentioned Lots "A" and "B".

Also including the northerly 30.00 feet of Merle Avenue immediately adjacent to above mentioned Lot "A".

SECTION 2. USES. The following uses shall be permitted in said P-D(390) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to

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

1. Multiple-family dwellings, 242 units
2. Off-street parking for 484 vehicles

SECTION 3. ZONING MAP. Section Map 14-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 5 day of November, 1985, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Bright, Lang, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger.  
NOES: Councilmembers: None.  
ABSENT: Councilmembers: None.

APPROVED:

Peggy Mensinger  
PEGGY MENSINGER, Mayor

ATTEST:

By

Norrine Coyle  
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

Stan T. Yamamoto  
STAN T. YAMAMOTO, Acting City Attorney

APPROVED AS TO DESCRIPTION:

By

William Smith  
Department of Planning and Community  
Development

Ordinance 2380 C.S.  
Exhibit A – Map

Oversized map folded and bound within Ordinance Book. Unable to  
remove safely for scanning.

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 November, 19 85, Councilmember Patterson moved its final adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Lang, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger

NOES: Councilmembers: None

ABSENT: Councilmembers: McGrath

APPROVED *Peggy Mensinger*  
MAYOR PEGGY MENSINGER

ATTEST: *Norrine Coyle*  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 12, 1985

ORDINANCE NO. 2381 -C.S.

AN ORDINANCE AMENDING SUBSECTION (a) OF SECTION 2 OF ORDINANCE NO. 2118-C.S. ENTITLED "AN ORDINANCE GRANTING TO GILTON SOLID WASTE MANAGEMENT, INC., A CALIFORNIA CORPORATION, A LICENSE FOR THE COLLECTION OF GARBAGE IN THE CITY OF MODESTO" TO EXTEND SAID LICENSE.

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

SECTION 1. Subsection (a) of Section 2 of Ordinance No. 2118-C.S. entitled "An Ordinance Granting to Gilton Solid Waste Management, Inc., a California Corporation, a License for the Collection of Garbage in the City of Modesto" is hereby amended to read as follows:

(a) This license shall be for a term of eight (8) calendar years commencing on January 1, 1986. During every third calendar year of the term of this license, including both the initial term and any extensions thereof, the Licensee may make application to the City to extend the term of this license to eight (8) calendar years commencing on January 1 of the following calendar year. Applications for extensions of this license shall be submitted and considered in accordance with the provisions of Chapter 5 of Title V of the Modesto Municipal Code. The initial term of this license, or any extensions thereof, may be terminated under the provisions of this ordinance or the provision of Chapter 5 of Title V of the Modesto Municipal Code. Nothing herein shall be deemed or construed to impair or affect in any way the right of the City to acquire the equipment and assume the operations of the Licensee at any time during the initial term of this license or any extensions thereof by purchase of the Licensee's equipment at a fair and just market value, which shall not include any amount for the license itself or for any of the rights or privileges granted by this license.

SECTION 2. EFFECTIVE DATE. This ordinance shall become effective thirty (30) days from and after its final passage and adoption; provided, however, that the license extension hereby granted shall not become effective unless and until Licensee files with the City Clerk written acceptance thereof and an agreement to be bound by and comply with all of the requirements thereof, in a form satisfactory to the City Attorney, and delivers to the City

Clerk the bond and insurance policies required to be furnished, pursuant to the provisions of Ordinance No. 2118-C.S. and of Chapter 5 of Title V of the Modesto Municipal Code.

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 19 day of November, 1985, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Whiteside, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger.

NOES: Councilmembers: None.

ABSENT: Councilmembers: None.

APPROVED: \_\_\_\_\_  
PEGGY MENSINGER, Mayor

ATTEST:

By Morrine Coyle  
MORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto  
STAN T. YAMAMOTO, Acting 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 26th day of November, 19 85, Councilmember Sutton moved its final adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton,  
Acting Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Mensinger

APPROVED *Carol Whiteside*  
ACTING MAYOR CAROL WHITESIDE

ATTEST: *Norrine Coyle*  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 26, 1985

ORDINANCE NO. 2382 -C.S.

AN ORDINANCE AMENDING SECTION MAP 21-2-9 OF THE ZONING MAP TO REPEAL P-D(307) AND REZONE TO R-1 AND R-2, PROPERTY LOCATED AT THE SOUTHEAST CORNER OF CORSON AVENUE AND MELROSE AVENUE. (MELROSE MANOR)

WHEREAS, the City Council, by Ordinance No. 2061-C.S., which became effective on August 13, 1981, amended Section Map 21-2-9 of the Zoning Map to rezone to Planned Development Zone, P-D(307), for an expansion of a residential care home, property located at the southeast corner of Corson Avenue and Melrose Avenue, and

WHEREAS, the City Council, by Resolution No. 81-572, adopted on July 7, 1981, approved the development schedule for P-D(307) which specified that the entire construction program be accomplished in one phase, with construction to begin on or before September 1, 1983, and completion to be not later than September 1, 1984, and

WHEREAS, on July 5, 1983, the Planning Commission by Resolution 83-93 granted a one-year time extension to P-D(307), and

WHEREAS, P-D(307) has expired as of September 1, 1984, and the Planning Commission on August 5, 1985, by Resolution 85-148 initiated proceedings to repeal P-D(307) and rezone the property to R-1 and R-2, and

WHEREAS, a public hearing was held by the Planning Commission at its regular meeting on September 3, 1985, in the City Council Chambers, City Hall, 801 11th Street, Modesto, at which hearing evidence both oral and documentary was received and considered, and thereafter the Planning Commission, by Resolution 85-179 found and determined that the repeal of Planned Development

Zone, P-D(307), and rezoning the property back to Low Density Residential Zone, R-1, and Medium Density Residential Zone, R-2, is required by public necessity, convenience and general welfare for the following reasons:

1. P-D(307) did not develop within the extended time limits of the revised development schedule.
2. Section 10-2.2709(c) of the Municipal Code calls for repeal or modification of expired P-D zones.

and

WHEREAS, by Resolution No. 85-179, adopted September 3, 1985, the Planning Commission recommended to the Council that Section Map 21-2-9 of the Zoning Map be amended to repeal P-D(307) and rezone the property hereinafter described to Low Density Residential Zone, R-1, and Medium Density Residential Zone, R-2, and

WHEREAS, said matter was set for public hearing before the Council of the City of Modesto in the Council Chambers, City Hall, 801 11th Street, in the City of Modesto, at 4:00 p.m. on November 19, 1985, at which time evidence, both oral and documentary, was taken and introduced,

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

SECTION 1. COUNCIL FINDINGS. After a public hearing, this Council finds and determines that the recommended rezoning of Planned Development Zone, P-D(307), to Low Density Residential Zone, R-1, and Medium Density Residential Zone, R-2, is required by public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 85-179, and quoted above.

SECTION 2. ZONING CHANGE. Section 21-2-9 of the Zoning Map is hereby amended to reclassify the following described property from Planned Development Zone, P-D(307), to Low Density Residential Zone, R-1, and Medium Density Residential Zone, R-2:

P-D to R-1

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

Parcel B as shown on that certain parcel map filed in the Office of the Recorder of Stanislaus County, California, on May 7, 1974, in Book 19, of Parcel Maps, at Page 10.

Including also all of Lot 6 and the Southern 56.77 feet of Lot 7 of Palmetto Park, according to the Official Map thereof, filed in the Office of the Recorder of Stanislaus County, California, on January 25, 1939, in Volume 11 of Maps, Page 56.

Including also the Eastern one-half of the Melrose Avenue; all of Fairmont Avenue; and the Northwestern one-half of Modesto Irrigation District Lateral No. 4 immediately adjacent to the above described property.

P-D to R-2

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

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

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

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

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

and

SECTION 3. ZONING MAP. Section 21-2-9 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 19 day of November, 1985, by Councilmember Patterson, who moved its introduction and passage to print, which motion being duly seconded by Councilmember McGrath, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger.

NOES: Councilmembers: None.

ABSENT: Councilmembers: None.

APPROVED:

PEGGY MENSINGER, Mayor

ATTEST:

By

Norrine Coyle  
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

Stan T. Yamamoto  
STAN T. YAMAMOTO, Acting City Attorney

APPROVED AS TO DESCRIPTION:

By

William D. White  
Department of Planning and Community  
Development

Ordinance 2382 C.S.  
Exhibit A – Map

Oversized map folded and bound within Ordinance Book. Unable to  
remove safely for scanning.

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 November, 19 85, Councilmember Sutton moved its final adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the ordinance adopted by the following vote:

- AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton, Acting Mayor Whiteside
- NOES: Councilmembers: None
- ABSENT: Councilmembers: Mayor Mensinger

APPROVED *Carol Whiteside*  
ACTING MAYOR CAROL WHITESIDE

ATTEST: *Norrine Coyle*  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 26, 1985

ORDINANCE NO. 2383 -C.S.

AN ORDINANCE AMENDING SECTION MAP 19-3-9 OF THE ZONING MAP TO REPEAL P-D(189) AND REZONE TO C-1, PROPERTY LOCATED ON THE SOUTH SIDE OF EVERGREEN AVENUE EAST OF WEST ORANGEBURG AVENUE. (CIPPONERI)

WHEREAS, the City Council, by Ordinance No. 1746-C.S., which became effective on August 2, 1978, amended Section Map 19-3-9 of the Zoning Map to rezone to Planned Development Zone, P-D(189), for a 60-unit, three story elderly housing project, property located on the south side of Evergreen Avenue East of West Orangeburg Avenue, and

WHEREAS, the City Council, by Resolution No. 78-669, adopted on June 26, 1978, approved the development schedule for P-D(189) which specified that the entire construction program be accomplished in one phase, with construction to begin on or before September 1, 1980, and completion to be not later than September 1, 1981, and

WHEREAS, on April 7, 1980, the Planning Commission by Resolution 80-81 granted a two-year time extension to P-D(189), and

WHEREAS, P-D(189) has expired as of September 1, 1982, and the Planning Commission on August 5, 1985, by Resolution 85-151 initiated proceedings to repeal P-D(189) and rezone the property to C-1, and

WHEREAS, a public hearing was held by the Planning Commission at its regular meeting on September 3, 1985, in the City Council Chambers, City Hall, 801 11th Street, Modesto, at which hearing evidence both oral and documentary was received and considered, and thereafter the Planning Commission, by Resolution 85-181 found and determined that the repeal of Planned Development

Zone, P-D(189), and rezoning the property back to Neighborhood Commercial Zone, C-1, is required by public necessity, convenience and general welfare for the following reasons:

1. P-D(189) did not develop within the extended time limits of the revised development schedule.
2. Section 10-2.2709(c) of the Municipal Code calls for repeal or modification of expired P-D zones.
3. The applicant has expressed that he eventually intends to develop under a new and larger P-D zone.

and

WHEREAS, by Resolution No. 85-181, adopted September 3, 1985, the Planning Commission recommended to the Council that Section Map 19-3-9 of the Zoning Map be amended to repeal P-D(189) and rezone the property hereinafter described to Neighborhood Commercial Zone, C-1, and

WHEREAS, said matter was set for public hearing before the Council of the City of Modesto in the Council Chambers, City Hall, 801 11th Street, in the City of Modesto, at 4:00 p.m. on November 19, 1985, at which time evidence, both oral and documentary, was taken and introduced,

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

SECTION 1. COUNCIL FINDINGS. After a public hearing, this Council finds and determines that the recommended rezoning of Planned Development Zone, P-D(189), to Neighborhood Commercial Zone, C-1, is required by public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 85-181, and quoted above.

SECTION 2. ZONING CHANGE. Section 19-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Planned Development Zone, P-D(189), to Neighborhood Commercial Zone, C-1:

P-D(189) to C-1

Parcel A, as per Parcel Map filed July 22, 1966, in Book 2 of Parcel Maps, Page 21, Stanislaus County Records; being a portion of the Northwest quarter of the Northwest quarter of Section 19, Township 3 South, Range 9 East, Mount Diablo Base and Meridian.

Containing 1.03 acres net.

and

SECTION 3. ZONING MAP. Section 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.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 19th day of November, 1985, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Whiteside, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: PEGGY MENSINGER, Mayor

ATTEST:

By Norrine Coyle  
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto  
STAN T. YAMAMOTO, Acting City Attorney

APPROVED AS TO DESCRIPTION:

By William Whiteside  
Department of Planning and Community  
Development

Ordinance 2383 C.S.  
Exhibit A – Map

Oversized map folded and bound within Ordinance Book. Unable to  
remove safely for scanning.

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 November, 19 85, Councilmember Sutton moved its final adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton, Acting Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Mensinger

APPROVED Carol Whiteside  
ACTING MAYOR CAROL WHITESIDE

ATTEST: Norrine Coyle  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 26, 1985

ORDINANCE NO. 2384 -C.S.

AN ORDINANCE AMENDING SECTION MAP 24-3-9 OF THE ZONING MAP TO REPEAL P-D(261) AND REZONE TO R-3, PROPERTY LOCATED ON THE WEST SIDE OF CLAUS ROAD SOUTH OF EAST ORANGEBURG AVENUE.

WHEREAS, the City Council, by Ordinance No. 1941-C.S., which became effective on June 5, 1980, amended Section Map 24-3-9 of the Zoning Map to rezone to Planned Development Zone, P-D(261), for a 42-unit condominium project, property located on the west side of Claus Road south of East Orangeburg Avenue, and

WHEREAS, the City Council, by Resolution No. 80-371, adopted on April 22, 1980, approved the development schedule for P-D(261) which specified that the entire construction program be accomplished in one phase, with construction to begin on or before June 1, 1982, and completion to be not later than June 1, 1983, and

WHEREAS, on July 6, 1982, the Planning Commission by Resolution 82-108 granted a two-year time extension to P-D(261), and

WHEREAS, P-D(261) has expired as of June 1, 1984, and the Planning Commission on August 5, 1985, by Resolution 85-150 initiated proceedings to repeal P-D(261) and rezone the property to R-3, and

WHEREAS, a public hearing was held by the Planning Commission at its regular meeting on September 3, 1985, in the City Council Chambers, City Hall, 801 11th Street, Modesto, at which hearing evidence both oral and documentary was received and considered, and thereafter the Planning Commission, by Resolution 85-180 found and determined that the repeal of Planned Development Zone, P-D(261), and rezoning the property back to Medium High Density

Residential Zone, R-3, is required by public necessity, convenience and general welfare for the following reasons:

1. P-D(261) did not develop within the extended time limits of the revised development schedule.
2. Section 10-2.2709(c) of the Municipal Code calls for repeal or modification of expired P-D zones.

and

WHEREAS, by Resolution No. 85-180, adopted September 3, 1985, the Planning Commission recommended to the Council that Section Map 24-3-9 of the Zoning Map be amended to repeal P-D(261) and rezone the property hereinafter described to Medium High Density Residential Zone, R-3, and

WHEREAS, said matter was set for public hearing before the Council of the City of Modesto in the Council Chambers, City Hall, 801 11th Street, in the City of Modesto, at 4:00 p.m. on November 19, 1985, at which time evidence, both oral and documentary, was taken and introduced,

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

SECTION 1. COUNCIL FINDINGS. After a public hearing, this Council finds and determines that the recommended rezoning of Planned Development Zone, P-D(261), to Medium High Density Residential Zone, R-3, is required by public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 85-180, and quoted above.

SECTION 2. ZONING CHANGE. Section 24-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Planned Development Zone, P-D(261), to Medium High Density Residential Zone, R-3:

P-D(261) to R-3

ALL that certain real property situate in a portion of the East half of Section 24, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, and lying within the City of Modesto, County of Stanislaus, State of California, described as follows:

BEGINNING at the Southwest corner of Parcel "A" as shown on that certain map filed in Volume 30 of Parcel Maps, at Page 11, Stanislaus County Records; thence North along the West line of said Parcel "A", a distance of 200.00 feet; thence South 89°51'03" East along the North line of said Parcel "A" and the Easterly prolongation thereof a distance of 390.00 feet to the intersection with the centerline of Claus Road, as shown on said map; thence South along said centerline a distance of 200.00 feet to the intersection with the Easterly prolongation of the Southerly line of said Parcel "A"; thence North 89°51'03" West along said Easterly prolonged line and along said Southerly line a distance of 390.00 feet to the Point of Beginning.

and

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 19 day of November, 1985, by Councilmember Whiteside, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Lang, Muratore, McGrath, Patterson, Sutton, Whiteside, Mayor Mensinger.

NOES: Councilmembers: None.

ABSENT: Councilmembers: None.

APPROVED: PEGGY MENSINGER, Mayor

ATTEST:

By Norrine Coyle  
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto  
STAN T. YAMAMOTO, Acting City Attorney

APPROVED AS TO DESCRIPTION:

By Clifford Whiteside  
Department of Planning and Community  
Development

Ordinance 2384 C.S.  
Exhibit A – Map

Oversized map folded and bound within Ordinance Book. Unable to  
remove safely for scanning.

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 November, 1985, Councilmember Sutton moved its final adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton,  
Acting Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Mensinger

APPROVED Carol Whiteside  
ACTING MAYOR CAROL WHITESIDE

ATTEST: Norrine Coyle  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 26, 1985

ORDINANCE NO. 2385 -C.S.

AN ORDINANCE AMENDING SECTION MAP 12-3-8 OF THE ZONING MAP TO REZONE FROM PROFESSIONAL OFFICE ZONE, P-0, AND PLANNED DEVELOPMENT ZONE, P-D(283), TO PLANNED DEVELOPMENT ZONE, P-D(388), PROPERTY LOCATED ON THE EAST SIDE OF DALE ROAD NORTH OF VENEMAN AVENUE (MIKE AND MARILYN CARNEY - RETIREMENT CENTER)

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

SECTION 1. ZONING CHANGE. Section 12-3-8 of the Zoning Map is hereby amended to reclassify the following described property from Professional Office Zone, P-0, and Planned Development Zone, P-D(283), to Planned Development Zone, P-D(388):

P-D(283) to P-D

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

Parcel B as shown on that certain parcel map filed for record on December 2, 1977, in Book 26 of Parcel Maps, page 26, Stanislaus County Records, and being a portion of the Northwest Quarter of Section 12, Township 3 South, Range 8 East, Mount Diablo Base and Meridian.

Including also the easterly 50 feet of Dale Road immediately adjacent to the above said Parcel B.

P-0 to P-D

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

Parcel C as shown on that certain parcel map filed for record on December 2, 1977, in Book 26 of Parcel Maps, page 26, Stanislaus County Records, and being a portion of the Northwest Quarter of Section 12, Township 3 South, Range 8 East, Mount Diablo Base and Meridian.

Including also the easterly 50 feet of Dale Road immediately adjacent to the above said Parcel C.

SECTION 2. USES. The following uses shall be permitted in said P-D(388) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

Retirement Center  
Professional office building for uses allowed in the P-0 Zone  
Off-street parking as shown on the approved development plan

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 19th day of November, 1985, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

APPROVED: \_\_\_\_\_  
PEGGY MENSINGER, Mayor

ATTEST:

By *Norrine Coyle*  
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By *Stan T. Yamamoto*  
STAN T. YAMAMOTO, Acting City Attorney

APPROVED AS TO DESCRIPTION:

By *William Prichard*  
Department of Planning and Community  
Development

## Ordinance 2385 C.S.

### Exhibit A – Map

Oversized map folded and bound within Ordinance Book. Unable to  
remove safely for scanning.

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 November, 1985, Councilmember Sutton moved its final adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the ordinance adopted by the following vote:

- AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton, Acting Mayor Whiteside
- NOES: Councilmembers: None
- ABSENT: Councilmembers: Mayor Mensinger

APPROVED *Carol Whiteside*  
ACTING MAYOR CAROL WHITESIDE

ATTEST: *Norrine Coyle*  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 26, 1985

ORDINANCE NO. 2386 -C.S.

AN ORDINANCE ADDING SECTION 4-4.405 TO ARTICLE 4 OF CHAPTER 4 OF TITLE IV OF THE MODESTO MUNICIPAL CODE AND ADDING SECTION 4-4.526 TO ARTICLE 5 OF CHAPTER 4 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO SUBDIVISION REGULATIONS, VESTING TENTATIVE MAPS.

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

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

SEC. 4-4.405. VESTING TENTATIVE MAPS.

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

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

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

SECTION. 2. AMENDMENT OF CODE. Section 4-4.526 is hereby added to Article 5 of Chapter 4 of Title IV of the Modesto Municipal Code to read as follows:

SEC. 4-4.526. VESTING TENTATIVE PARCEL MAPS.

A vesting tentative parcel map for residential development may be filed with the Planning Commission instead of a tentative parcel map otherwise required by this chapter. The vesting tentative parcel map shall be subject to all provisions of this article pertaining to other tentative parcel maps and shall confer on the developer all development rights and shall be subject to the conditions pertaining to vesting tentative maps for subdivisions as specified by Section 4-4.405.

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 19 day of November, 1985, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Whiteside, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Lang, Muratore, McGrath, Patterson, Sutton, Whiteside, Mayor Mensinger.

NOES: Councilmembers: None.

ABSENT: Councilmembers: None.

APPROVED: \_\_\_\_\_  
PEGGY MENSINGER, Mayor

ATTEST:

By Merrine Coyle  
MERRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto  
STAN T. YAMAMOTO, Acting 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 26th day of November, 19 85, Councilmember Sutton moved its final adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton,  
Acting Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Mensinger

APPROVED *Carol Whiteside*  
ACTING MAYOR CAROL WHITESIDE

ATTEST: *Norrine Coyle*  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: December 26, 1985

ORDINANCE NO. 2387 -C.S.

AN ORDINANCE AMENDING SECTIONS 28-3-9 and 29-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON. (MODESTO BEE)

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

SECTION 1. ZONING CHANGE. Sections 28-3-9 and 29-3-9 of the Zoning Map are hereby amended to reclassify the following described property from Neighborhood Commercial Zone, C-1, and General Commercial Zone, C-2, to Planned Development Zone, P-D(389):

C-2 to P-D

All that certain real property situate in a portion of the Southeast quarter of Section 29, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

All of City of Modesto Block 105 as shown on map of "Town of Modesto" filed in the Office of the Recorder of Stanislaus County, California, on April 18, 1903, in Volume 1 of Maps at page 82.

Including one-half of 100.00-foot wide I Street and one-half of 80.00-foot wide 13th, 14th, and H Streets and all immediately adjacent to the above mentioned Block 105.

Including also all of the 20.00-foot wide alley located in the above mentioned Block 105.

C-1 to P-D

All that certain real property situate in a portion of the Southeast quarter of Section 29, and the Southwest quarter of Section 28, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

All of Lots 5 through 16 and Lots 20 through 28 in City of Modesto Block 114 as shown on map of "Town of Modesto" filed in the Office of the Recorder of Stanislaus County, California, on April 18, 1903, in Volume 1 of Maps at page 82.

Including one-half of 80.00-foot wide 14th, 15th, and G Streets immediately adjacent to the above described lots.

Including also all of the 20.00-foot wide alley located between Lots 5 through 13 and Lots 20 through 28 in above mentioned Block 114.

Including also that 10.00-foot half-width portion of the alley located immediately adjacent to Lots 14, 15, and 16 in the above mentioned Block 114.

SECTION 2. USES. The following uses shall be permitted in said P-D(389) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

- Newspaper facilities including office space and production area
- Community service functions
- Storage
- Off-street parking as shown on the approved plans

SECTION 3. ZONING MAP. Sections 28-3-9 and 29-3-9 of the Zoning Map of the City of Modesto are 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 26 day of November, 1985, by Councilmember Sutton, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Councilmembers Lang, McGrath, Muratore, Patterson, Sutton, Acting Mayor Whiteside

NOES: Councilmembers: None.

ABSENT: Councilmembers: Mayor Mensinger.

APPROVED: Carol Whiteside  
CAROL/WHITESIDE, Acting Mayor  
G.

ATTEST:

By Norrine Coyle  
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto  
STAN T. YAMAMOTO, Acting City Attorney

APPROVED AS TO DESCRIPTION:

By Alithan Probst  
Department of Planning and Community  
Development

Ordinance 2387 C.S.  
Exhibit A – Map

Oversized map folded and bound within Ordinance Book. Unable to  
remove safely for scanning.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 17th day of December, 1985, Councilmember Sutton moved its final adoption, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

APPROVED *Reggie Mensinger*  
MAYOR REGGIE MENSINGER

ATTEST: *Norrine Coyle*  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: January 16, 1986

ORDINANCE NO. 2388 -C.S.

AN ORDINANCE AMENDING SECTION 10-2.603 OF ARTICLE 6 OF CHAPTER 2 OF TITLE X AND SECTION 10-2.703 OF ARTICLE 7 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE RELATING TO THE REVIEW OF RESIDENTIAL PLOT PLANS.

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

SECTION 1. AMENDMENT OF CODE. Section 10-2.603 of Article 6 of Chapter 2 of Title X of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 10-2.603. PLOT PLAN USES.

- (a) Any development consisting of two (2) or more residential buildings per lot or five (5) or more dwelling units shall be subject to plot plan approval by the Commission.
- (b) A dish-type satellite antenna as noted under plot plan uses in the R-1 zone, subject to plot plan approval by the Board.

SECTION 2. AMENDMENT OF CODE. Section 10-2.703 of Article 7 of Chapter 2 of Title X of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 10-2.703. PLOT PLAN USES.

- (a) Any development consisting of two (2) or more residential buildings per lot or five (5) or more dwelling units shall be subject to plot plan approval by the Commission.
- (b) A dish-type satellite antenna as noted under plot plan uses in the R-1 zone, subject to plot plan approval by the Board.

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 26 day of November, 1985, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Councilmembers Lang, McGrath, Muratore, Patterson, Sutton, Acting Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Mensinger

APPROVED: Carol Whiteside  
G.

ATTEST: CAROL/WHITESIDE, Acting Mayor

By Norrine Coyle  
NORRINE COYLE, City Clerk  
(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto  
STAN T. YAMAMOTO, Acting 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 17th day of December, 1985, Councilmember Sutton moved its final adoption, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED *Peggy Mensinger*  
MAYOR PEGGY MENSINGER

ATTEST: *Norrine Coyle*  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: January 16, 1986

ORDINANCE NO. 2389-C.S.

AN ORDINANCE AMENDING SECTION 10-2.1102 OF ARTICLE 11 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE TO ADD FORTUNE TELLING TO THE LIST OF USES PERMITTED IN THE GENERAL COMMERCIAL ZONE, C-2.

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

SECTION 1. AMENDMENT OF CODE. Section 10-2.1102 of Article 11 of Chapter 2 of Title X of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 10-2.1102. PERMITTED USES.

The following are permitted uses:

- (a) Any permitted use in the C-1 zone.
- (b) Appliance store.
- (c) Armored car service.
- (d) Automobile and recreational vehicle dealer.
- (e) Automobile repair (excluding painting, body and fender work, machining and tire rebuilding, except that incidental to general repair).
- (f) Bar, cocktail lounge.
- (g) Broadcasting studio (radio or television).
- (h) Carnival.
- (i) Circus.
- (j) Department store.
- (k) Electric motor shop.
- (l) Exterminating service.
- (m) Farm supply store.

- (n) Floor covering store.
- (o) Fortune Telling.
- (p) Janitorial service.
- (q) Laboratory (research and testing).
- (r) Locksmith shop.
- (s) Medical and orthopedic supply store.
- (t) Printing shop.
- (u) Recreation services (bowling alley, ice or roller skating rink, racquetball club or similar indoor uses).
- (v) Security agency.
- (w) Sign painting shop.
- (x) Taxicab office, repair and storage (excluding painting and body and fender work, except that incidental to general repair).
- (y) Taxidermist shop.
- (z) Theatre (indoor).
- (aa) Tire, battery and vehicle accessory store (excluding tire rebuilding, recapping and retreading).
- (ab) Upholstery and furniture repair shop.

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 26 day of November, 1985, by Councilmember Lang, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Councilmembers Lang, McGrath, Muratore, Patterson, Sutton, Acting Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Mensinger

APPROVED: Carol Whiteside  
~~PROX MENSINGER, Mayor XXXXX~~  
CAROL/WHITESIDE, Acting Mayor  
G. 2

ATTEST:

By Norrine Coyle  
NORRINE COYLE, City Clerk  
(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto  
STAN T. YAMAMOTO, Acting 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 17th day of December, 1985, Councilmember Sutton moved its final adoption, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED

Reggie Mensinger  
MAYOR REGIE MENSINGER

ATTEST:

Norrine Coyle  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: January 16, 1986

ORDINANCE NO. 2390 -C.S.

AN ORDINANCE ADDING CHAPTER 11 ENTITLED "FORTUNE-TELLING" TO TITLE IV OF THE MODESTO MUNICIPAL CODE AND REPEALING SECTION 4-2.32 OF CHAPTER 2 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO FORTUNE-TELLING.

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

SECTION 1. AMENDMENT OF CODE. Chapter 11 entitled "Fortune-Telling" is hereby added to Title IV of the Modesto Municipal Code to read as follows:

CHAPTER 11 - FORTUNE-TELLING

ARTICLE 1. GENERAL PROVISIONS

SEC. 4-11.101. LEGISLATIVE PURPOSE.

The purpose and intent of the City Council in enacting this Chapter is to protect the health, welfare, and safety of the public at large and patrons of fortune-telling establishments by ensuring that the services provided by those establishments are, to the greatest extent possible, free from fraud, corruption, vice, trickery and other criminal influences. It is also the purpose and intent of the City Council to minimize the impact upon local neighborhoods caused by concentrations of fortune-telling establishments in localized areas and to provide that such establishments are located in areas designated to serve broader portions of the community.

SEC. 4-11.102. DEFINITIONS.

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

- (a) "Applicant": A person who is required to file an application for a permit under this chapter, including a fortune-teller, individual owner, managing partner, managing officer of a corporation, or any other operator, manager or employee of a fortune-telling establishment.
- (b) "For Pay": a fee, reward, donation, loan or receipt of anything of value.

- (c) "Fortune-Telling": shall mean telling of fortunes, forecasting of futures, or furnishing of any information not otherwise obtainable by the ordinary process of knowledge, by means of any occult, psychic power, faculty, force, clairvoyance, clairaudience, cartomancy, psychology, psychometry, phrenology, spirits, tea leaves or other such reading, mediumship, seership, prophecy, augury, astrology, palmistry, necromancy, mind-reading, telepathy, or other craft art, science, cards, talisman, charm, potion, magnetism, magnetized article or substance, gypsy cunning or foresight, crystal gazing, oriental mysteries or magic, of any kind or nature.
- (d) "Fortune-Telling Establishment": Any establishment having a fixed place of business where any person, firm, association or corporation engages in, or carries on, or permits to be engaged in or carried on any of the activities defined in subsection (c) of this section.
- (e) "Fortune-Teller": Any person who, for any consideration whatsoever, engages in the practice of fortune-telling as herein defined unless otherwise excepted.
- (f) "Person": Any individual, partnership, copartnership, firm, association, joint stock company, corporation, or combination of the above in whatever form or character.

SEC. 4-11.103. PERMIT REQUIRED.

- (a) It shall be unlawful and a misdemeanor for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City of Modesto, the operation of a fortune-telling establishment without first having obtained a permit from the City of Modesto as herein required. A fortune-telling establishment permit shall include the right of the individual permittee to practice fortune-telling at such an establishment.
- (b) It shall be unlawful and a misdemeanor for any person to act as a fortune-teller in the City of Modesto without first having obtained a permit from the City of Modesto as herein required.
- (c) It shall be unlawful and a misdemeanor for any person to act as a fortune-teller in other than a duly licensed fortune-telling establishment.

## ARTICLE 2. APPLICATIONS AND PERMITS

### SEC. 4-11.201. FILING AND FEE PROVISIONS.

- (a) Every person who proposes to maintain, operate, or conduct a fortune-telling establishment in the City of Modesto shall file an application with the Chief of Police upon a form provided by the City of Modesto and shall pay a filing fee of One Hundred Sixty-Five and no/100ths Dollars (\$165.00), which shall not be refundable, and which may be amended by the City Council from time to time by resolution and which shall be on file with the City Clerk and the Chief of Police.
- (b) Every person who proposes to engage in the practice of fortune-telling shall file an application with the Chief of Police upon a form provided by the City of Modesto and shall pay a filing fee of Thirty-Five and no/100ths Dollars (\$35.00), which shall not be refundable, and which may be amended by the City Council from time to time by resolution and which shall be on file with the City Clerk and the Chief of Police.
- (c) A permit when issued shall state whether it is for a fortune-telling establishment or for a fortune-teller.
- (d) Fortune-telling establishment applicant(s) must post with the City Clerk, a surety bond in the principal sum amount of \$10,000.00 executed as surety by a good and sufficient corporate surety authorized to do a surety business in the State of California and as a principal by the applicant. The form of the bond shall be approved by the City Attorney and shall be given to insure good-faith and fair dealing on the part of the applicant and as a guarantee of indemnity for any and all loss, damage, theft, or other unfair dealings suffered by any patron of the applicant during the term of the permit.

### SEC. 4-11.202. APPLICATIONS.

- (a) Every application submitted to the Chief of Police shall include the following information:

- (1) The type of permit application is made.
- (2) The name, including all aliases, by which the applicant is or has ever been known.
- (3) The applicant's present residence address and the residence addresses and dates thereof for the three (3) years immediately preceding the date of the application.
- (4) Written proof that the applicant is at least eighteen (18) years of age.
- (5) The applicant's height, weight, color of eyes and hair.
- (6) The business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application.
- (7) The applicant's social security number and driver's license number or California identification card number.
- (8) The fortune-telling or similar business license or permit history of the applicant including:
  - (aa) Whether such person has previously operated in this or another city or state under license or permit.
  - (ab) Whether such person has had such license or permit revoked or suspended and the reason therefor.
  - (ac) The business activity or occupation of such person subsequent to such action of suspension or revocation.
- (9) Whether the applicant has ever been convicted of theft, fraud or crimes involving moral turpitude or any felony involving such offenses unless a period of not less than five (5) years shall have elapsed since the date of conviction or the date of release from confinement for such offenses, whichever is later.
- (10) The location at which the permittee is to be employed.

- (11) Every application for a permit to operate a fortune-telling establishment shall also set forth the exact nature of the services to be provided and the proposed place of business and facilities therefor.
- (12) Every application for a permit to operate a fortune-telling establishment shall give the name and address of the owners and lessors of the real property upon or in which the business is to be conducted.
- (13) If an applicant is a corporation, the application shall also set forth the name of the corporation exactly as shown in its articles of incorporation together with the names and residence addresses of each of the officers, directors, and each stockholder holding five percent (5%) or more of the stock of the corporation.

The corporation shall designate one of its officers to act as the responsible managing officer of the fortune-telling establishment. Such officer shall complete the application form as an individual applicant under this Chapter.

- (14) If the applicant is a partnership, the application shall also set forth the name and residence address of each of the partners, including limited partners.

The partnership shall designate one of the partners to act as the managing partner of the fortune-telling establishment. Such a partner shall complete the application form as an individual applicant under this Chapter. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply.

- (15) Such other identification and information necessary to disclose the truth of matters hereinbefore specified as required to be set forth in the application.
- (16) Every application for a permit shall be verified by affidavit, or by declaration or certification under penalty of perjury as provided in the California Code of Civil Procedure.

SEC. 4-11.203 REFERRAL OF APPLICATION TO OTHER DEPARTMENTS.

- (a) All applications for permits for fortune-telling establishments shall be referred by the Chief of Police to the Director of Planning and Community Development, who shall make written recommendations to the Chief of Police concerning compliance with the laws and ordinances that he or she administers and enforces.
- (b) The Chief of Police shall require an applicant to have his or her fingerprints taken and may require such additional information as may be necessary to establish the identification of the applicant.

SEC. 4-11.204. ISSUANCE REFUSAL, REVOCATION, OR SUSPENSION OF PERMIT.

- (a) The Chief of Police shall issue all permits after the application therefor has been reviewed and approved. For good cause the Chief of Police may refuse, revoke, or suspend a permit for a fortune-telling establishment, or for any other applicant or permittee for any of the following reasons, which reasons shall be set forth fully in writing and delivered to the applicant or permittee, as is set forth in (b) below.
  - (1) That the operation as proposed by the applicant, if permitted, will not or does not comply with all applicable laws, including but not limited to ordinances relating to planning, zoning, and other applicable laws and regulations which the departments named in this Chapter have a responsibility to administer, and particularly the provisions of this chapter related to minimum distances between fortune-telling establishments.
  - (2) That the applicant or any other person who will be directly engaged in the management and operation of a fortune-telling establishment has been convicted of any of the offenses enumerated in paragraph (a) (9) of Section 4-11.202, or convicted of an offense outside the State of California that would have constituted any of the described offenses if committed within the State of California.

A permit may be issued to any person convicted of any of the offenses enumerated in paragraph (a)(9) of Section 4-11.202 if such conviction occurred more

occurred more than five (5) years prior to the date of the application.

- (3) That the Chief of Police is not satisfied the moral character of the applicant is such that the applicant's employment by or maintenance and operation of a fortune-telling establishment will not adversely affect the public interest, morals or welfare, or that he is not satisfied the moral character of any person who is an owner, partner, director of a corporation, stockholder holding five (5) percent or more of the stock of the corporation, or lessor or owner of the real property is such that the maintenance and operation of a fortune-telling establishment will not adversely affect the public interest, morals or welfare.
  - (4) That any of the provisions of this chapter have been violated or that the permittee or fortune-teller is engaged in any conduct at a fortune-telling establishment which violates any State or local law or ordinance, or that such permittee or any other person acting on the permittee's behalf has refused to allow any duly authorized building inspector or police officer of the City of Modesto to inspect the premises or the operations therein pursuant to the provisions of this Chapter.
  - (5) That the application contains any false or misleading information.
- (b) Whenever it appears to the Chief of Police that an application should be denied under (a)(1-5) above, or that a permittee is in violation of any of the provisions of this chapter, he shall have the authority to deny the application or to summarily suspend the permit. The suspension order shall also constitute notice of proposed revocation.

- (1) The applicant or permittee shall be notified that he or she shall have ten (10) days from the date of such notice to request in writing a hearing before the Chief of Police or his designee to appeal the permit denial or to determine whether the permit should be revoked. If the applicant or permittee fails to request in writing such hearing before the Chief of Police within said period, the application will be deemed denied or the permit may be revoked.
- (2) In situations other than a summary suspension, if it appears to the Chief of Police that any permittee is in violation of any of the provisions of this chapter, or that a permit was obtained by misrepresentation, the permit may be revoked. Written notice of such proposed revocation shall be given by depositing in the United States mail a notice directed to said permittee at the address given in the application. The notice shall set forth the reasons for the proposed revocation and shall notify the permittee that he or she has ten (10) days in which to file a written request for a hearing before the Chief of Police.
- (3) In case of an application denial, or a summary suspension or notice of revocation, the Chief of Police shall provide a hearing within fifteen (15) days after receipt of a written request from the permittee, at which hearing the permittee may present oral or written evidence why the application should be granted or why the permit should not be revoked. Notice of the time and place of such hearing shall be given to the applicant or permittee by depositing it in the United States mail at least ten (10) days before the hearing to the address given in the application.
- (4) If the application is denied or the permit is revoked, written notice shall be given to the applicant or permittee within twenty-five (25) days of the close of the hearing. Notice shall be given by the United States mail. The permittee will be presumed to have received said notice within five (5) days after mailing. It shall be unlawful for any person whose application is denied or whose permit is revoked under this section to operate a fortune-telling establishment, practice

fortune-telling or be employed by same in the City of Modesto unless the City Council on appeal, grants or reinstates the permit.

- (5) Any person who operates a fortune-telling establishment or practices fortune-telling after denial of an application, summary suspension of a permit or after revocation of a permit is guilty of a misdemeanor.
- (6) Any person whose permit is denied or revoked may not apply for a permit to operate a fortune-telling establishment or practice fortune-telling in the City of Modesto for a period of one (1) year from the date of such revocation.
- (7) Any applicant or holder of a permit whose application is denied or whose license is revoked under this chapter shall have the right, after receiving notice in writing of the denial or revocation, to file a written appeal to the City Council pursuant to the provisions of Chapter 4 of Title I of this Code.

#### SEC. 4-11.205. TERM OF PERMIT.

Permits issued under the provisions of Section 4-11.204 of this chapter shall be valid for a period of one (1) year from the date of issuance and may be renewable annually.

- (a) An application for the renewal of a fortune-telling establishment permit shall be accompanied by a filing fee of Eighty-Five and no/100ths Dollars (\$85.00) which shall not be refundable, and which may be amended from time to time by the City Council by resolution and which shall be on file with the City Clerk and Chief of Police, and shall contain the same information as in paragraph (a) of Section 4-11.202, excluding therefrom subparagraphs (4), (6), (7), and (8).
- (b) An application for the renewal of a fortune-teller permit shall be accompanied by a filing fee of Twenty and no/100ths Dollars (\$20.00) which shall not be refundable, and which may be amended from time to time by the City Council by resolution and which shall be on file with the City Clerk and Chief of Police, and shall contain the same

information as in paragraph (a) of Section 4-11.202, excluding therefrom subparagraphs (4), (6), (7), and (8).

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

#### SEC. 4-11.206. SALE, TRANSFER OR CHANGE OF LOCATION.

Upon the sale, transfer, or relocation of a fortune-telling establishment the permit therefor shall be null and void; provided, however, that upon the death or incapacity of the permittee, a fortune-telling establishment may continue in business for a reasonable period of time, not to exceed three (3) months, to allow for an orderly transfer of the business. No permittee shall operate under any name or conduct his business under any designation or at any location not specified in the permit. Any fortune-teller may have a valid and unexpired permit transferred for use at any other fortune-telling establishment upon written application to the Chief of Police accompanied by a non-refundable Thirty-Five and no/100ths Dollar (\$35.00) transfer fee.

### ARTICLE 3. FACILITIES AND OPERATION.

#### SEC. 4-11.301. OPERATING REQUIREMENTS.

- (a) No fortune-telling establishment or any portion of a building in which the fortune-telling establishment is located, shall be used for residential or sleeping purposes.
- (b) Fortune-telling establishments may be open for operation only between the hours of 7:00 a.m. and 12:01 a.m., inclusive, of each day, or as otherwise permitted by applicable zoning regulations.
- (c) No fortune-telling establishment shall be located closer than 1000 feet to any other licensed fortune-telling establishment.

#### SEC. 4-11.302. REGISTER AND PERMIT NUMBER OF EMPLOYEES.

Every permittee of a fortune-telling establishment must maintain a register of all fortune-tellers employed on the premises and their

permit numbers. Such register shall be available for inspection during regular business hours by any police officer of the City of Modesto.

SEC. 4-11.303. DISPLAY OF PERMIT AND IDENTIFICATION CARDS.

- (a) Every fortune-telling establishment shall display at all times during business hours the permit issued pursuant to the provisions of this Chapter for such establishment in a conspicuous place so that the same may be readily seen by all persons entering the establishment.
- (b) The Chief of Police shall provide each fortune-teller, or other employee granted a permit with an identification card which shall contain a photograph and the name and permit number of said fortune-teller or employee which must be displayed at all times during the hours of employment.

SEC. 4-11.304. EMPLOYMENT OF PERSONS UNDER THE AGE OF EIGHTEEN (18) PROHIBITED.

It shall be unlawful for any individual owner, managing partner, managing officer, or other person in charge of any fortune-telling establishment to employ any person who is not at least eighteen (18) years of age.

SEC. 4-11.305. SERVICES AND RATE SIGN.

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

SEC. 4-11.306. INSPECTION SIGN.

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

## ARTICLE 4. ENFORCEMENT

### SEC. 4-11.401. INSPECTION.

The Chief of Police shall from time to time cause an inspection to be made of the premises of each fortune-telling establishment in the City of Modesto for the purpose of determining compliance with the provisions of this Chapter.

### SEC. 4-11.402. EMPLOYMENT OF PERSONS WITHOUT PERMITS UNLAWFUL.

It shall be unlawful for any owner, operator, manager, or permittee in charge of or in control of a fortune-telling establishment to employ any person who is not in possession of a valid, unrevoked permit to practice fortune-telling within a fortune-telling establishment.

### SEC. 4-11.403. TIME LIMIT FOR FILING APPLICATION FOR PERMIT.

All persons who possess an outstanding business license heretofore issued for the operation of a fortune-telling establishment must apply for and obtain a permit within ninety (90) days of the effective date of this Chapter. Failure to do so and continued operation of a fortune-telling establishment or continued employment as a fortune-teller of such an establishment without a permit shall constitute a violation of this Chapter.

### SEC. 4-11.404. EXCEPTIONS.

- (a) The provisions of this Section shall not apply to any person solely by reason of the fact that he or she is engaged in the business of entertaining the public by demonstrations of mind-reading, mental telepathy, thought conveyance, or the giving of horoscopic readings, at public places and in the presence of and within the hearing of other persons and at which no questions are answered, as part of such entertainment, except in a manner to permit all persons present at such public place to hear such answers.
- (b) No person shall be required to pay any fee or take out any permit for conducting or participating in any religious ceremony or service when such person holds a certificate of ordination as a minister, missionary, medium, healer, or clairvoyant, hereinafter collectively referred to as a minister, from any bona fide church or religious

association maintaining a church and holding regular services and having a creed or set of religious principles that is recognized by all churches of like faith; provided that:

- (1) Except as provided in (3) hereof, the fees, gratuities, emoluments, and profits thereof shall be regularly accounted for and paid solely to or for the benefit of the bona fide church or religious association, as defined in this subsection (b).
- (2) The minister holding a certificate of ordination from such bona fide church or religious association, as defined in this subsection (b), shall file with the Chief of Police a certified copy of the minister's certificate of ordination with the minister's name, age, street address, and phone number in this City where the activity set forth in this subsection (b) is to be conducted.
- (3) Such bona fide church or religious association, as defined in this subsection (b), may pay to its ministers a salary or compensation based upon a percentage basis, pursuant to an agreement between the church and the minister which is embodied in a resolution and transcribed in the minutes of such church or religious association.

#### SEC. 4-11.405. SEVERABILITY.

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

#### SEC. 4-11.406. PENALTY PROVISIONS.

A violation of any provision of this Chapter shall be punishable as an infraction as set forth in Section 1-2.01 of this Code, except where provisions of this Chapter specifically make such violation a misdemeanor.

SECTION 2. REPEALS. Section 4-2.32 of Chapter 2 of Title IV of the Modesto Municipal Code is hereby repealed.

SECTION 3. EFFECTIVE DATE. Pursuant to Section 716 of the Charter of the City of Modesto, the City Council declares this ordinance to be an emergency ordinance and shall go into effect and be in full force and operation as of the date of its adoption. It is necessary for immediate preservation of the public peace, health, safety and welfare in that a recent decision of the California Supreme Court (Spiritual Psychic Science Church of Truth, Inc. vs. City of Azusa) declared an ordinance very similar to Modesto Municipal Code Section 4-2.32 unconstitutional and the City of Modesto now needs an ordinance regulating fortune-telling in compliance with the Court's decision.

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 26 day of November, 1985, by Councilmember Sutton, who moved its introduction and adoption which motion being duly seconded by Councilmember Lang, was upon roll call carried by the following vote:

AYES: Councilmembers: Councilmembers Lang, McGrath, Muratore, Patterson, Sutton, Acting Mayor Whiteside

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Mensinger

APPROVED: Carol Whiteside  
~~XXXXXXXXXXXXXXXXXXXX~~  
CAROL WHITESIDE, Acting Mayor

ATTEST:

By Norrine Coyle  
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto  
STAN T. YAMAMOTO, Acting City Attorney



ORDINANCE NO. 2391-C.S.

AN ORDINANCE AMENDING SECTION MAP 19-3-10 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON. (COPPER CREEK SUBDIVISION - JIM PRICE)

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

SECTION 1. ZONING CHANGE. Section 19-3-10 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, and Planned Development Zone, P-D(256), to Planned Development Zone, P-D(392):

P-D(256) to P-D(392)

ALL that certain real property situate in a portion of Parcel "A" as shown on map filed in Book 18 of Parcel Maps, at Page 68, Stanislaus County Records, and lying in the West one-half of Section 19, Township 3 South, Range 10 East, Mount Diablo Base and Meridian, more particularly described as follows:

Beginning at the Northeast corner of Parcel "B" as shown on the above described Parcel Map; thence along the North line of said Parcel "B" North 89°32'14" West 820.56 feet to the Southwest corner of existing P-D(256); thence North 0°27'46" East, 128.00 feet to a Southwest corner of existing P-D(256), said corner being 2.00 feet South and 5.04 feet East of the intersection of the centerlines of proposed 60.00 foot wide Cedar Creek Drive and proposed 50.00 foot wide Pietriana Way; thence North 0°27'46" East, 2.00 feet to the centerline of said Cedar Creek Drive; thence along said centerline, North 89°32'14" West, 5.04 feet to the centerline of said Pietriana Way; thence along the centerline of proposed Pietriana Way, North 0°27'17" East, 45.00 feet to the beginning of a curve, concave to the Southeast, having a radius of 325.00 feet; thence along said curve 144.87 feet, through a central angle of 25°32'21" to a point of reverse curve; thence continuing along a curve concave to the Northwest, having a radius of 325.00 feet, a distance of 147.49 feet through a central angle of 26°00'07"; thence North 48.52 feet to a point on the centerline of Pietriana Way and on the South line of Fara Estates, as recorded in Volume 28 of Maps, at Page 68, Stanislaus County Records; thence South 89°28'16" East along the South line of said Fara Estates, a

distance of 760.77 feet to the Southeast corner of said Fara Estates, said corner also being a point on the West line of a 100.00 foot wide Modesto Irrigation District right-of-way; thence South 0°08'21" West, 150.00 feet; thence South 89°28'16" East, 100.00 feet to a point on the East line of said 100.00 foot wide Modesto Irrigation District right-of-way; thence along said East right-of-way line, South 0°08'21" West, 252.38 feet; thence North 89°32'00" West, 100.00 feet to a point on the West right-of-way line of said 100.00 foot wide Modesto Irrigation District right-of-way; thence South 0°08'21" West, 100.00 feet to the point of beginning.

R-1 to P-D(392)

All the certain real property in a portion of the West one half of Section 19, Township 3 South, Range 10 East, Mount Diablo Base and Meridian, lying within the City of Modesto, County of Stanislaus, State of California, described as follows:

Parcels "A" and "B" as shown on map filed in Book 18 of Parcel Maps, at page 68, Stanislaus County Records.

Including also all of that portion of Claus Road located immediately adjacent to and between the above described parcels and the west line of said Section 19.

Excepting therefrom that portion of said Parcel "A" described as follows:

Beginning at the Northeast corner of Parcel "B" as shown on the above described Parcel Map; thence along the North line of said Parcel "B" North 89°32'14" West 820.56 feet to the Southwest corner of existing P-D(256); thence North 0°27'46" East, 128.00 feet to a Southwest corner of existing P-D(256), said corner being 2.00 feet South and 5.04 feet East of the intersection of the centerlines of proposed 60.00 foot wide Cedar Creek Drive and proposed 50.00 foot wide Pietriana Way; thence North 0°27'46" East, 2.00 feet to the centerline of said Cedar Creek Drive; thence along said centerline, North 89°32'14" West, 5.04 feet to the centerline of said Pietriana Way; thence along the centerline of proposed Pietriana Way, North 0°27'17" East, 45.00 feet to the beginning of a curve, concave to the Southeast, having a radius of 325.00 feet; thence along said curve 144.87 feet, through a central angle of 25°32'21" to a point of reverse curve; thence continuing along a curve concave to the Northwest, having a radius of 325.00 feet, a distance of 147.49 feet through a central angle of 26°00'07"; thence North

48.52 feet to a point on the centerline of Pietriana Way and on the South line of Fara Estates, as recorded in Volume 28 of Maps, at Page 68, Stanislaus County Records; thence South 89°28'16" East along the South line of said Fara Estates, a distance of 760.77 feet to the Southeast corner of said Fara Estates, said corner also being a point on the West line of a 100.00 foot wide Modesto Irrigation District right-of-way; thence South 0°08'21" West, 150.00 feet; thence South 89°28'16" East, 100.00 feet to a point on the East line of said 100.00 foot wide Modesto Irrigation District right-of-way; thence along said East right-of-way line, South 0°08'21" West, 252.38 feet; thence North 89°32'00" West, 100.00 feet to a point on the West right-of-way line of said 100.00 foot wide Modesto Irrigation District right-of-way; thence South 0°08'21" West, 100.00 feet to the point of beginning.

SECTION 2. USES. The following uses shall be permitted in said P-D(392) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. Patio homes
2. Custom homes conforming to the R-1 zone
3. Passive and active recreational amenities
4. Lake

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of December, 1985, by Councilmember Whiteside, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Muratore, Sutton, Whiteside, Mayor Mensinger

NOES: Councilmembers: Lang, McGrath, Patterson

ABSENT: Councilmembers: None

APPROVED: *Peggy Mensinger*  
PEGGY MENSINGER, Mayor

ATTEST:

By *Norrine Coyle*  
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By *Stan T. Yamamoto*  
STAN T. YAMAMOTO, Acting City Attorney

APPROVED AS TO DESCRIPTION:

By *William Bruchde*  
Department of Planning and  
Community Development

**Ordinance 2391 C.S.**  
**Exhibit A – Map**

Oversized map folded and bound within Ordinance Book. Unable to  
remove safely for scanning.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 17th day of December, 1985, Councilmember Whiteside moved its final adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Muratore, Sutton, Whiteside, Mayor Mensinger

NOES: Councilmembers: Lang, McGrath, Patterson

ABSENT: Councilmembers: None

APPROVED Peggy Mensinger  
MAYOR PEGGY MENSINGER

ATTEST: Norrine Coyle  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: January 16, 1986

ORDINANCE NO. 2392-C.S.

AN ORDINANCE AMENDING SECTION MAP 24-3-9 OF THE ZONING MAP TO REZONE FROM P-D(218) TO R-1, FROM R-2 TO P-D(218), AND FROM R-2 TO R-1, PROPERTY LOCATED NORTH OF SCENIC DRIVE, WEST OF CLAUS ROAD. (LESLIE P. BUSICK)

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

SECTION 1. ZONING CHANGE. Section 24-3-9 of the Zoning Map is hereby amended to rezone the following described property from Planned Development Zone, P-D(218), to Low Density Residential Zone, R-1, from Medium Density Residential Zone, R-2, to Planned Development Zone, P-D(218), and from Medium Density Residential Zone, R-2, to Low Density Residential Zone, R-1:

P-D(218) to R-1

ALL that certain real property being a portion of Parcel "D" as filed January 22, 1980 in Book 30 of Parcel Maps, at Page 11, Stanislaus County Records, and lying in a portion of the East half of Section 24, Township 3 South, Range 9 East, Mount Diablo Base and Meridian described as follows:

BEGINNING at the Northwest corner of said Parcel "D", said corner also being the Northeast corner of Lot 32, Block 1711 of Springcreek No. 2, as shown on the map filed in Book 26 of Maps, Page 64, Stanislaus County Records; thence North 82°04'18" East, along the North line of said Parcel "D", a distance of 425.45 feet; thence South 0°01'59" East, along the Southerly prolongation of the Easterly right-of-way line of Glenbrook Way, a distance of 262.49 feet; thence South 82°04'18" West, 425.67 feet to a point on the West line of Parcel "D"; thence North 0°00'48" East, along said West line, a distance of 262.52 feet to the point of beginning.

Containing: 2.54 acres.

Rezoning R-2 to P-D(218)

ALL that certain real property being a portion of Parcel "D" as filed January 22, 1980 in Book 30 of Parcel Maps, at Page 11, Stanislaus County Records, and lying in a portion of the East half of Section 24, Township 3 South, Range 9 East, Mount Diablo Base and Meridian described as follows:

COMMENCING at the Southeast corner of GLENBROOK EAST Subdivision, as recorded in Volume 28 of Maps, at Page 47, Stanislaus County Records; thence South 0°01'59" East, along the Southerly prolongation of the East line of said GLENBROOK EAST Subdivision a distance of 262.49 feet to the true point of beginning of this description; thence continuing South 0°01'59" East, along said Southerly prolongation, a distance of 151.55 feet; thence East, 84.57 feet to a point on the cul-de-sac of Cedar Creek Court; thence on a radial line South 53°07'48" East, 50.00 feet to the center of the cul-de-sac of Cedar Creek Court; thence west along the centerline prolongation of Cedar Creek Court, a distance of 50.00 feet to a point on the Westerly right-of-way line of Cedar Creek Court; thence continuing west along the centerline of a private street (Springcreek Drive) a distance of 102.55 feet to the beginning of a curve concave to the South having a radius of 100.00 feet; thence 80.36 feet along said curve, and the centerline of Springcreek Drive through a central angle of 46°02'28" to an intersection with the Southerly prolongation of the Easterly line of Glenbrook Way; thence North 0°01'59" West, along said Southerly prolongation 198.21 feet; thence North 82°04'18" East, 100.96 feet to the point of beginning.

Containing: 0.47 acres

Rezoning R-2 to R-1

ALL that certain property being a portion of Parcel "D" as filed January 22, 1980 in Book 30 of Parcel Maps, at Page 11, Stanislaus County Records, and lying in a portion of the East half of Section 24, Township 3 South, Range 9 East, Mount Diablo Base and Meridian described as follows:

BEGINNING at the Southeast corner of GLENBROOK EAST Subdivision as recorded in Book 28 of Maps, at Page 47, Stanislaus County Records; thence South 0°01'59" East, along the Southerly prolongation of the Easterly boundary of said Subdivision a distance of 262.49 feet; thence South 82°04'18" West, 100.96 feet to the Southerly prolongation of the Easterly right-of-way line of Glenbrook Way; thence North 0°01'59" West, along said Southerly prolongation a distance of 262.49 feet to the South line of said subdivision; thence North 82°04'18" East, along said South line, a distance of 100.96 feet to the point of beginning.

Containing: 0.60 acres.

and

SECTION 2. USES. The following uses shall be permitted in said P-D(218) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

One and two-story townhouses.

Common area and recreational facilities.

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 3 day of December, 1985, by Councilmember Sutton, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger.

NOES: Councilmembers: None.

ABSENT: Councilmembers: None.

APPROVED:

Peggy Mensinger  
PEGGY MENSINGER, Mayor

ATTEST:

By Norrine Coyle  
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto  
STAN T. YAMAMOTO, Acting City Attorney

APPROVED AS TO DESCRIPTION:

By William D. ...  
Department of Planning and  
Community Development

Ordinance 2392 C.S.  
Exhibit A – Map

Oversized map folded and bound within Ordinance Book. Unable to  
remove safely for scanning.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 17th day of December, 19 85, Councilmember Sutton moved its final adoption, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and the ordinance adopted by the following vote:

- AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger
- NOES: Councilmembers: None
- ABSENT: Councilmembers: None

APPROVED *Peggy Mensinger*  
MAYOR PEGGY MENSINGER

ATTEST: *Norrine Coyle*  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: January 16, 1986

ORDINANCE NO. 2393 -C.S.

AN ORDINANCE AMENDING SECTION 2 OF ORDINANCE NO. 2338-C.S. ENTITLED "AN ORDINANCE AMENDING SECTION MAP 7-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON. (RESOURCE DEVELOPMENT)".

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

SECTION 1. AMENDMENT OF ORDINANCE NO. 2338-C.S. Section 2 of Ordinance No. 2338-C.S. is hereby amended to read as follows:

"SECTION 2. USES. The following uses shall be permitted in said P-D(378) Zone, subject to securing approval of the Secretary of the Planning Commission if the plan for construction conforms in principle to the approved plan, as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by section 10-2.1709(a) or (b) of the Modesto Municipal Code.

1. Mini-warehouse storage complex
2. Financial institution
3. Child care center"

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 3 day of December, 1985,  
by Councilmember Lang, who moved its introduction and passage to  
print, which motion being duly seconded by Councilmember Whiteside,  
was upon roll call carried and ordered printed and published by the following  
vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton,  
Whiteside, Mayor Mensinger.

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: Peggy Mensinger  
PEGGY MENSINGER, Mayor

ATTEST: Norrine Coyle  
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Stan T. Yamamoto  
STAN T. YAMAMOTO, Acting 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 17th day of December, 1985, Councilmember Sutton moved its final adoption, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and the ordinance adopted by the following vote:

- AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger
- NOES: Councilmembers: None
- ABSENT: Councilmembers: None

APPROVED Peggy Mensinger  
MAYOR PEGGY MENSINGER

ATTEST: Norrine Coyle  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: January 16, 1986

ORDINANCE NO. 2394 -C.S.

AN ORDINANCE AMENDING SECTION 3-1.107 OF ARTICLE 1 OF CHAPTER 1 OF TITLE III OF THE MODESTO MUNICIPAL CODE RELATING TO AUTOMATIC SPRINKLER SYSTEMS.

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

SECTION 1. AMENDMENT OF CODE. Section 3-1.107 of Article 1 of Chapter 1 of Title III of the Modesto Municipal Code is hereby amended to read as follows:

SEC. 3-1.107. AUTOMATIC SPRINKLER SYSTEMS.

That Section 10.309 of said Fire Code be amended to read as follows:

Section (h) is hereby added to Section 10.309 of said Fire Code to read as follows:

(h) New Construction.

1. The installation of an approved automatic sprinkler system shall be required in all buildings and structures, hereafter constructed, notwithstanding the use or occupancy thereof, where:
  - A. The total floor area under one roof exceeds five thousand (5,000) square feet, except for:
    - i. Dwellings four (4) units or less.
    - ii. Dwellings of the R-3 occupancy group that are separated by an area separation wall as defined by Section 505(e) of the Building Code.
    - iii. Buildings of occupancy groups A, B, E, H, I, M and R-1 that are separated by an area separation wall of not less than four-hour fire resistive construction as defined by Section 505(e) of the Building Code.

- iv. Open parking garages of Type I fire resistive construction; all in accordance with Chapter 38 of the Uniform Building Code.
- B. The building or structure is four (4) or more stories or exceeds fifty feet (50') in height as in Section 409 of the Building Code.
- C. Additions, alterations, or repairs within any twelve (12) month period exceed fifty percent (50%) of the value of an existing building or structure and which result in said building or structure exceeding five thousand (5,000) square feet.

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

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

Council of the City of Modesto held on the 3 day of December, 1985, by Councilmember Whiteside, who moved its introduction and passage to print, which motion being duly seconded by Councilmember McGrath, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: *Peggy Mensinger*  
PEGGY MENSINGER, Mayor

ATTEST:

By *Norrine Coyle*  
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By *Elwyn L. Johnson*  
ELWYN L. JOHNSON, 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 17th day of December, 1985, Councilmember Sutton moved its final adoption, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger

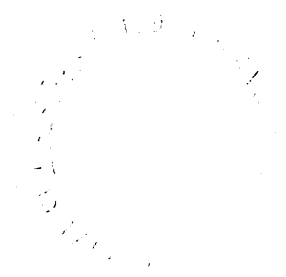
NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED *Peggy Mensinger*  
MAYOR PEGGY MENSINGER

ATTEST: *Norrine Coyle*  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: January 16, 1986



ORDINANCE NO. 2395 -C.S.

AN ORDINANCE AMENDING SECTION MAP 13-3-8 OF THE ZONING MAP TO REZONE FROM PLANNED DEVELOPMENT ZONE, P-D(202), TO PLANNED DEVELOPMENT ZONE, P-D(391), PROPERTY LOCATED ON THE SOUTH SIDE OF WEST RUMBLE ROAD EAST OF SISK ROAD (RICHARD W. JONES, INC.)

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

SECTION 1. ZONING CHANGE. Section 13-3-8 of the Zoning Map is hereby amended to reclassify the following described property from Planned Development Zone, P-D(202), to Planned Development Zone, P-D(391):

P-D(202) To New P-D

All that certain real property situate in a portion of the Northwest Quarter of Section 13, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Parcel 3 as shown on Parcel Map filed March 28, 1978, in Book 26, Page 103 of Parcel Maps in the Office of the County Recorder of Stanislaus County on March 28, 1978.

Including also the southern 30.00 feet of West Rumble Road immediately adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(391) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. A 27-unit, one- and two-story apartment complex.
2. Off-street parking as shown on the approved development plan.

SECTION 3. ZONING MAP. Section Map 13-3-8 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 17 day of December, 1985, by Councilmember Muratore, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Whiteside, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: *Peggy Mensinger*  
PEGGY MENSINGER, Mayor

ATTEST:

By *Norrine Coyle*  
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By *Stan T. Yamamoto*  
STAN T. YAMAMOTO, Acting City Attorney

APPROVED AS TO DESCRIPTION:

By *Altkan Smith*  
Department of Planning and  
Community Development

Ordinance 2395 C.S.  
Exhibit A – Map

Oversized map folded and bound within Ordinance Book. Unable to  
remove safely for scanning.

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 January, 19 86, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and the ordinance adopted by the following vote:

- AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger
- NOES: Councilmembers: None
- ABSENT: Councilmembers: None

APPROVED Peggy Mensinger  
MAYOR PEGGY MENSINGER

ATTEST: Norrine Coyle  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: February 6, 1986

ORDINANCE NO. 2396-C.S.

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

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

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

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

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

<u>NAME OF STREET OR PORTION AFFECTED</u>	<u>DECLARED PRIMA FACIE SPEED LIMIT</u>	<u>DATE SURVEYED</u>
BLUE GUM AVENUE, between Poust and Carpenter Roads	40 miles per hour	December 5, 1984
BOWEN AVENUE, between Tully Road and McHenry Avenue	35 miles per hour	November 15, 1982
BRIGGSMORE AVENUE, between Prescott Road and Tully Road	45 miles per hour	January 27, 1984

BRIGGSMORE AVENUE, (east and westbound) between Tully Road and McHenry Avenue	45 miles per hour	January 27, 1984
BRIGGSMORE AVENUE, (westbound) between Coffee Road and McHenry Avenue	45 miles per hour	January 27, 1984
BRIGGSMORE AVENUE, (east- bound) between McHenry Avenue and 1,000 feet west of Coffee Road	40 miles per hour	November 13, 1982
BRIGGSMORE AVENUE, (eastbound), between a point 1,000 feet west of Coffee Road and Coffee Road	40 miles per hour	January 26, 1984
BRIGGSMORE AVENUE, between Coffee Road and Rose Avenue	45 miles per hour	January 26, 1984
BRIGGSMORE AVENUE, between Rose Avenue and Oakdale Road	45 miles per hour	January 26, 1984
BRIGGSMORE AVENUE, between Oakdale Road and Claus Road	50 miles per hour	January 26, 1984
BRIGHTON AVENUE, between Coffee Road and Locke Road	30 miles per hour	June 15, 1983
CARPENTER ROAD, between Blue Gum Avenue and Woodland Avenue within the City limits	45 miles per hour	February 8, 1984
CARPENTER ROAD, between Woodland Avenue and Maze Boulevard within the City limits	45 miles per hour	June 14, 1984
CARPENTER ROAD, between Maze Boulevard and Paradise Road within the City limits	45 miles per hour	January 26, 1984

CARVER ROAD, between M.I.D. Lateral No. 6 and Brixton Lane within the City limits	40 miles per hour	December 10, 1981
CARVER ROAD, between Brixton Lane and Roseburg Avenue	35 miles per hour	November 15, 1982
CARVER ROAD, between Roseburg Avenue and 9th Street	35 miles per hour	November 13, 1982
CELESTE DRIVE, between Coffee Road and Oakdale Road	30 miles per hour	June 14, 1983
CLAUS ROAD, between M.I.D. Lateral No. 3 and 200' south of Scenic Drive	45 miles per hour	February 3, 1984
COFFEE ROAD, between Mable Avenue and Sylvan Avenue within the City limits	40 miles per hour	June 6, 1981
COFFEE ROAD, between Sylvan Avenue and Floyd Avenue within the City limits	35 miles per hour	January 26, 1984
COFFEE ROAD, between Floyd Avenue and Briggsmore Avenue	35 miles per hour	January 26, 1984
COFFEE ROAD, between Briggsmore Avenue and Scenic Drive	35 miles per hour	January 26, 1984
COLLEGE AVENUE, between Rumble Road and Bowen Avenue	30 miles per hour	March 8, 1984
COLLEGE AVENUE, between Bowen Avenue and Princeton Avenue	35 miles per hour	November 20, 1982
CROWS LANDING ROAD, Blankenburg Avenue to School Avenue, within the City limits	35 miles per hour	June 22, 1983
DALE ROAD, between Pelandale Avenue and Snyder Avenue	50 miles per hour	May 29, 1984
DALE ROAD, between Snyder Avenue and Veneman Avenue	45 miles per hour	May 29, 1984

DALE ROAD, between Veneman Avenue and Standiford Avenue	35 miles per hour	January 26, 1984
EASTRIDGE DRIVE, between Orangeburg Avenue and Scenic Drive	30 miles per hour	May 25, 1983
EICHER AVENUE, between Conant Avenue and Goldie Avenue	30 miles per hour	September 19, 1985
EL VISTA AVENUE, between Scenic Drive and Yosemite Boulevard	35 miles per hour	April 20, 1984
EMERALD AVENUE, between Maze Boulevard and California Avenue within the City limits	35 miles per hour	June 14, 1983
ENCINA AVENUE, between Santa Barbara Avenue and Conejo Avenue	30 miles per hour	June 22, 1983
EVERGREEN AVENUE, between Orangeburg Avenue and Carver Road	35 miles per hour	September 18, 1985
FAIRMONT AVENUE, between Sunrise Avenue and Coffee Road	30 miles per hour	June 15, 1983
FLOYD AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	November 15, 1982
FLOYD AVENUE, between Coffee Road and Oakdale Road	30 miles per hour	June 14, 1983
FRANKLIN STREET, between Maze Boulevard and California Avenue	35 miles per hour	November 20, 1982
GRANGER AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	June 14, 1983
GRANGER AVENUE, between McHenry Avenue and Sunrise Avenue	30 miles per hour	June 14, 1983

KANSAS AVENUE, between Carpenter Road and Emerald Avenue within the City limits	40 miles per hour	July 9, 1981
KANSAS AVENUE, between Emerald Avenue and Eighth Street	35 miles per hour	January 26, 1984
KEARNEY AVENUE, between Glenwood Drive and Coldwell Avenue	30 miles per hour	September 18, 1985
KELLER STREET, between Sylvan Avenue and Rumble Road within the City limits	30 miles per hour	January 26, 1984
LAKEWOOD AVENUE, between Orangeburg Avenue and Scenic Drive	30 miles per hour	September 15, 1983
LA LOMA AVENUE, between Buena Vista and Yosemite Boulevard	35 miles per hour	November 16, 1982
LINCOLN AVENUE, between 650' north of M.I.D. Lateral No. 2 and Yosemite Boulevard	35 miles per hour	December 8, 1984
MABLE AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	September 19, 1985
MERLE AVENUE, between Oakdale Road and Claus Road	45 miles per hour	May 29, 1984
MILLER AVENUE, between La Loma Avenue and El Vista Avenue	35 miles per hour	November 16, 1982
MITCHELL ROAD, between Finch Road and the southerly City limits	50 miles per hour	November 20, 1982
MORRIS AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	November 16, 1982
MT. VERNON DRIVE, between Prescott Road and Carver Road	30 miles per hour	June 14, 1983

MT. VERNON DRIVE, between Carver Road and College Avenue	30 miles per hour	June 23, 1983
NEECE DRIVE, between Tuolumne Boulevard and Rouse Avenue	35 miles per hour	June 14, 1983
NEEDHAM STREET, between 9th and and L Streets	35 miles per hour	June 22, 1983
NORWEGIAN AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	June 14, 1983
OAKDALE ROAD, between Mable Avenue and Sylvan Avenue	50 miles per hour	May 29, 1984
OAKDALE ROAD, between Sylvan Avenue and Floyd Avenue	50 miles per hour	June 15, 1984
OAKDALE ROAD, between Floyd Avenue and Briggsmore Avenue	45 miles per hour	December 8, 1984
OAKDALE ROAD, between Briggsmore Avenue and Scenic Drive	35 miles per hour	January 26, 1984
ORANGEBURG AVENUE, between Briggsmore Avenue and Martin Avenue	30 miles per hour	April 11, 1985
ORANGEBURG AVENUE, between Martin Avenue and McHenry Avenue	40 miles per hour	April 3, 1985
ORANGEBURG AVENUE, between McHenry Avenue and Coffee Road	40 miles per hour	April 2, 1985
ORANGEBURG AVENUE, between Coffee Road and Rose Avenue	35 miles per hour	December 9, 1981
ORANGEBURG AVENUE, between Rose Avenue and Oakdale Road	35 miles per hour	January 27, 1984
ORANGEBURG AVENUE, between Oakdale Road and Lakewood Avenue	35 miles per hour	November 19, 1984

ORANGEBURG AVENUE, between Lakewood Avenue and Claus Road	35 miles per hour	December 6, 1984
PARADISE ROAD, between Vernon Avenue and Franklin Street within the City limits	35 miles per hour	September 24, 1984
PARADISE ROAD, between Franklin Street and Washington Street	30 miles per hour	May 29, 1984
PRESCOTT ROAD, between Rumble Road and Briggsmore Avenue	35 miles per hour	January 26, 1984
PRINCETON AVENUE, between Tully Road and College Avenue	25 miles per hour	December 8, 1984
RIVERSIDE DRIVE, between Edge- brook Drive and Yosemite Boulevard	35 miles per hour	September 19, 1985
ROSE AVENUE, between Floyd Avenue and Briggsmore Avenue	35 miles per hour	November 16, 1982
ROSE AVENUE, between Briggsmore Avenue and Scenic Drive	35 miles per hour	November 3, 1982
ROSEBURG AVENUE, between Carver Road and Tully Road	30 miles per hour	June 14, 1983
ROSEBURG AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	June 14, 1983
ROSEBURG AVENUE, between McHenry Avenue and Sunrise Avenue	35 miles per hour	June 14, 1983
ROSELAWN AVENUE, between Rouse Avenue and Colorado Avenue	30 miles per hour	March 19, 1982
ROSEMORE AVENUE, between Blue Gum Avenue and Woodland Avenue	35 miles per hour	October 31, 1985
ROUSE AVENUE, between Neece Drive and Colorado Avenue within the City limits	35 miles per hour	September 16, 1982
RUMBLE ROAD, between Sisk Road and Conant Avenue	40 miles per hour	December 9, 1981

RUMBLE ROAD, between Conant Avenue and Tully Road	30 miles per hour	June 14, 1983
RUMBLE ROAD, between Tully Road and McHenry Avenue	35 miles per hour	September 18, 1985
RUMBLE ROAD, between McHenry Avenue and Coffee Road	35 miles per hour	June 14, 1983
SCENIC DRIVE, between Burney Street and Coffee Road	30 miles per hour	June 22, 1983
SCENIC DRIVE, between Coffee Road and Oakdale Road	40 miles per hour	December 9, 1981
SCENIC DRIVE, between Oakdale Road and Lakewood Avenue	45 miles per hour	July 22, 1985
SCENIC DRIVE, between Lakewood Avenue and Lillian Drive	30 miles per hour	October 11, 1983
SCENIC DRIVE, Lillian Drive to Claus Road	40 miles per hour	November 3, 1982
SHARON WAY, between Budd Street and Prescott Road	30 miles per hour	June 7, 1983
SIERRA DRIVE, between G and South 7th Streets	30 miles per hour	June 14, 1983
SISK ROAD, between 600' north of Vintage Drive and Standiford Avenue	40 miles per hour	December 9, 1985
SISK ROAD, between Standiford Avenue and Brenner Way	40 miles per hour	December 9, 1981
SISK ROAD, between Brenner Way and Briggsmore Avenue	40 miles per hour	June 8, 1983
SNYDER AVENUE, between Dale Road and Carver Road	50 miles per hour	August 29, 1985
STANDIFORD AVENUE, between Dale Road and Prescott Road within the City limits	40 miles per hour	December 8, 1984
STANDIFORD AVENUE, between Prescott Road and Carver Road	40 miles per hour	December 8, 1984

STANDIFORD AVENUE, between Carver Road and Tully Road	40 miles per hour	January 26, 1984
STANDIFORD AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	May 18, 1984
SUNRISE AVENUE, between Floyd Avenue and Briggsmore Avenue	35 miles per hour	June 14, 1983
SUNRISE AVENUE, between Briggsmore Avenue and Lucern Avenue	30 miles per hour	December 8, 1984
SURREY AVENUE, between Oakdale Road and Eastridge Drive	30 miles per hour	December 6, 1984
SUTTER AVENUE, between Paradise Road and Robertson Road	30 miles per hour	November 1, 1982
SYCAMORE AVENUE, between Orangeburg Avenue and Griswold Avenue	30 miles per hour	March 9, 1984
SYLVAN AVENUE, between McHenry Avenue and Coffee Road	40 miles per hour	December 8, 1984
SYLVAN AVENUE, between Coffee Road and Oakdale Road within the City limits	40 miles per hour	December 8, 1984
TOKAY AVENUE, between McHenry Avenue and Bodega Lane	35 miles per hour	January 27, 1982
TULLY ROAD, between M.I.D. Lateral No. 6 and Standiford Avenue	40 miles per hour	June 14, 1983
TULLY ROAD, between Standiford Avenue and Coldwell Avenue	35 miles per hour	November 20, 1982
TUOLUMNE BOULEVARD, between Paradise Road and 7th Street	35 miles per hour	November 1, 1982

VENEMAN AVENUE, between Dale Road and M.I.D. Lateral No. 7	35 miles per hour	November 13, 1982
VIRGINIA AVENUE, between Roseburg Avenue and Needham Street	30 miles per hour	June 14, 1983
WHITMORE AVENUE, between Crows Landing Road and Morgan Road within the City limits	45 miles per hour	December 10, 1981
WOODLAND AVENUE, between Morse Road and Shasta Avenue, within the City limits	45 miles per hour	January 26, 1984
WOODLAND AVENUE, between Shasta Avenue and Carpenter Road, within the City limits	40 miles per hour	December 5, 1984
WOODLAND AVENUE, between Carpenter Road and 9th Street, within the City limits	35 miles per hour	December 10, 1981
WOODROW AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	June 14, 1983
WYLIE DRIVE, between Rose Avenue and Oakdale Road	35 miles per hour	February 7, 1984
9TH STREET, between P Street and L Street	35 miles per hour	December 9, 1981

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of December, 1985, by Councilmember Lang who moved its introduction and passage to print, which motion being duly seconded by Councilmember Patterson, was upon roll call carried and order printed and published by the following vote:

AYES: Councilmembers: Lang, Muratore, McGrath, Patterson, Sutton, Whiteside, Mayor Mensinger

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: *Peggy Mensinger*  
PEGGY MENSINGER, Mayor

ATTEST:

By *Norrine Coyle*  
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By *Stan T. Yamamoto*  
STAN T. YAMAMOTO, Acting 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 14th day of January, 19 86, Councilmember Whiteside moved its final adoption, which motion being duly seconded by Councilmember Sutton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Lang, McGrath, Muratore, Patterson, Sutton, Whiteside, Mayor Mensinger  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

APPROVED Peggy Mensinger  
MAYOR PEGGY MENSINGER

ATTEST: Norrine Coyle  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: February 13, 1986

ORDINANCE NO. 2397-C.S.

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

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

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

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

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

<u>NAME OF STREET OR PORTION AFFECTED</u>	<u>DECLARED PRIMA FACIE SPEED LIMIT</u>	<u>DATE SURVEYED</u>
BLUE GUM AVENUE, between Poust and Carpenter Roads	40 miles per hour	December 5, 1984
BOWEN AVENUE, between Tully Road and McHenry Avenue	35 miles per hour	November 15, 1982
BRIGGSMORE AVENUE, between Prescott Road and Tully Road	45 miles per hour	January 27, 1984

BRIGGSMORE AVENUE, (east and westbound) between Tully Road and McHenry Avenue	45 miles per hour	January 27, 1984
BRIGGSMORE AVENUE, (westbound) between Coffee Road and McHenry Avenue	45 miles per hour	January 27, 1984
BRIGGSMORE AVENUE, (eastbound) between McHenry Avenue and 1,000 feet west of Coffee Road	40 miles per hour	November 13, 1982
BRIGGSMORE AVENUE, (eastbound), between a point 1,000 feet west of Coffee Road and Coffee Road	40 miles per hour	January 26, 1984
BRIGGSMORE AVENUE, between Coffee Road and Rose Avenue	45 miles per hour	January 26, 1984
BRIGGSMORE AVENUE, between Rose Avenue and Oakdale Road	45 miles per hour	January 26, 1984
BRIGGSMORE AVENUE, between Oakdale Road and Claus Road	50 miles per hour	January 26, 1984
BRIGHTON AVENUE, between Coffee Road and Locke Road	30 miles per hour	June 15, 1983
CARPENTER ROAD, between Blue Gum Avenue and Woodland Avenue within the City limits	45 miles per hour	February 8, 1984
CARPENTER ROAD, between Woodland Avenue and Maze Boulevard within the City limits	45 miles per hour	June 14, 1984
CARPENTER ROAD, between Maze Boulevard and Paradise Road within the City limits	45 miles per hour	January 26, 1984
CARVER ROAD, between M.I.D. Lateral No. 6 and Brixton Lane within the City limits	40 miles per hour	December 10, 1981

CARVER ROAD, between Brixton Lane and Roseburg Avenue	35 miles per hour	November 15, 1982
CARVER ROAD, between Roseburg Avenue and 9th Street	35 miles per hour	November 13, 1982
CELESTE DRIVE, between Coffee Road and Oakdale Road	30 miles per hour	June 14, 1983
CLAUS ROAD, between M.I.D. Lateral No. 3 and 200' south of Scenic Drive	45 miles per hour	February 3, 1984
COFFEE ROAD, between Mable Avenue and Sylvan Avenue within the City limits	40 miles per hour	June 6, 1981
COFFEE ROAD, between Sylvan Avenue and Floyd Avenue within the City limits	35 miles per hour	January 26, 1984
COFFEE ROAD, between Floyd Avenue and Briggsmore Avenue	35 miles per hour	January 26, 1984
COFFEE ROAD, between Briggsmore Avenue and Scenic Drive	35 miles per hour	January 26, 1984
COLLEGE AVENUE, between Rumble Road and Bowen Avenue	30 miles per hour	March 8, 1984
COLLEGE AVENUE, between Bowen Avenue and Princeton Avenue	35 miles per hour	November 20, 1982
CROWS LANDING ROAD, Blankenburg Avenue to School Avenue, within the City limits	35 miles per hour	June 22, 1983
DALE ROAD, between Pelandale Avenue and Snyder Avenue	50 miles per hour	May 29, 1984
DALE ROAD, between Snyder Avenue and Veneman Avenue	45 miles per hour	May 29, 1984
DALE ROAD, between Veneman Avenue and Standiford Avenue	35 miles per hour	January 26, 1984

EASTRIDGE DRIVE, between Orangeburg Avenue and Scenic Drive	30 miles per hour	May 25, 1983
EICHER AVENUE, between Conant Avenue and Goldie Avenue	30 miles per hour	September 19, 1985
EL VISTA AVENUE, between Scenic Drive and Yosemite Boulevard	35 miles per hour	April 20, 1984
EMERALD AVENUE, between Maze Boulevard and California Avenue within the City limits	35 miles per hour	June 14, 1983
ENCINA AVENUE, between Santa Barbara Avenue and Conejo Avenue	30 miles per hour	June 22, 1983
EVERGREEN AVENUE, between Orangeburg Avenue and Carver Road	35 miles per hour	September 18, 1985
FAIRMONT AVENUE, between Sunrise Avenue and Coffee Road	30 miles per hour	June 15, 1983
FLOYD AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	November 15, 1982
FLOYD AVENUE, between Coffee Road and Oakdale Road	30 miles per hour	June 14, 1983
FRANKLIN STREET, between Maze Boulevard and California Avenue	35 miles per hour	November 20, 1982
GRANGER AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	June 14, 1983
GRANGER AVENUE, between McHenry Avenue and Sunrise Avenue	30 miles per hour	June 14, 1983
KANSAS AVENUE, between Carpenter Road and Emerald Avenue within the City limits	40 miles per hour	July 9, 1981

KANSAS AVENUE, between Emerald Avenue and Eighth Street	35 miles per hour	January 26, 1984
KEARNEY AVENUE, between Glenwood Drive and Coldwell Avenue	30 miles per hour	September 18, 1985
KELLER STREET, between Sylvan Avenue and Rumble Road within the City limits	30 miles per hour	January 26, 1984
LAKEWOOD AVENUE, between Orangeburg Avenue and Scenic Drive	30 miles per hour	September 15, 1983
LINCOLN AVENUE, between 650' north of M.I.D. Lateral No. 2 and Yosemite Boulevard	35 miles per hour	December 8, 1984
MABLE AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	September 19, 1985
MERLE AVENUE, between Oakdale Road and Claus Road	45 miles per hour	May 29, 1984
MILLER AVENUE, between La Loma Avenue and El Vista Avenue	35 miles per hour	November 16, 1982
MITCHELL ROAD, between Finch Road and the southerly City limits	50 miles per hour	November 20, 1982
MORRIS AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	November 16, 1982
MT. VERNON DRIVE, between Prescott Road and Carver Road	30 miles per hour	June 14, 1983
MT. VERNON DRIVE, between Carver Road and College Avenue	30 miles per hour	June 23, 1983
NEECE DRIVE, between Tuolumne Boulevard and Rouse Avenue	35 miles per hour	June 14, 1983
NEEDHAM STREET, between 9th and and L Streets	35 miles per hour	June 22, 1983

NORWEGIAN AVENUE, between McHenry Avenue and Coffee Road	35 miles per hour	June 14, 1983
OAKDALE ROAD, between Mable Avenue and Sylvan Avenue	50 miles per hour	May 29, 1984
OAKDALE ROAD, between Sylvan Avenue and Floyd Avenue	50 miles per hour	June 15, 1984
OAKDALE ROAD, between Floyd Avenue and Briggsmore Avenue	45 miles per hour	December 8, 1984
OAKDALE ROAD, between Briggsmore Avenue and Scenic Drive	35 miles per hour	January 26, 1984
ORANGEBURG AVENUE, between Briggsmore Avenue and Martin Avenue	30 miles per hour	April 11, 1985
ORANGEBURG AVENUE, between Martin Avenue and McHenry Avenue	40 miles per hour	April 3, 1985
ORANGEBURG AVENUE, between McHenry Avenue and Coffee Road	40 miles per hour	April 2, 1985
ORANGEBURG AVENUE, between Coffee Road and Rose Avenue	35 miles per hour	December 9, 1981
ORANGEBURG AVENUE, between Rose Avenue and Oakdale Road	35 miles per hour	January 27, 1984
ORANGEBURG AVENUE, between Oakdale Road and Lakewood Avenue	35 miles per hour	November 19, 1984
ORANGEBURG AVENUE, between Lakewood Avenue and Claus Road	35 miles per hour	December 6, 1984
PARADISE ROAD, between Vernon Avenue and Franklin Street within the City limits	35 miles per hour	September 24, 1984
PARADISE ROAD, between Franklin Street and Washington Street	30 miles per hour	May 29, 1984

PRESCOTT ROAD, between Rumble Road and Briggsmore Avenue	35 miles per hour	January 26, 1984
PRINCETON AVENUE, between Tully Road and College Avenue	25 miles per hour	December 8, 1984
RIVERSIDE DRIVE, between Edge- brook Drive and Yosemite Boulevard	35 miles per hour	September 19, 1985
ROSE AVENUE, between Floyd Avenue and Briggsmore Avenue	35 miles per hour	November 16, 1982
ROSE AVENUE, between Briggsmore Avenue and Scenic Drive	35 miles per hour	November 3, 1982
ROSEBURG AVENUE, between Carver Road and Tully Road	30 miles per hour	June 14, 1983
ROSEBURG AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	June 14, 1983
ROSEBURG AVENUE, between McHenry Avenue and Sunrise Avenue	35 miles per hour	June 14, 1983
ROSELAWN AVENUE, between Rouse Avenue and Colorado Avenue	30 miles per hour	March 19, 1982
ROSEMORE AVENUE, between Blue Gum Avenue and Woodland Avenue	35 miles per hour	October 31, 1985
ROUSE AVENUE, between Neece Drive and Colorado Avenue within the City limits	35 miles per hour	September 16, 1982
RUMBLE ROAD, between Sisk Road and Conant Avenue	40 miles per hour	December 9, 1981
RUMBLE ROAD, between Conant Avenue and Tully Road	30 miles per hour	June 14, 1983
RUMBLE ROAD, between Tully Road and McHenry Avenue	35 miles per hour	September 18, 1985
RUMBLE ROAD, between McHenry Avenue and Coffee Road	35 miles per hour	June 14, 1983

SCENIC DRIVE, between Burney Street and Coffee Road	30 miles per hour	June 22, 1983
SCENIC DRIVE, between Coffee Road and Oakdale Road	40 miles per hour	December 9, 1981
SCENIC DRIVE, between Oakdale Road and Lakewood Avenue	45 miles per hour	July 22, 1985
SCENIC DRIVE, between Lakewood Avenue and Lillian Drive	30 miles per hour	October 11, 1983
SCENIC DRIVE, Lillian Drive to Claus Road	40 miles per hour	November 3, 1982
SHARON WAY, between Budd Street and Prescott Road	30 miles per hour	June 7, 1983
SIERRA DRIVE, between G and South 7th Streets	30 miles per hour	June 14, 1983
SISK ROAD, between 600' north of Vintage Drive and Standiford Avenue	40 miles per hour	December 9, 1985
SISK ROAD, between Standiford Avenue and Brenner Way	40 miles per hour	December 9, 1981
SISK ROAD, between Brenner Way and Briggsmore Avenue	40 miles per hour	June 8, 1983
SNYDER AVENUE, between Dale Road and Carver Road	50 miles per hour	August 29, 1985
STANDIFORD AVENUE, between Dale Road and Prescott Road within the City limits	40 miles per hour	December 8, 1984
STANDIFORD AVENUE, between Prescott Road and Carver Road	40 miles per hour	December 8, 1984
STANDIFORD AVENUE, between Carver Road and Tully Road	40 miles per hour	January 26, 1984
STANDIFORD AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	May 18, 1984

SUNRISE AVENUE, between Floyd Avenue and Briggsmore Avenue	35 miles per hour	June 14, 1983
SUNRISE AVENUE, between Briggsmore Avenue and Lucern Avenue	30 miles per hour	December 8, 1984
SURREY AVENUE, between Oakdale Road and Eastridge Drive	30 miles per hour	December 6, 1984
SUTTER AVENUE, between Paradise Road and Robertson Road	30 miles per hour	November 1, 1982
SYCAMORE AVENUE, between Orangeburg Avenue and Griswold Avenue	30 miles per hour	March 9, 1984
SYLVAN AVENUE, between McHenry Avenue and Coffee Road	40 miles per hour	December 8, 1984
SYLVAN AVENUE, between Coffee Road and Oakdale Road within the City limits	40 miles per hour	December 8, 1984
TOKAY AVENUE, between McHenry Avenue and Bodega Lane	35 miles per hour	January 27, 1982
TULLY ROAD, between M.I.D. Lateral No. 6 and Standiford Avenue	40 miles per hour	June 14, 1983
TULLY ROAD, between Standiford Avenue and Coldwell Avenue	35 miles per hour	November 20, 1982
TUOLUMNE BOULEVARD, between Paradise Road and 7th Street	35 miles per hour	November 1, 1982
VENEMAN AVENUE, between Dale Road and M.I.D. Lateral No. 7	35 miles per hour	November 13, 1982
VIRGINIA AVENUE, between Roseburg Avenue and Needham Street	30 miles per hour	June 14, 1983

WHITMORE AVENUE, between Crows Landing Road and Morgan Road within the City limits	45 miles per hour	December 10, 1981
WOODLAND AVENUE, between Morse Road and Shasta Avenue, within the City limits	45 miles per hour	January 26, 1984
WOODLAND AVENUE, between Shasta Avenue and Carpenter Road, within the City limits	40 miles per hour	December 5, 1984
WOODLAND AVENUE, between Carpenter Road and 9th Street, within the City limits	35 miles per hour	December 10, 1981
WOODROW AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	June 14, 1983
WYLIE DRIVE, between Rose Avenue and Oakdale Road	35 miles per hour	February 7, 1984
9TH STREET, between P Street and L Street	35 miles per hour	December 9, 1981

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of December, 1985, by Councilmember Lang who moved its introduction and passage to print, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and order printed and published by the following vote:

AYES: Councilmembers: Lang, Muratore, Sutton,, Whiteside,  
Mayor Mensinger

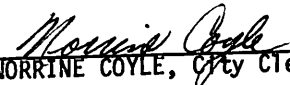
NOES: Councilmembers: McGrath, Patterson

ABSENT: Councilmembers: None

APPROVED:

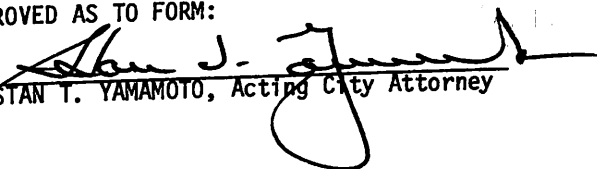
  
PEGGY MENSINGER, Mayor

ATTEST:

By   
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
STAN T. YAMAMOTO, Acting 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 14th day of January, 1986, Councilmember Lang moved its final adoption, which motion being duly seconded by Councilmember Whiteside, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Lang, Muratore, Sutton, Whiteside, Mayor Mensinger

NOES: Councilmembers: McGrath, Patterson

ABSENT: Councilmembers: None

APPROVED *Beggy Mensinger*  
MAYOR BEGGY MENSINGER

ATTEST: *Norrine Coyle*  
NORRINE COYLE, City Clerk

EFFECTIVE DATE: February 13, 1986