

ORDINANCE NO. 3614 -C.S.

AN ORDINANCE AMENDING SECTION 22-3-9 OF THE ZONING MAP TO REZONE 5.54 ACRES FROM LOW DENSITY RESIDENTIAL ZONE, R-1, AND MEDIUM-HIGH DENSITY RESIDENTIAL ZONE, R-3, TO PLANNED DEVELOPMENT ZONE, P-D(599), PROPERTY LOCATED AT 908 ROSE AVENUE (WINPAC-ROSE AVE LLC)

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

SECTION 1. ZONING CHANGE. Section 22-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density Residential Zone, R-1, and Medium-High Density Residential Zone , R-3, to Planned Development Zone, P-D(599):

R-1 to P-D(599)

All that portion of the West half of the Southeast Quarter of Section 22, 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:

The North 232.00 feet of Lot 25 of the Broughton Colony Tract, as per map filed March 17, 1904 in Volume 1 of Maps, at Page 78, Stanislaus County Records.

Also including the east 25 feet of Rose Avenue and the west 10 feet of the alley, all being immediately adjacent to the above described lot.

APN: 032-018-006

R-3 to P-D(599)

All that portion of the West half of the Southeast Quarter of Section 22, 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:

Lot 25 of the Broughton Colony Tract, as per map filed March 17, 1904 in Volume 1 of Maps, at Page 78, Stanislaus County Records.

Excepting therefrom the north 232.00 feet and the west 405.92 feet of said Lot 25.

Also including the north 10 feet of the alley immediately adjacent to the south of the above described lot, and the west 10 feet of the alley immediately adjacent to the east of the above described lot.

Easterly 228 feet of APN 032-018-007

SECTION 2. USES. The following uses shall be permitted in said P-D(599) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-7.108(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-7.108(a) or (b) of the Modesto Municipal Code:

1. Uses as permitted in the Low Density Residential (R-1) Zone.

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

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

SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of February, 2015, by Councilmember Lopez, who moved Madrigal, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

APPROVED: 
GARRAD MARSH, Mayor


ATTEST:
By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
for: ADAM U. LINDBGREN, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community & Economic Development
Department, Planning Division

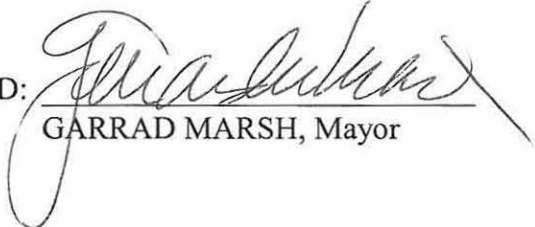
Ord. No. 3614-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 10th day of February 2015, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki,
Mayor Marsh
NOES: Councilmembers: None
ABSENT: Councilmembers: Cogdill

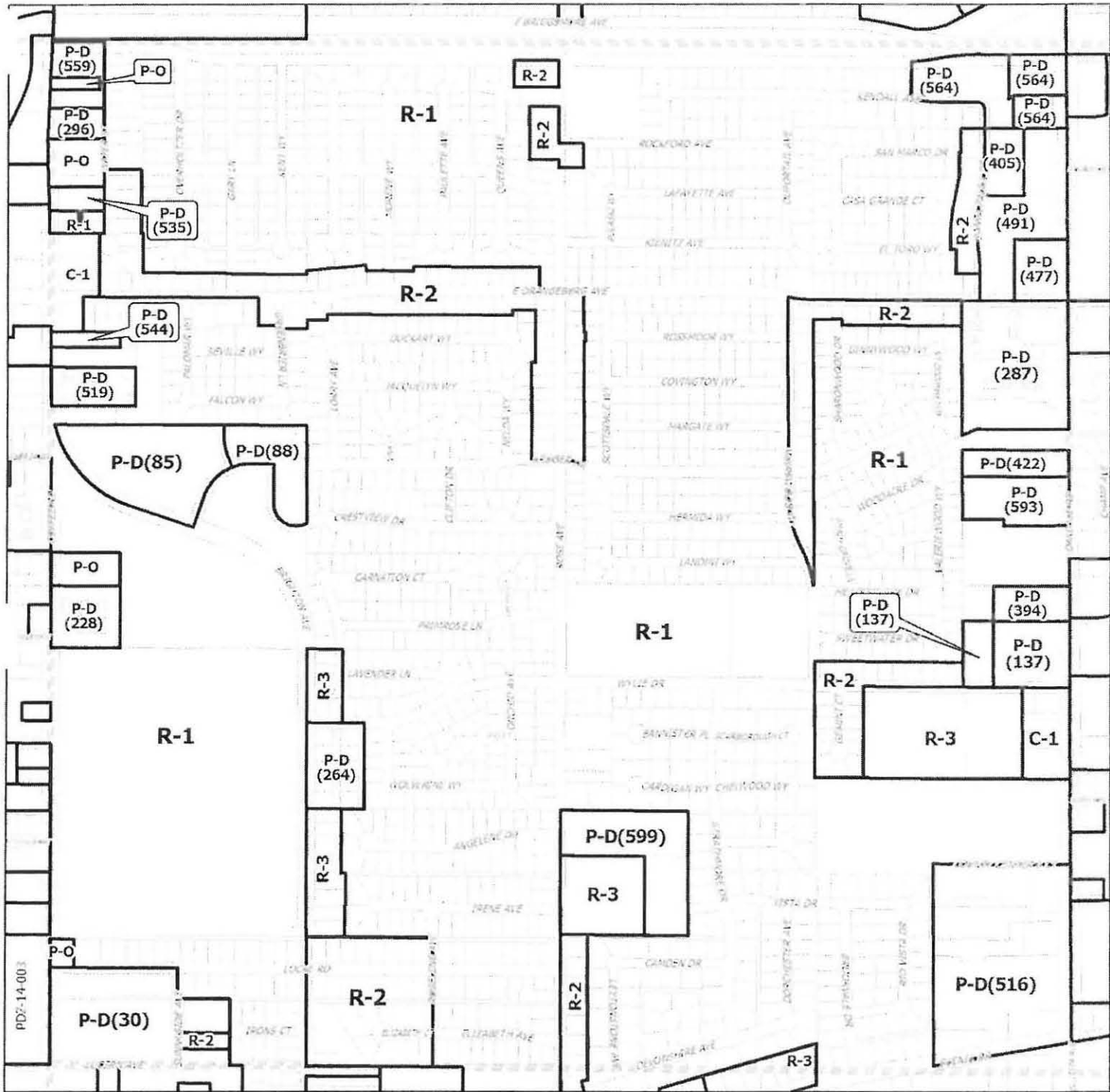
APPROVED:


GARRAD MARSH, Mayor

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: March 12, 2015



ZONING MAP OF THE CITY OF MODESTO

22-3-9



1 inch = 700 feet
Ord. 3614-C.S.

ORDINANCE NO. 3615-C.S.

ORDINANCE AMENDING THE PRECISE PLAN FOR AREA NO. 18 IN THE VILLAGE ONE SPECIFIC PLAN AREA TO CHANGE THE LAND USE DESIGNATION OF 9.5 ACRES FROM MULTI-FAMILY RESIDENTIAL TO VILLAGE RESIDENTIAL TO FACILITATE THE DEVELOPMENT OF A 58-LOT SINGLE-FAMILY RESIDENTIAL SUBDIVISION, PROPERTY LOCATED AT THE SOUTHWEST CORNER OF KODIAK DRIVE AND LINCOLN OAK DRIVE (FLORSHEIM LAND COMPANY)

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

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

WHEREAS, a Precise Plan for Area No. 18 was approved by the City Council by Ordinance No. 3308-C.S. on July 1, 2003, and

WHEREAS, an application has been filed by the Florsheim Land Company for an Amendment to Precise Plan of Area No. 18 to change the land use designation of 9.5 acres from Multi-Family Residential to Village Residential, property located at the southwest corner of Kodiak Drive and Lincoln Oak Drive, and

WHEREAS, a public hearing was held by the Planning Commission on December 13, 2014, in Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WEHERAS, after considering public comments, the Planning Commission, by Resolution No. 2014-21, recommended to the City Council approval of amendments to Precise Plan Area No. 18, and

WHEREAS, said matter was set for a public hearing of the City Council of the City of Modesto to be held on February 3, 2015 at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, and

WHEREAS, a duly noticed public hearing to consider said recommendations of the Planning Commission was held at the time and time above mentioned, and

WHEREAS, the Council declared that said amendments to the Precise Plan for Area No. 18 of the Village One Specific Plan is required by public necessity convenience, and general welfare for the following reasons:

1. The requested change will not be detrimental to the public health, safety or welfare because the change in land use designation to Village Residential will provide for single-family residential development that is compatible with surrounding land uses.
2. The requested change will result in an orderly planned use of land because it is consistent with adjacent residential uses.
3. The proposed Precise Plan Amendment is consistent with the Village One Specific Plan (as amended) and Modesto Urban Area General Plan. The Modesto Area General Plan designates the proposed development site as Village Residential (VR), which allows for a mixture of uses, including single-family residential uses. The project includes an amendment to the Village One Specific Plan to change the land use designation of the property in the Specific Plan from Multi-Family Residential to Village Residential, which allows for single-family residential uses.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines as follows:

SECTION 1. APPROVAL OF AMENDMENT TO THE PRECISE PLAN.

That the City Council has reviewed and considered the amendments to the Precise Plan for Area No. 18 of the Village One Specific Plan to change the land use designation of 9.5 acres from Multi-Family Residential to Village Residential, property located at the southwest corner of Kodiak Drive and Lincoln Oak Drive as recommended by the Planning Commission, and the Council does hereby approve said amendments to the Precise Plan for Area No. 18 of the Village One Specific Plan. A copy of the amendments are attached hereto and incorporated by this reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of February, 2015, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney

Effective Date: April 4, 2015

Ord. No. 3615-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 3rd day of March 2015, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the ordinance adopted by the following vote:

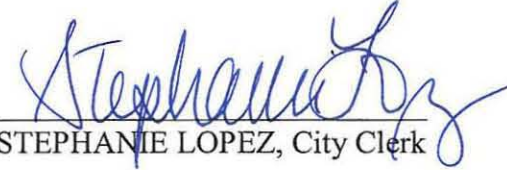
AYES: Councilmembers: Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

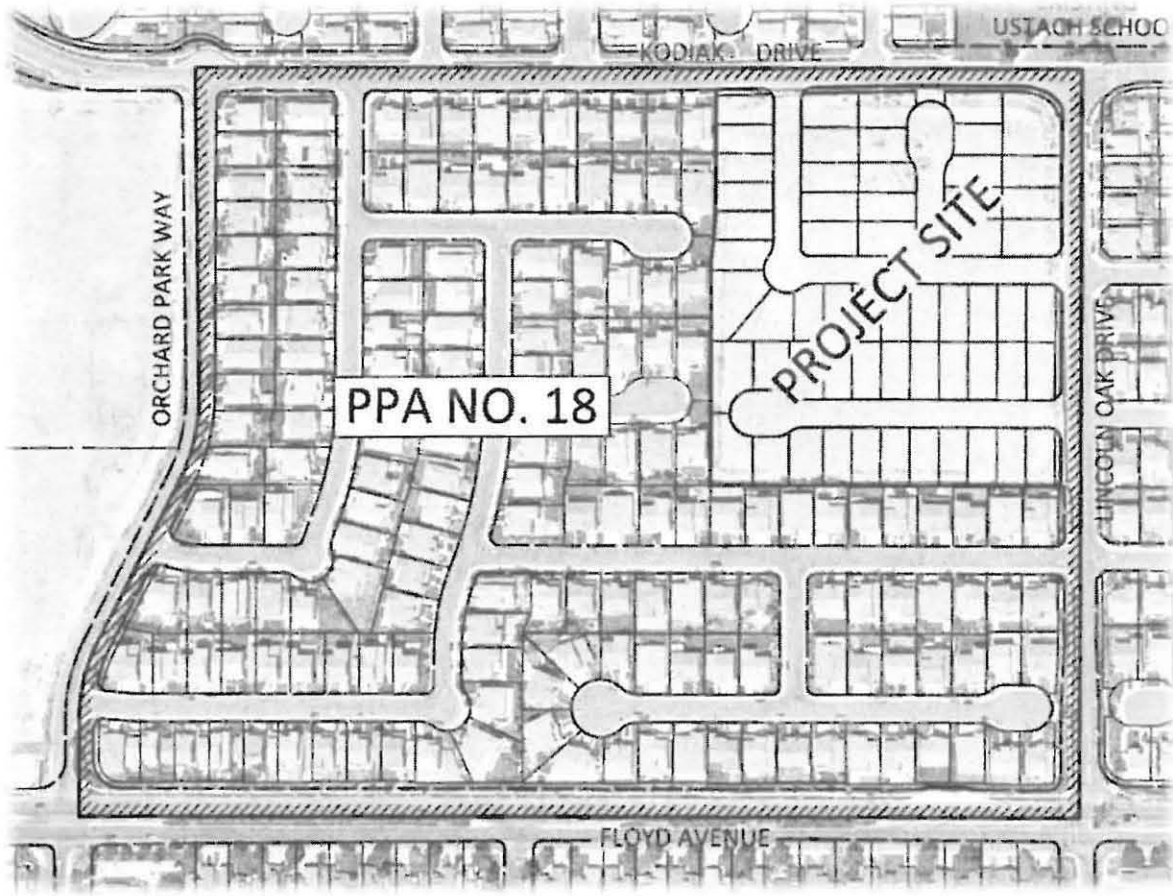
APPROVED: 
GARRAD MARSH, Mayor

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: April 4, 2015

VILLAGE ONE



7/29/2014

PRECISE PLAN AREA NO. 18

MODESTO, CALIFORNIA



Surveying. Engineering. Planning.

4206 Technology Drive, Suite 4
Modesto, California 95356
Ph: (209) 545-3390

**PRECISE PLAN AREA NO. 18
DEVELOPMENT PLAN**

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I. Introduction

Project Description

The proposed project entails a request for approval and amendment of a Precise Plan for Precise Plan Area No. 18 (PPA No. 18) as well as the approval of a 58 Lot Vesting Tentative Subdivision Map of Lincoln Parks, for a portion of the above mentioned Precise Plan Area.

Project Applicant

Florsheim Land Company
1701 West March Lane, Suite D
Stockton, CA 95207

Project Planners, Engineers, and Surveyors

Associated Engineering Group, Inc.
4206 Technology Drive, Suite 4
Modesto, CA 95356
(209) 545-3390
Fax: (209) 545-3875

Planning Area

Precise Plan Area No. 18 is bordered by Floyd Avenue to the South, Lincoln Oak Drive to the east, Kodiak Drive to the north and Orchard Park Way to the west. Approximate area = 48.9 acres gross.

Special Considerations

The area is to be developed with single family residences at a density of 6.1 lots to the acre (5,000 minimum square feet).

Property Owner List

Property owners within Precise Plan Area No. 18

APN 77-62-001

- Wendell J. Naraghi
- Margaret Naraghi Quattrin
- Sharon Naraghi

P.O. Box 4339
Modesto, CA 95352

Property Owner Written Consent Form For The Submittal of The Vesting Tentative Subdivision Map.

We, as property owners of the site of the proposed vesting tentative subdivision map do hereby consent to the filing with the City of Modesto any maps, plans, applications, or other documents necessary for the approval of Vesting Tentative Subdivision Map for the property listed below:

Property Owner Written Consent Form For The Submittal of The Village One Precise Plan Area No. 18

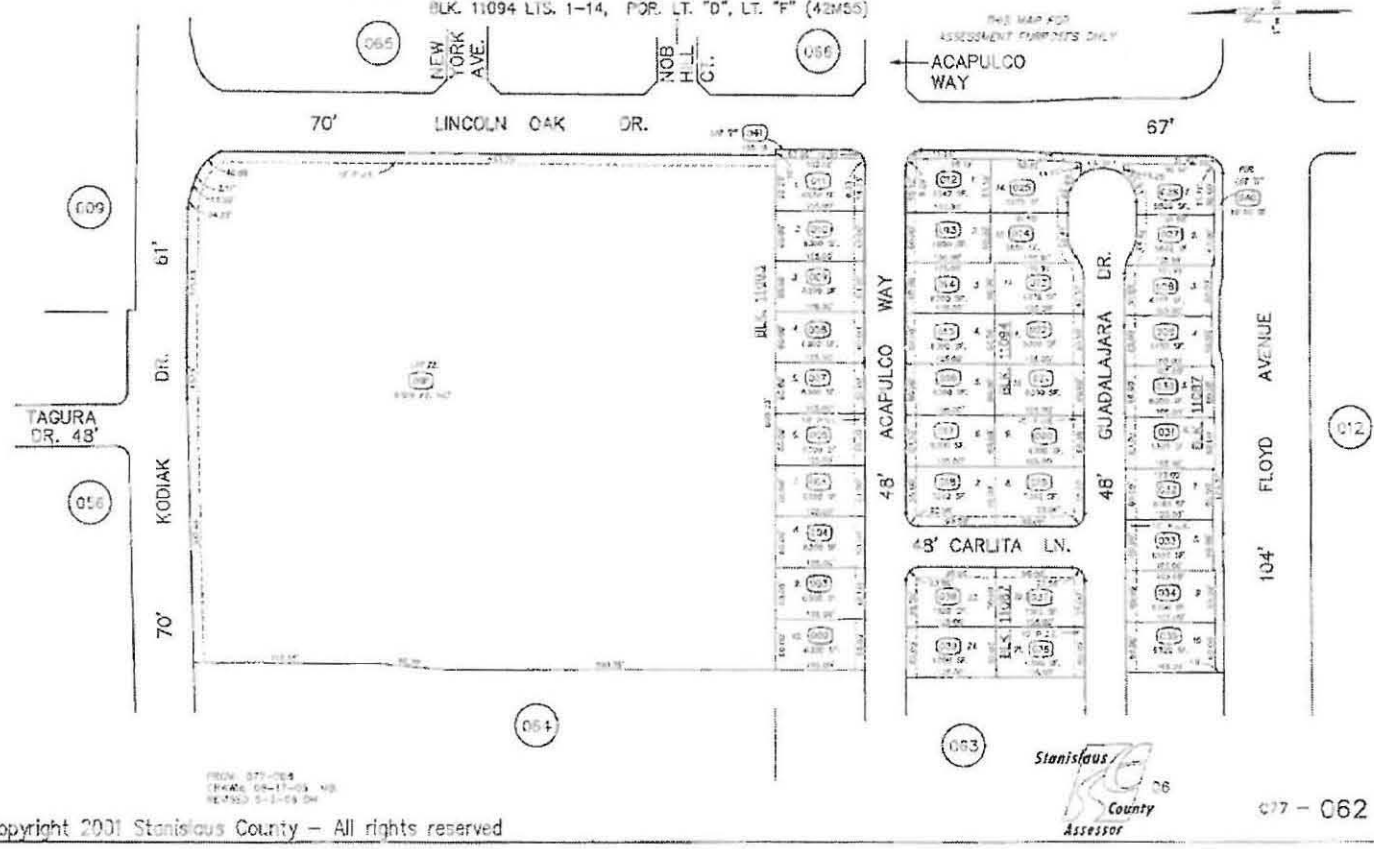
We, as property owners of the site of the proposed Village One Precise Plan, Area No. 18, do hereby consent to allow the filing with the City of Modesto the Precise Plan Document for the properties listed below:

- Wendell J. Naraghi
- Margaret Naraghi Quattrin
- Sharon Naraghi

“Written consent to file Precise Plan and Tentative Map provided by the attached completed and executed City of Modesto Uniform Application”

PORTION N. 1/2 SECTION 14 T.3S. R.9E. M.D.B.& M.
 HACIENDA DEL SOL UNIT NO. 1 - BLK. 11087 LTS. 1-10 & 21-24, BLK. 11093 LTS. 1-10 & LT. 22,
 BLK. 11094 LTS. 1-14, POR. LT. "D", LT. "F" (42M55)

002 100 077 - 062



II. Applications / Approvals

Application Fees

Vesting Tentative Subdivision Map	\$2,156 (50% of \$4,312 for concurrent processing)
Environmental Initial Study	\$ 319
Precise Plan Amendment	\$2,566.50 (50% of \$5,133 for concurrent processing)
Specific Plan Amendment	<u>\$5,133</u>
Total	\$10,174.50

Vesting Tentative Subdivision Map

Submittal will include a Vesting Tentative Subdivision Map, lying in PPA No. 18. The subdivision will consist of 58 single family residential lots within PPA No. 18.

Environmental Review

Applicant will pay fee and City of Modesto Staff will complete The Environmental Questionnaire and compile mitigation measures consistent with the original Village One Environmental Document.

Precise and Specific Plan Amendment

The revision within Precise Plan Area No. 18 is for the proposed project site that was planned for a future Multi-Family to be changed to R-1 Single Family Residential zoning.

III. Land Use

Acreage

Precise Plan Area No. 18 encompasses approximately 48.9 acres gross, which is zoned Village Residential Use.

Existing Use

The precise plan site is currently being utilized as follows:

APN 77-62-001 The site is vacant.

All other lands within the Precise Plan Area No. 18 have been developed to their respective approved uses.

Land Use Intensity

The proposed project has 58 dwelling units on 9.5 acres with a density of approximately 6.1 units per acre.

Principal Underlying Zone

Specific Plan Holding (SPH) Zone

IV. Street Design

Street Sections

The Street plan will be developed in accordance with the attached street sections, which were developed for use specifically in Village One. These proposed streets are consistent with the street sections developed with implementation Plan no. 2 of the Village One Feasibility Study which are incorporated into Specific Plan Amendment No. 8.

Development Standards

Lincoln Oak Drive

To be developed as a 56' wide Village One connector street that includes two 11' travel lanes, two 5' wide bike lanes and two 8' wide parkways between curb and 4' sidewalk. In addition to the 8' wide parkway, adjacent to the R-1, there will be a 10' wide lawn area behind the sidewalk which will be maintained by the Community Facilities District (CFD). The existing street adjacent to the proposed development will remain 70' wide to accommodate on-street parking.

Orchard Park Way and Kodiak Drive

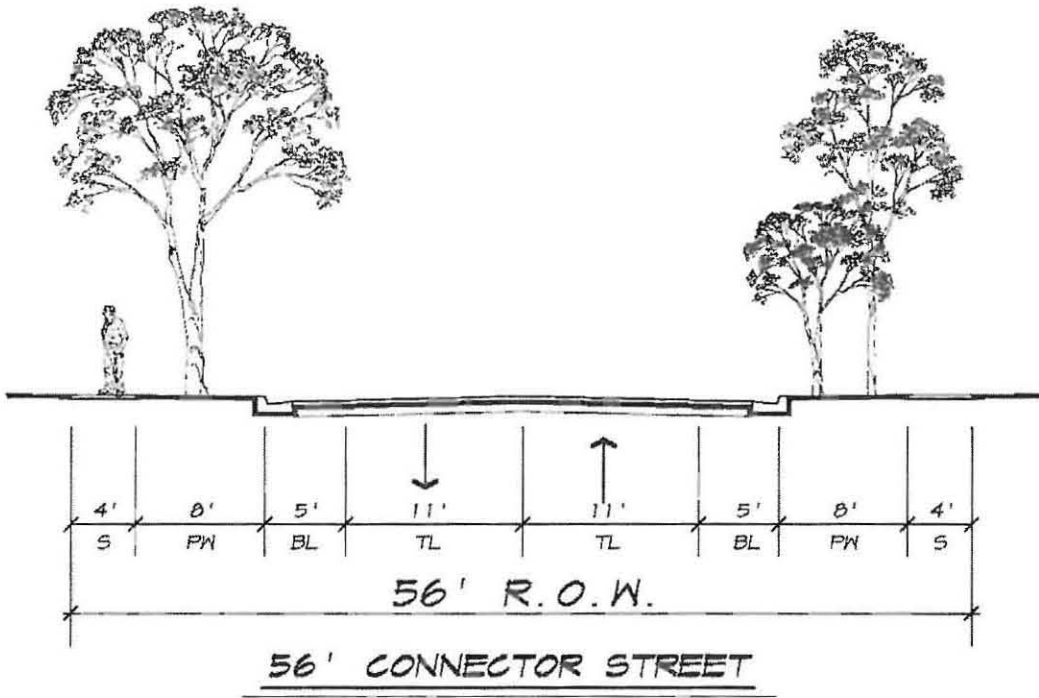
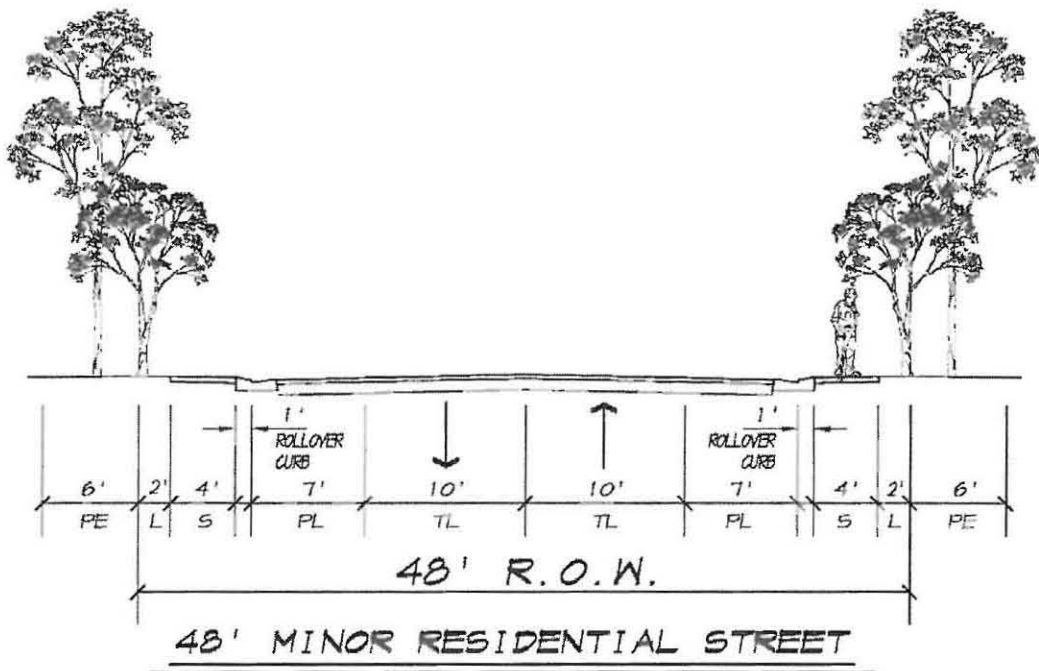
To be developed as a 70' wide Village One Neighborhood connector street that includes two 11' wide travel lanes, two 5' wide bike lanes, two 7' wide parking lanes and two 8' wide parkways between the curb and 4' wide sidewalk. On-street parking will be allowed. Where lots side on these streets in addition to the 8' wide parkway, there will be a 10' wide lawn area behind the sidewalk which will be maintained by the CFD.

Floyd Avenue

This street will be developed as Village One Minor Arterials per the Village One Facilities Master Plan Update dated May 2003.

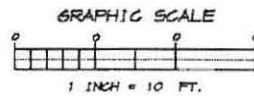
Interior Streets

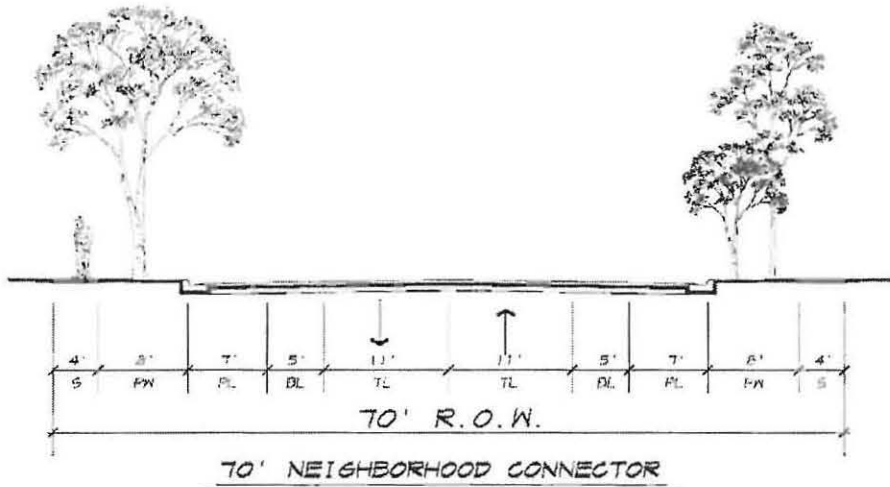
To be developed as a 48' wide Village One minor residential street that includes two travel lanes. On-street parking will be allowed on both sides of the street.



KEY

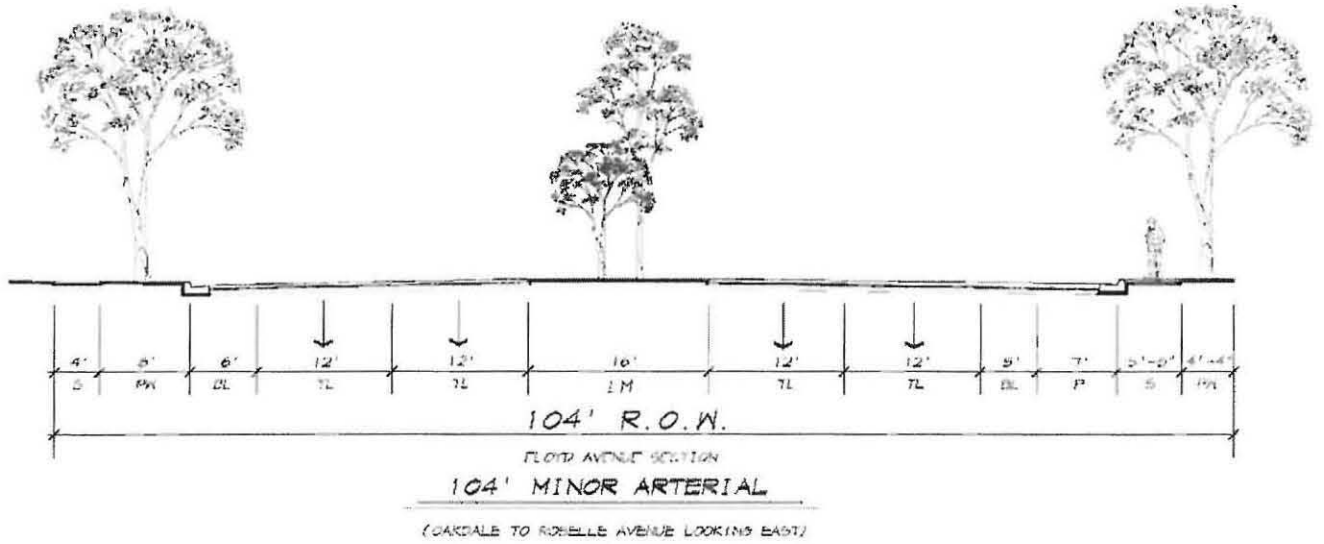
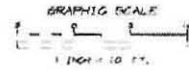
- S SIDEWALK
- L LANDSCAPING
- PW PARKWAY
- BL BIKE LANE
- FL PARK LANE
- TL TRAVEL LANE
- R.O.W. RIGHT-OF-WAY
- PE PLANTING EASEMENT





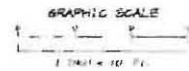
KEY

- S SIDEWALK
- PW PARKWAY
- BL BIKE LANE
- PL PARK LANE
- TL TRAVEL LANE
- R.O.W. RIGHT-OF-WAY



KEY

- S SIDEWALK
- PW PARKWAY
- BL BIKE LANE
- LM LANDSCAPED MEDIAN
- TL TRAVEL LANE
- R.O.W. RIGHT-OF-WAY



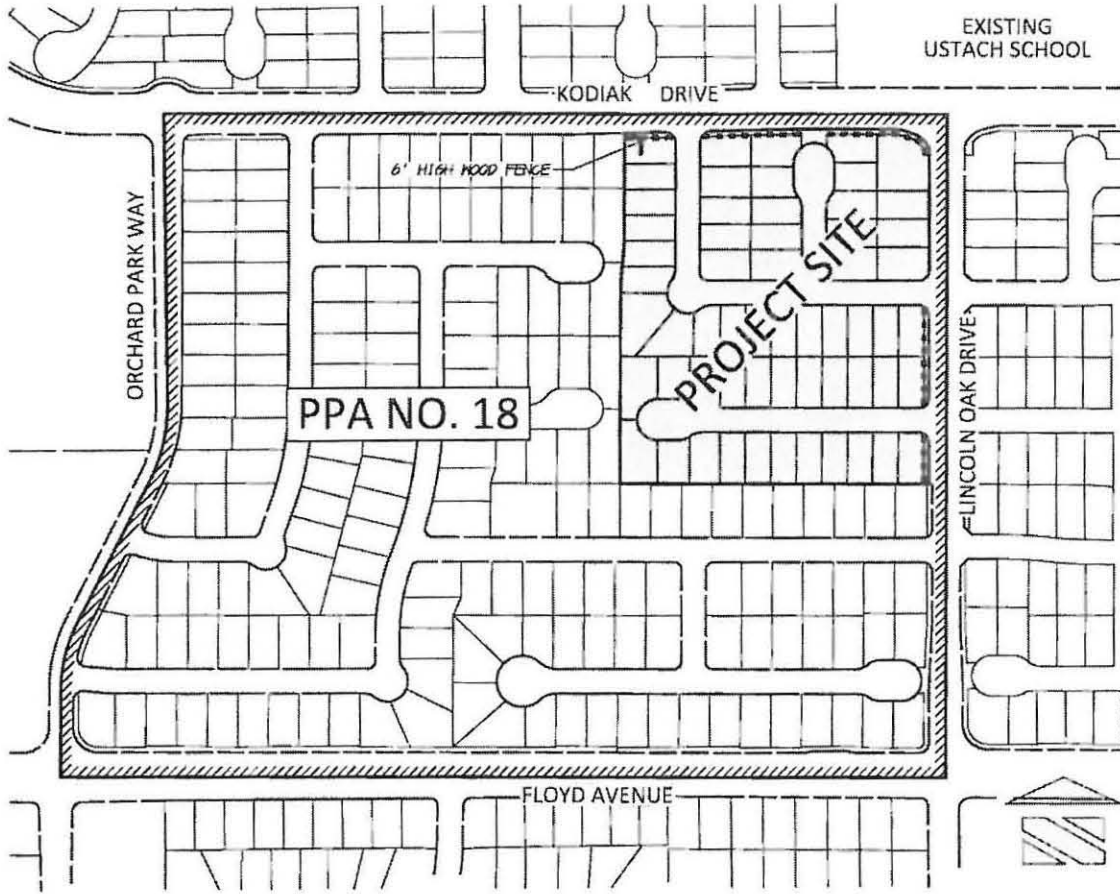
Landscaping Areas

The landscaping areas shown on the map below indicate the specific areas within the project that will be dedicated to and maintained by the Village One Community Facilities District (CFD). Funding for maintenance of these specified areas will be obtained through Annexation to the CFD. These areas include the parkway strips between the curb and sidewalks and landscaped areas behind the sidewalk on Floyd Avenue, Oak Park Way, Kodiak Drive and Lincoln Oak Drive.



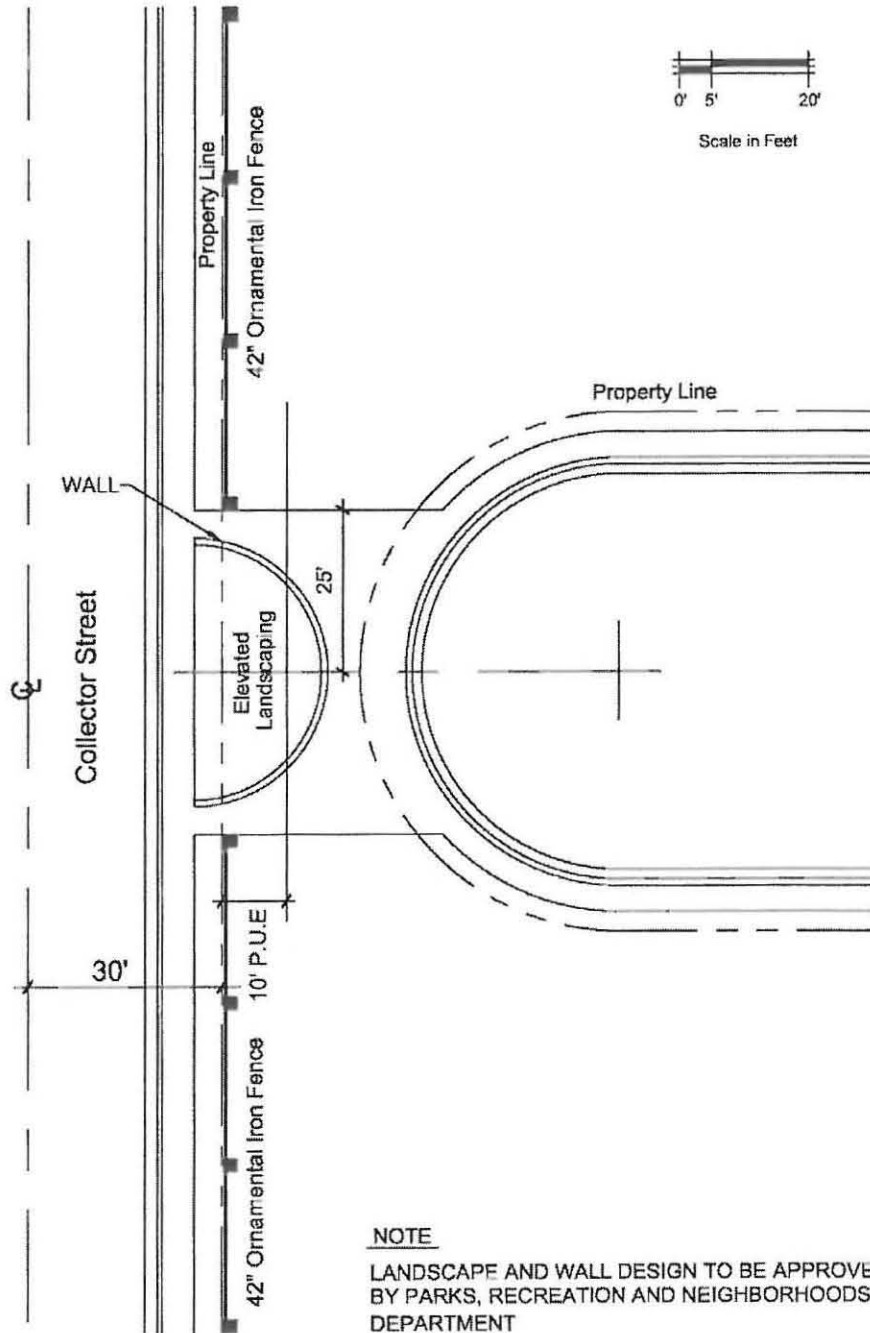
Walls and Fencing

The R-1 Residential portion of PPA No. 18 will be required to construct typical 6' wood fencing.



Cul-de-Sac End Detail (per City of Modesto Standard Detail No. 315)

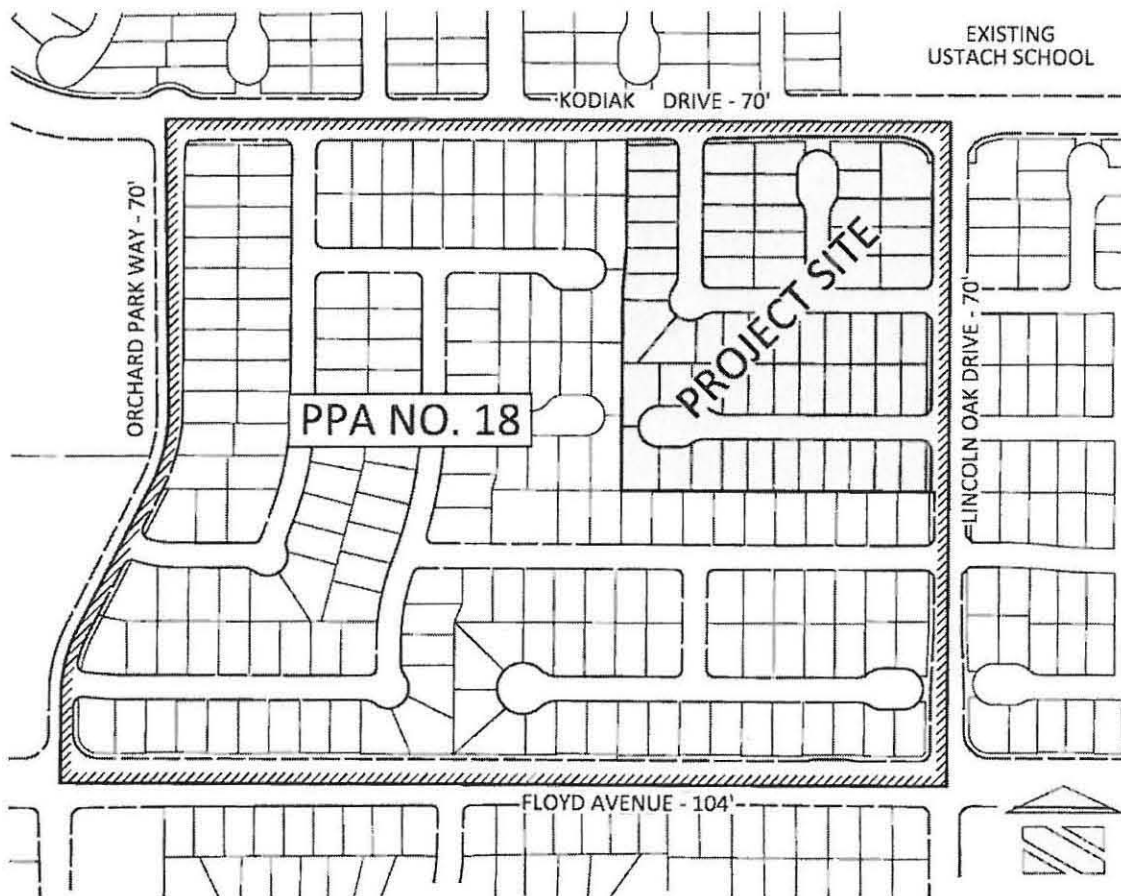
An opening will be developed at the cul-de-sac end at Kodiak Drive as shown below. This detail will occur in one location along Kodiak.



Circulation

Circulation through PPA No. 18 will be through residential streets that are connected to Lincoln Oak Drive, Orchard Park Way and Kodiak Drive, all of which will link the residents of PPA No. 18 with the rest of Village One.

PPA No. 18 was designed to give pedestrian access to perimeter streets via entry roadways. Once on perimeter streets, pedestrians will be able to take advantage of the landscaped walking areas to access the rest of Village One. In addition, the proposed bike lanes will also enhance non-vehicular transportation in this area of the village project.



V. Village One Specific Plan

Specific Plan Conformance

Land Use / Community Design

The plan meets the average residential densities outlined within the Village One Specific Plan. The PPA No. 18 design will be consistent with the Village One Community Design Policies.

Circulation

The plan provides for efficient interior circulation within the Precise Plan Area and provides logical connection points for future development within the context of the Village One plan.

Public Facilities

The plan will allow the development of public facilities to serve new growth within the precise plan area and provide logical connection points to allow for future development on the surrounding properties.

Schools

To the extent allowed by state law, annexation to the appropriate schools community facilities district will be required as a condition of final map approval. If this requirement cannot be enforced due to the status of state law, then prior to issuance of the first building permit or final map approval, whichever is earlier, the developer shall provide written verification from the affected school districts that a determination has been made as to whether the developer will pay the school fees in effect or annex to the appropriate community facilities district.

Parks

Development within PPA No. 18 will pay the applicable park fees.

Specific Plan Exceptions

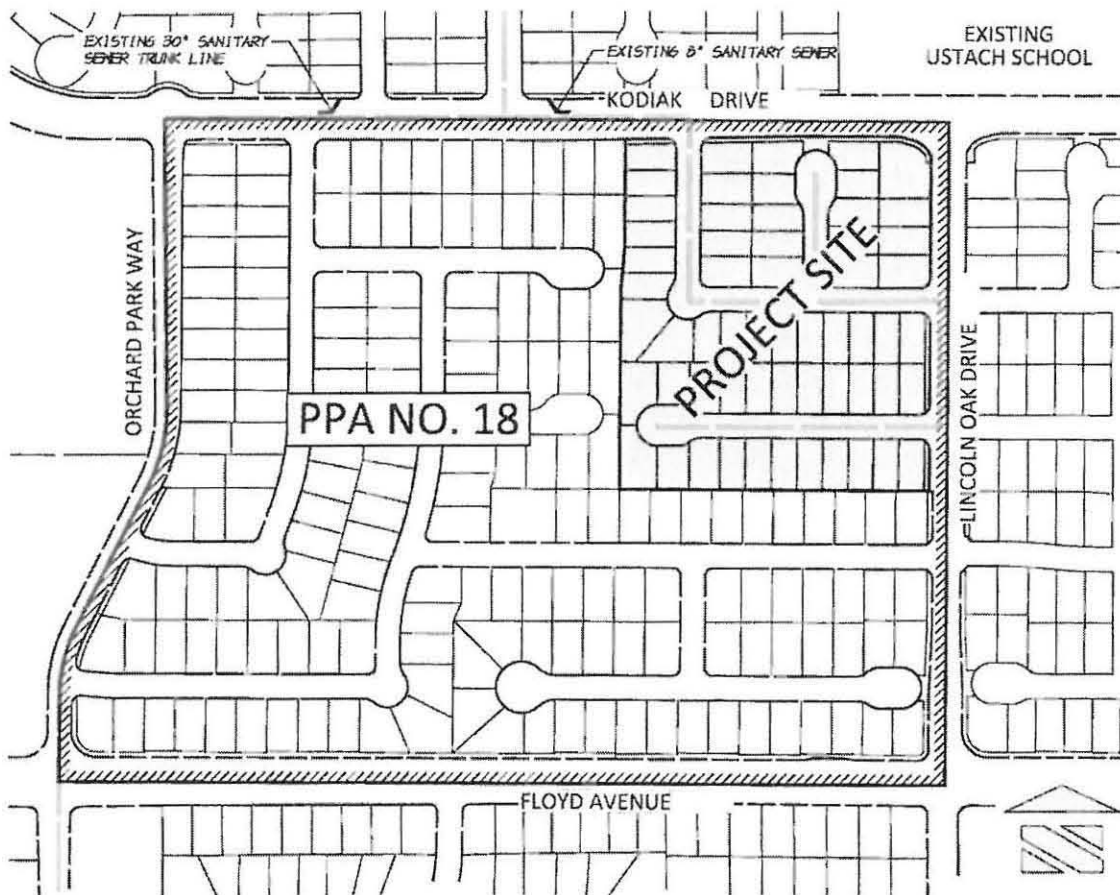
The project will be designed and improved to the Village One Specific Plan and/or the City of Modesto R-1 Zoning Ordinance. No Specific Plan exceptions are required at this time.

VI. Infrastructure Plan

Sanitary Sewer

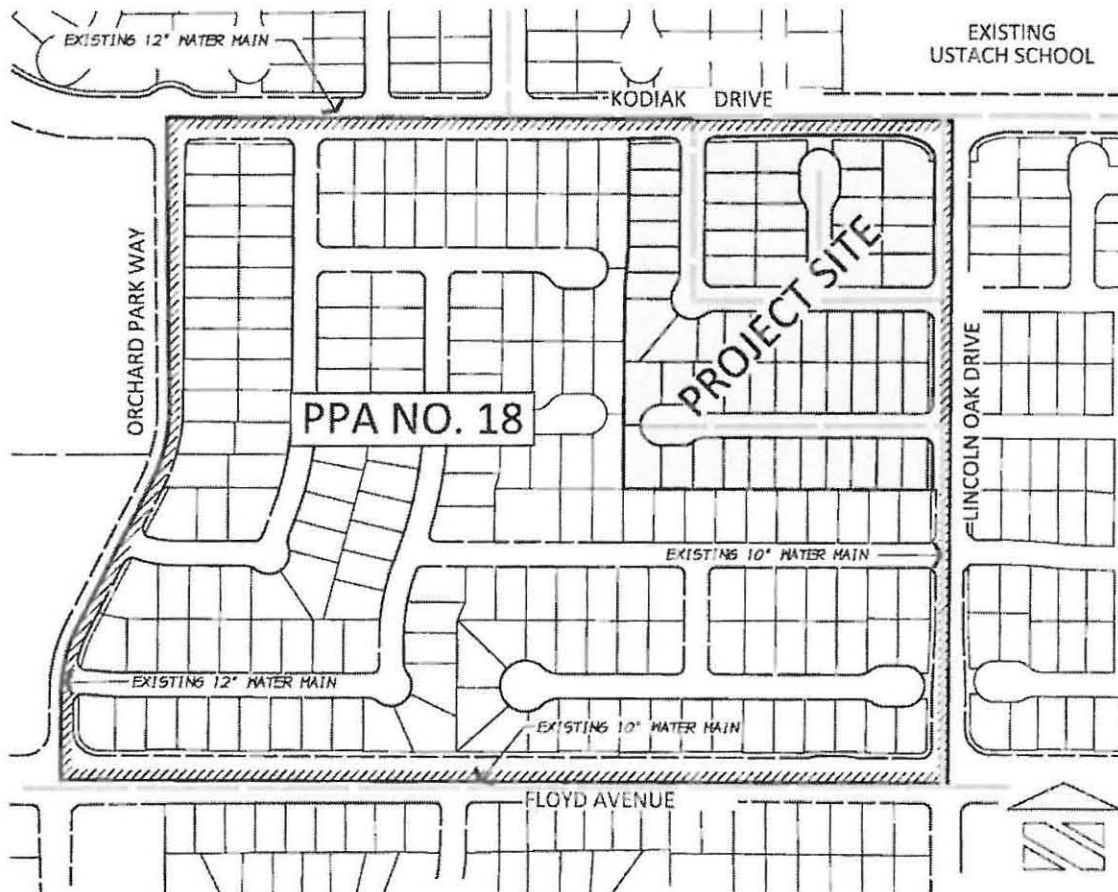
Sewer service for the residential development lying in PPA No. 18 will be provided by the City. The proposed sewer lines in the subdivision will be per the City Standards and will connect to the existing 30" sewer main now existing in the Orchard Park way rights-of-way. The proposed project will connect to the existing 8" sewer in Kodiak drive. The proposed lots fronting along Lincoln oak will connect to the existing 8" sewer in Lincoln Oak Drive.

Pipeline sizes for construction will be finalized when the improvement plans are completed.



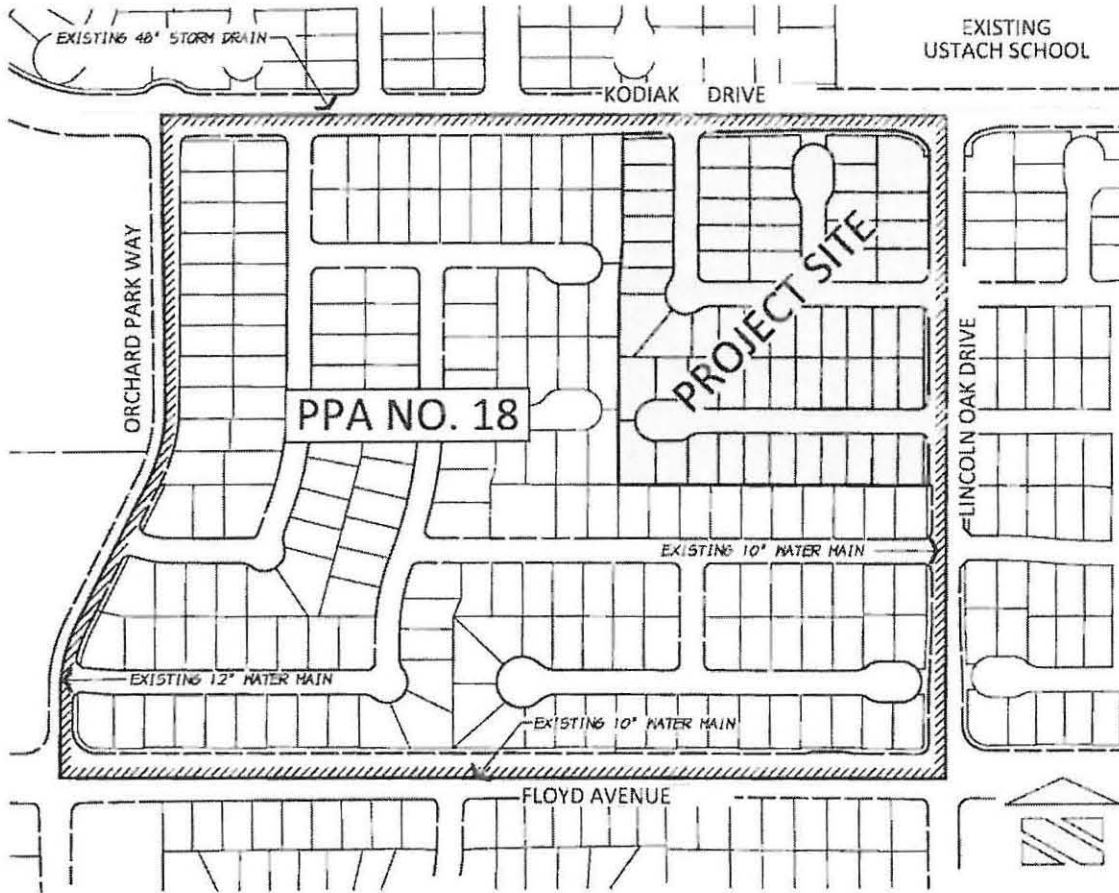
Water

Domestic water for the subdivision will be provided by the City. The proposed water lines for the residential development lying in PPA No. 18 will be per the City Standards and will connect to a 10 inch water main existing in the Floyd Avenue and Lincoln Oak Drive as well as a 12 inch water main existing in Kodiak Drive and Orchard Park Way. The project will connect to the existing 12" line in Kodiak and the 10" line in Lincoln Oak Drive creating a loop through the proposed project.



Storm Drainage

The storm drain system for the subdivision will tie into the City master-planned Village One West basin via the existing 48" pipeline in the Kodiak Drive right-of-way.



VII. Miscellaneous

Legal Description

The attached legal description details the boundary area of Precise Plan Area No. 18:

PPA NO. 18 LEGAL DESCRIPTION

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

Commencing at the Northeast corner of said Section 14; thence North $89^{\circ}41'13''$ West along the North line of said Section 14, a distance of 2401.91 feet to the center line of Lincoln Oak Drive and the point of beginning; thence continue North $89^{\circ}41'13''$ West along said North line of Section 14 a distance of 1536.14 feet to the Northerly extension of the centerline of Orchard Park Way; thence along said centerline the following five courses:

- 1.) South $0^{\circ}18'47''$ West, a distance of 567.54 feet to a point of curvature of a tangent curve; thence
- 2.) Southerly along the arc of said tangent curve, having a radius of 300.00 feet and a central angle of $26^{\circ}53'54''$, an arc distance of 140.84 feet; thence
- 3.) South $27^{\circ}12'41''$ West, a distance of 318.83 feet to a point of curvature of a tangent curve; thence
- 4.) Southerly along the arc of said tangent curve, having a radius of 300.00 feet and a central angle of $26^{\circ}53'19''$, an arc distance of 140.79 feet; thence
- 5.) South $0^{\circ}19'22''$ West, a distance of 199.00 feet to the centerline of Floyd Avenue; thence

South $89^{\circ}40'38''$ East along said center line of Floyd Avenue, a distance of 1745.10 feet to said center line of Lincoln Oak Drive; thence North $0^{\circ}19'22''$ East along last said center line, a distance of 1322.57 feet to the point of beginning.

Containing 48.86 acres, more or less

Legal Description

The attached legal description details the boundary area of the proposed project:

**LEGAL DESCRIPTION
PORTION OF BOUNDARY
WITHIN PRECISE PLAN AREA NO. 18**

All that certain real property situate in the City of Modesto, County of Stanislaus, State of California, lying within a portion of the North half of the North half of Section 14, Township 3 South, Range 9 East, Mount Diablo Meridian, described as follows:

Lot 22 in Block 11093 as shown on that map entitled "Hacienda Del Sol, Unit No. 1", filed in the Office of the Recorder of the County of Stanislaus on July 8, 2005 in Volume 42 of Maps at Page 55.

CONTAINING 9.516 acres, more or less.



PRECISE PLAN STATEMENTS, AS REQUIRED

BY THE "VILLAGE ONE SPECIFIC PLAN"

1. Prior to the Final Inspection, Building Inspection Division shall verify that all fireplaces and wood stoves in residential units are equipped to meet the performance and emissions standards set forth in Part 60, Title 40, Subpart AAA Code of Federal Regulations, February 26, 1998.
2. Construction noise is regulated by the City's Noise Ordinance, Section 4.9-103. Construction noise is generally permitted during the hours of 7:00 am. to 9:00 p.m. To avoid complaints from nearby residents, and possible citations, the full text of the ordinance should be reviewed by builders prior to construction. City construction projects will be monitored by Construction Inspection Division for conformance with the City's Noise Ordinance.
3. During construction activities, Building Inspection Division shall verify that contractors observe the requirements of City of Modesto Standard Specification 1.8, Dust Control, and when necessary, Regulation VIII of the San Joaquin Valley Unified Air Pollution Control District to control the generation of PM 10 from construction related dust and emissions.
4. To the extent allowed by state law, annexation to the appropriate schools community facilities district will be required as a condition of final map approval. If this requirement cannot be enforced due to the status of state law, then prior to issuance of the first building permit or final map approval, whichever is earlier, the developer shall provide written verification from the affected school districts that a determination has been made as to whether the developer will pay the school fees in effect or annex to the appropriate community facilities district.

**POLICY DIRECTIONS APPLYING
TO ALL PRECISE PLAN AREAS
(AS SUMMARIZED FROM SECTION III D OF THE VILLAGE ONE
SPECIFIC PLAN, DATED JUNE 30, 1996)**

All Precise Plans prepared within the Village One Specific Plan Area shall incorporate the following policies into their designs, where appropriate:

1. Land Use Compatibility between Precise Plan Areas may be provided in many ways such as the design, orientation, size of lots, arrangement of specific land uses, or the limitation or provision of pedestrian access. Precise Plans shall incorporate appropriate policies for effective transition between Precise Plans.
2. Right-of-way acquisition for connector street linkages shall provide for the relocation and/or acquisition of structures that are located within the road alignments. If there is an existing dwelling or structure that is located in those alignments, it should be relocated or acquired.
3. Precise Plan Areas may be combined to create larger increments for submittal of plans. When one property encompasses several Precise Plan Areas, the property owner may submit individual Precise Plan applications, or one combined Precise Plan application covering all relevant Precise Plan Areas.
4. Remainder parcels within a Precise Plan Area, such as small triangular properties, shall be assembled and/or reconfigured before approval of a Precise Plan. When applicable, a Precise Plan shall provide for the incorporation of the remainder parcels from the adjacent Areas.
5. All road alignments for connector streets shall be consistent with the Facilities Master Plan.
6. The Land Use and Community Design Policies presented in Chapter II (Section II-G) shall be incorporated, where relevant, into each Precise Plan. The Development Review process to implement these policies may specify that, for existing and proposed lots greater than 5,000 square feet in size, performance standards may be utilized, in lieu of architectural and plot plan Submittal, to demonstrate conformance with the Land Use and Community Design Policies.
7. All Precise Plans which propose residential development shall include the following requirement for residential subdivisions notifying future home buyers in the project area of potential land use impacts although it may not fully mitigate the impact:

“All deeds for lots sold in this subdivision shall contain the following statement:

‘This lot is located near existing agricultural operations. Residents may be subjected to customary and accepted farming practices that produce noise, dust, smoke and other impacts. The grantee accepts the potential impacts of customary farming practices, which may include the application and use of various chemicals through spraying, spreading, or other customary means in accordance with applicable state and federal regulations regarding such applications. The grantee also acknowledges the need to avoid activities that conflict with nearby farm uses.’”

8. All Precise Plans which proposed residential development shall include the following requirement:

The Developer shall provide Pedestrian linkage to school facilities serving the particular residential Precise Plan Area. Linkage may consist of any surface and route agreed to by the City Transportation Division and School District Facilities Planners to provide safe and continuous linkage from the residential areas to the school facility.

-or-

As an alternative to construction of pedestrian linkage, reimburse the school district for busing arrangement until such time as necessary pedestrian linkage is in place.

This policy does not intend for developers to construct walkways to schools that don't exist.

9. Precise Plans in the project area shall contribute to the financing and implementation of the required improvements to provide capacity for projected traffic at the Oakdale and Briggsmore intersection. This shall include the following intersection improvements:

Widen the eastbound and westbound approaches to add a separate right-turn lane on each approach, converting the existing right-turn lane to a through and restriping the departures to receive three through lanes. Restripe the northbound and southbound approaches and widen the departures to convert the existing separate right-turn lanes to through right-turn lanes.

Department of Public Works and Transportation staff shall determine the design and phasing of these roadway improvements based on the Facilities Master Plan. Completion of final inspection by Construction Inspection Division shall constitute compliance with this measure.

10. The following statement shall be placed in all Precise Plans for Residential Development:

Prior to the Final Inspection, Building Inspection Division shall verify that all fireplaces and wood stoves in residential units are equipped to meet the performance and emissions standards set forth in Part 60, Title 40, Subpart AAA Code of Federal Regulations, February 26, 1998.

11. Noise Mitigation for Residential Precise Plan Areas

Noise measures might include, but are not necessarily limited to, setbacks, barriers, site design, or acoustical building treatment. Precise Plans shall determine from this list which measures are most relevant. This requirement shall apply to dwellings located within the identified 65 dBA exterior noise level contours. Verification of noise treatment to reduce interior noise levels to 45 dBA, prior to final inspection by Building Inspection Division shall constitute compliance with this measure.

Noise mitigation for residential dwellings is required along the following streets up to the indicated distance:

Without acoustical treatment, noise levels inside proposed residential housing along the following project area major streets would exceed 45 dBA, the City's General Plan standard. The street segments and distances in feet from centerline these impacts would occur are:

Floyd	Oakdale to Roselle	84 ft. With 7' wall
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Source: Brown-Buntin Associates Noise Study, April 1993 as amended August 20, 2002.

12. All Precise Plans shall contain the following statement:

“Construction noise is regulated by the City’s Noise Ordinance, Section 4.9-103. Construction noise is generally permitted during the hours of 7:00 a.m. to 9:00 p.m. To avoid complaints from nearby residents, and possible citations, the full text of the ordinance should be reviewed by builders prior to construction. City construction projects will be monitored by Construction Inspection Division for conformance with the City’s Noise Ordinance.”

13. Precise Plans for development within the project area shall contain the following statement:

During construction activities, Building Inspection Division shall verify that contractors observe the requirements of City of Modesto Standard Specification 1.8, Dust Control, and when necessary, Regulation VIII of the San Joaquin Valley Unified Air Pollution Control District to control the generation of PM 10 from construction related dust and emissions.

ORDINANCE NO. 3616-C.S.

AN ORDINANCE ADDING CHAPTER 9 “COMMUNITY BENEFIT DISTRICTS”
TO TITLE 8 “FINANCE, REVENUE AND TAXATION” OF THE MODESTO
MUNICIPAL CODE

WHEREAS, the City of Modesto contains many property owners desirous to form property-based assessment districts for the purpose of enhancing the security, safety, appearance, and economic viability of their environs; and

WHEREAS, the California Street and Highways Code provides for the establishment of a property-based improvement district and requires that property owners in the proposed district submit a petition signed by property owners who will pay more than fifty percent (50%) of the assessments proposed to be levied; and

WHEREAS, the City Council believes that the fifty percent (50%) petition requirement may result in areas with a large percentage of absentee property owners being denied the ability to vote on the merits of establishing a property and business improvement district; and

WHEREAS, the California Street and Highways Code limits the maximum number of years during which an assessment can be levied to five, and the City Council believes that it would be in the best interests of some property and business improvement districts to plan for expenditures in excess of five years, such as expenditures for the maintenance of improvements; and

WHEREAS, although the Property and Business Improvement District Law of 1994 (Streets & Highways Code §§ 36600 *et seq.*) provides a procedure to establish a business improvement district and levy an assessment against real property, Streets & Highways Code Section 36603 specifically provides: “Nothing in this part is intended to preempt the authority of a charter city to adopt ordinances providing for a different method of levying assessments for similar or additional purposes from those set forth in this part;” and

WHEREAS, the City Council desires to enact an enabling ordinance which will be responsive to the needs of property owners in the City by reducing the requisite property owner participation in the weighted petition from fifty percent (50%) to thirty percent (30%) and increasing the maximum

number of years for which an assessment may be established from five (5) years to twenty (20) years for the purpose of funding special benefits conferred upon real property owners; and

WHEREAS, the City of Modesto is a Charter City and the establishment of Community Benefit Districts and the levying of assessments therefor is a municipal affair; and

WHEREAS, the City desires to establish a simplified procedure which permits the full compliance with the requirements of the California Constitution.

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

Section 1. Chapter 9 “Community Benefit Districts” is hereby added to Title 8 “Finance, Revenue and Taxation” of the Modesto Municipal Code to read as follows:

Title 8. Finance, Revenue and Taxation
Chapter 9 – Community Benefit Districts

8-9.101 Purpose.

The purpose of this ordinance is to enhance the ability of the City and property owners to establish property and business improvement districts pursuant to the Property and Business Improvement District Law of 1994 (Streets & Highways Code §§ 36600 *et seq.*) by: (1) reducing the percentage of property owners whose signatures are required to initiate formation of, or petition for disestablishment of, a Property and Business Improvement District ("Property BID") from fifty percent (50%) of the weighted property owners, as authorized by the Property and Business Improvement District Law of 1994, to thirty percent (30%) of the weighted property owners; (2) extending the period for which a Property BID may exist from five (5) years, as authorized by the Property and Business Improvement District Law of 1994, to twenty (20) years; and (3) authorizing the reimbursement of formation costs.

8-9.102 Alternative procedures.

(a) The procedures established in this chapter shall be additional or alternative to any other procedure established by ordinance or state law, and are intended to supplement those procedures.

(b) In forming assessment districts to fund activities and improvements that confer a special benefit on property, the City Council may elect to use the procedures set forth in the Property and Business Improvement District Law of 1994 (Streets & Highways Code §§ 36600 *et seq.*) (the "PBID Law"), as modified by this chapter. The City Council shall be bound by, and comply with, applicable state law governing the establishment and operation of property and business improvement districts in all respects not inconsistent with this chapter.

(c) An assessment district established pursuant to this chapter shall be denominated as a "Community Benefit District" or "District" and the assessment levied in connection with such a district shall be denominated as a "Community Benefit Assessment."

(d) Except where otherwise provided in this chapter, "Community Benefit District" shall have the meaning given to "Property and Business Improvement District" by Section 36614.5 of the PBID Law and each reference in the PBID Law to a "Property and Business Improvement District" or a "District" shall be deemed also a reference to a "Community Benefit District."

(e) Except where otherwise provided in this chapter, "Community Benefit Assessment" shall have the meaning given to "Assessment" by Section 36606.5 of the PBID Law and each reference in the PBID Law to an "Assessment" shall be deemed also a reference to a "Community Benefit Assessment."

(f) A "Community Benefit District" shall be formed pursuant to a resolution of formation adopted by the City Council as set forth in Section 36625 of the PBID Law.

(g) All properties or businesses subject to an "Assessment" in a "Community Benefit District" shall not be subject to an assessment that exceeds the reasonable cost of the proportional special benefit conferred on that parcel and no properties or businesses shall be exempt from the "Assessment" consistent Section 36622(k) of the PBID Law.

(h) Consistent with Section 36633 of the PBID Law, the validity of a "Community Benefit Assessment" levied shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the resolution levying the "Assessment" is adopted.

8-9.103 Petition requirement.

Upon the written petition, signed and acknowledged, of the property owners in the proposed district who will pay more than thirty percent (30%) of the assessments proposed to be levied, the City Council may initiate proceedings to form a Community Benefit District by adopting a resolution expressing its intention to form a Community Benefit District. The amount of assessment attributable to property owned by the same property owner that is in excess of twenty percent (20%) of the amount of all assessments proposed to be levied shall not be included in determining whether the petition is signed by property owners who will pay more than thirty percent (30%) of the total amount of assessments proposed to be levied.

8-9.104 Advance and reimbursement of formation costs.

(a) The City Council may authorize a District formed pursuant to this chapter to recover through assessments the costs incurred in forming the District, including:

(1) The costs of preparation of the management plan and engineer's report required by state law;

(2) The cost of circulating and submitting the petition to the City Council seeking establishment of the District;

(3) The costs of printing, advertising and the giving of published, posted or mailed notices;

(4) Compensation of any engineer or attorney employed to render services in proceedings under this chapter or the PBID Law; and

(5) Costs associated with any ballot proceedings required by law for approval of a new or increased assessment. If the District will be authorized to recover these costs, the management plan required pursuant to Streets & Highways Code Section 36622 shall specify the formation costs eligible for recovery through assessments, the schedule for recovery of those costs, and the basis for determining the amount of the additional assessment for recovery of costs, including the maximum amount of the additional assessment, expressed either as a dollar amount, or as a percentage of the underlying assessment.

(b) The City may advance funds for the first year of a District so that the District can commence work prior to the initial collection of the assessments. The funds advanced will not exceed the total assessment for the first year. The funds advanced shall be repaid, with interest, within five (5) years of the collection of the first annual assessment.

8-9.105 Duration of a Community Benefit District. A Community Benefit District established pursuant to this chapter may have a duration of up to twenty (20) years, if so specified in the resolution of intention.

8-9.106 Disestablishment of a Community Benefit District.

(a) Any Community Benefit District established or extended pursuant to the provisions of this chapter, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be disestablished by resolution by the City Council in either of the following circumstances:

(1) If the City Council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district, it shall notice a hearing on disestablishment.

(2) During the operation of the district, there shall be a thirty (30)-day period each year in which assesseses may request disestablishment of the district. The first such period shall begin one (1) year after the date of establishment of the district and shall continue for thirty (30) days. The next such thirty (30)-day period shall begin two (2) years after the date of the establishment of the district. Each successive year of operation of the district shall have such a thirty (30)-day period. Upon the written petition of the owners of real property or of businesses in the area who pay thirty percent (30%) or more of the assessments levied, the City Council shall pass a resolution of intention to disestablish the district. The City Council shall notice a hearing on disestablishment.

(b) The City Council shall adopt a resolution of intention to disestablish the district prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the property and business improvement district. The notice of the hearing on disestablishment required by this section shall be given by mail to the property owner of each parcel subject to assessment in the district, as appropriate. The city shall conduct the public hearing not less than thirty (30) days after mailing the notice to the property or business owners. The public hearing shall be held not more than sixty (60) days after the adoption of the resolution of intention.

(c) Upon the disestablishment of the Community Benefit District, any remaining revenues, after all outstanding debts are paid, derived from the levy of assessments, or derived from the sale of assets acquired with the revenues, or from bond reserve or construction funds, shall be refunded to the owners of the property or businesses then located and operating within the district in which assessments were levied by applying the same method and basis that was used to calculate the assessments levied in the fiscal year in which the district is disestablished or expires. All outstanding assessment revenue collected after disestablishment shall be spent on improvements and activities specified in the management district plan.

(d) If the disestablishment occurs before an assessment is levied for the fiscal year, the method and basis that was used to calculate the assessments levied in the immediate prior fiscal year shall be used to calculate the amount of any refund.

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

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2015, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of May 2015, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers:

APPROVED: 
GARRAD MARSH, Mayor

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: June 5, 2015

ORDINANCE NO. 3626-C.S.

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MODESTO MAKING FINDINGS AND ESTABLISHING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT OF NEW AND THE RELOCATION OR EXPANSION OF EXISTING MASSAGE AND BODYWORK ESTABLISHMENTS WITHIN THE CITY OF MODESTO TO BECOME EFFECTIVE IMMEDIATELY

WHEREAS, the City Council has broad discretion pursuant to Article II, Sections 200 and 201 of the City Charter; California Constitution Article XI, Section 5; and the general law of the state, including, but not limited to, the California Planning and Zoning Law (Gov. Code Section 65000 et seq.), to legislate for public purposes and for the general welfare, including, but not limited to, matters of public health and safety; and

WHEREAS, in 2008 the California Legislature adopted Senate Bill 731, repealing and replacing Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business Professions Code, relating to massage therapy (“Massage Therapy Act of 2008” or “Act”); and

WHEREAS, the Massage Therapy Act of 2008 placed certain limitations on the ability of cities to regulate massage establishments concerning business licenses, zoning, and health, safety and welfare regulations; and

WHEREAS, on July 9, 2010, the City enacted Ordinance No. 3529 amending Chapter 2 of Title 5 of the Modesto Municipal Code relating to and regulating massage establishments and other bodywork establishments in accordance with the Massage Therapy Act; and

WHEREAS, since 2010, the City has actively regulated massage and bodywork practitioners and massage and bodywork establishments in accordance with Chapter 2 of Title 5 of the Modesto Municipal Code and the Massage Therapy Act; and

WHEREAS, the State Legislature recently adopted Assembly Bill 1147, which became

effective on January 1, 2015, amending the Massage Therapy Act, repealing and replacing Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business and Professions Code and amending Section 51034 of the Government Code; and

WHEREAS, under the Massage Therapy Act of 2008, the City has had no ability to implement zoning regulations that address the location of massage bodywork establishments certified by the California Massage Therapy Council (“CMTC”) (CMTC is California’s massage therapy organization or “MTO,” and may be referred to as “CMTC” or “MTO” in this Ordinance); and

WHEREAS, Assembly Bill 1147 returns most land use authority over massage establishments to cities and counties; and

WHEREAS, Assembly Bill 1147 allows cities and counties to adopt local ordinances that govern zoning, business licensing, or reasonable health and safety requirements for establishments or businesses of a licensed or certified healing arts professional, including a certified massage therapist; and

WHEREAS, Article XI, Section 7 of the California Constitution provides that a city may make and enforce within its limits all local police, sanitary and other ordinances and regulations not in conflict with general laws; and

WHEREAS, California Government Code section 65858, subdivision (a) provides, in part, that the legislative body of a charter city, to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time. That urgency measure shall require a four-fifths vote of the

legislative body for adoption. The interim ordinance shall be of no further force and effect forty-five (45) days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may extend the interim ordinance a maximum of two (2) times for a total duration of two (2) years; and

WHEREAS, California Government Code Section 65858(c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, and welfare, and that the approval of additional entitlements would result in that threat to the public health, safety, and welfare; and

WHEREAS, the City of Modesto is facing a current and immediate threat to the public health, safety, and welfare of its citizens as the City has received numerous complaints from the public and local law enforcement officials regarding the increasing number of massage and bodywork establishments within the City and the negative impact that illegitimate massage and bodywork establishments are having on the City. The City received eight (8) applications for massage and bodywork-related businesses from January 1, 2015 through March 31, 2015, a fifty percent (50%) increase compared to the same time period in 2014; and

WHEREAS, the City values local business and recognizes that many massage and bodywork establishments throughout the City are operated lawfully and professionally, and staffed by massage therapists who uphold professional and community standards, and provide important health benefits to City residents; and

WHEREAS, due to the significant changes to the law as a result of Assembly Bill 1147 and the restored powers of the City to adopt land use regulations applicable to massage and bodywork establishments, the City Council desires to address community concerns regarding the establishment and operation of massage and bodywork establishments within the City and

intends to: (1) study the potential impacts massage and bodywork establishments may have on the public health, safety and welfare; (2) determine what local regulations, including, but not limited to, zoning regulations, may be appropriate to limit the negative impacts of massage and bodywork establishments; and (3) determine appropriate controls for the protection of public health, safety and welfare; and

WHEREAS, the continued creation and operation of new massage and bodywork establishments within the City prior to completion of such a study and possible adoption of new or amended regulations creates a current and immediate threat to the public safety, health and welfare in that such operations threaten to cause adverse impacts to surrounding residents and businesses, including impacts on or related to over-concentration of massage and bodywork establishments in one area, violence against women, human trafficking, noise, outdoor lighting, sanitation, vehicle and pedestrian traffic, and property values; and

WHEREAS, for the reasons set forth above, the City has determined that a forty-five (45) day moratorium on the establishment of new, and the relocation or expansion of existing massage and bodywork establishments within the City is necessary. The moratorium should remain in effect pending completion of the City's study of the potential impacts of massage and bodywork establishments and its potential adoption of amendments to the Zoning Code and other appropriate regulations for the protection of the public health, safety and welfare; and

WHEREAS, pursuant to Section 15001 of the California Environmental Quality Act ("CEQA") Guidelines, this Ordinance is exempt from CEQA based on the following:

(1) This Ordinance is not a project within the meaning of Section 15378 of the State CEQA Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately.

(2) This Ordinance is categorically exempt from CEQA under Section 15308 of the CEQA Guidelines as a regulatory action taken by the City pursuant to its police power and in accordance with Government Code Section 65858 to assure maintenance and protection of the environment pending the evaluation and adoption of contemplated local legislation, regulation and policies.

(3) This Ordinance is not subject to CEQA under the general rule in CEQA Guidelines Section 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. For the reasons set forth in subparagraphs (1) and (2), above, it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

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

SECTION 1. FINDINGS The above recitals are true and correct, and are adopted as findings of the City Council of the City of Modesto.

SECTION 2. PURPOSE. The purpose of this Ordinance is to protect the public safety, health and welfare from the immediate threat posed by the establishment of new and the relocation of existing massage and bodywork establishments by temporarily prohibiting the establishment of new and the relocation or expansion of existing massage and bodywork establishments with the City of Modesto until such time as a detailed study of the possible adverse impacts such establishments might have on commercial uses and the general health, safety and welfare may be made, and appropriate regulations enacted. This Ordinance is an interim Ordinance pursuant to Government Code section 65858 and adopted based on the recitals above, staff report and public testimony received on the City Council of May 12, 2015.

SECTION 3. MORATORIUM IMPOSED.

A. Scope. In accordance with the authority granted the City of Modesto under Article XI, Section 7 of the California Constitution and California Government Code Section 65858, from and after the effective date of this Ordinance, no license, permit or other entitlement for use, including, but not limited to, the issuance of a business license, building permit, conditional use permit, or other land use approval, shall be approved or issued by the City for the establishment, relocation or expansion of a massage and bodywork establishment. Additionally, the establishment, relocation or expansion of massage and bodywork establishments is hereby expressly prohibited in all areas and zoning districts of the City.

B. Exceptions. This Ordinance shall not prohibit the renewal of a business license for an existing massage and bodywork establishment, provided that the renewal seeks to maintain the business without expansion and in its current location, and the massage and bodywork establishment is operating in a manner, and housed within a building, which complies with all City, State, Federal or otherwise applicable, codes, rules, regulations or laws or a recognized school of massage which: (1) teaches the theory, ethics, practice, profession and work of massage; (2) requires a residence course of study to be given before the student is furnished with a diploma or certificate of learning or completion; and (3) has been approved pursuant to Education Code section 94915, or, if said school is not located in California, has complied with the standards commensurate with those specified in Education Code section 94915.

C. This Ordinance shall not apply to the following classes of individuals while engaged in the performance of their duties:

1. Physicians, surgeons, nurses, chiropractors, osteopaths, acupuncturists, podiatrists, physical therapists, or any other persons licensed to practice any hearing art under the

provisions of Division 2 (commencing with Section 500) of the Business and Professions Code. Persons operating or employed at hospitals, nursing homes, sanitariums, or any other health facility duly licensed by the state.

2. Trainers of any amateur, semi-professional or professional athlete or athletic team, so long as such persons' practice of massage is limited to such athletes and athletic teams.

3. Barbers, cosmetologists, or estheticians who are duly licensed under the laws of the State of California, while engaging in practices within the scope of their licenses. Persons operating or employed at athletic clubs or fitness facilities, where such facility is designed and equipped for indoor sports, exercise, or physical education, and where massage services are provided to members of such facilities.

4. Enrolled students of a school of massage when they are performing massage within the City as part of a formal supervised internship or training operated by the school, without compensation other than school credit, on the premises of a massage establishment duly authorized to operate in the City.

SECTION 4. VIOLATION. Except as otherwise permitted under this Ordinance, the establishment, relocation or expansion of a massage and bodywork establishment within the limits of the City of Modesto is declared to be a public nuisance. Violations of this Ordinance may be enforced by any applicable laws or ordinances, including, but not limited to, injunctions or administrative or criminal penalties under Modesto Municipal Code.

SECTION 5. SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected

thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council of the City of Modesto hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 6. EFFECTIVE DATE AND DURATION. This Ordinance is an interim Ordinance pursuant to Government Code section 65858. It shall become effective immediately upon passage and adoption if passed and adopted by at least six-sevenths vote of the City Council and shall be in effect for forty-five (45) days therefrom unless extended by the City Council in accordance with Government Code section 65858.

INTRODUCTION AND FINAL ADOPTION CLAUSE

The foregoing Ordinance was introduced and adopted at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Cogdill, who moved its introduction and adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


GARRAD MARSH, Mayor

ATTEST:

By:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


ADAM U. LINDGREN, City Attorney

Effective Date: May 12, 2015

2426066.3

ORDINANCE NO. 3617-C.S.

AN ORDINANCE AMENDING TITLE 4, "PUBLIC WELFARE, SAFETY AND HEALTH," OF THE MODESTO MUNICIPAL CODE BY ADDING CHAPTER 22, "PUBLIC ART," ADOPTING A PUBLIC ART ORDINANCE

WHEREAS, the City of Modesto has determined that art in public places is a critical element of providing a diverse and culturally rich environment to Modesto residents and visitors that promotes the general public welfare. Public art expresses the confidence, vitality and optimism of the community and reflects the highest ideals of its citizens resulting in a more beautiful and livable city and celebrates our community identity by developing a collection of artworks which have strong inherent aesthetic quality and represent diverse communities and a wide range of artistic styles and disciplines. The City accepts a responsibility for expanding public experience with visual art; and

WHEREAS, the City does not currently have a policy or procedure in place to provide for the acquisition and maintenance of public art, so it is necessary for the City Council to adopt a public art policy to set forth the procedures for selection, installation, maintenance, and removal of City-owned, publicly displayed works of art; and

WHEREAS, in order to provide the City with the benefits of a public art program , the City Council desires to adopt a Public Art Ordinance that will serve the people of Modesto by making the City a more aesthetically pleasing and enjoyable place to live that reflects the City's diverse culture, history, future, and geography.

THE CITY COUNCIL OF THE CITY OF MODESTO DOES ORDAIN AS FOLLOWS:

SECTION 1. **Amendment of Title 4, "Public Welfare, Safety and Health."**

Title 4, "Public Welfare, Safety and Health," of the Modesto Municipal Code is hereby amended to add Chapter 22, entitled "Public Art," to read as follows:

"Chapter 22 – PUBLIC ART

- 4-22.01 Purpose and Program Goals.
- 4-22.02 Definitions.
- 4-22.03 The Role of the Art Director.
- 4-22.04 Culture Commission's Authority To Select or Commission Art Projects and to Review and Approve Art Project Proposals from Other Parties.
- 4-22.05 Procedure for Review and Determination of Art Project Proposals Submitted By Outside Parties.
- 4-22.06 Culture Commission Selection of Artists, Designers, Art Work, and Sites.
- 4-22.07 Funding.
- 4-22.08 Use of Funds.
- 4-22.09 Artist and Designer Rights.
- 4-22.10 Artist or Designer Responsibilities.
- 4-22.11 Gifts of Art to the City.
- 4-22.12 Removal of Art Projects.
- 4-22.13 Requests to Borrow City-Owned Art Projects.
- 4-22.14 Maintenance and Conservation.
- 4-22.15 Provision for Review and Amendment
- 4-22.01 Purpose and Program Goals.**

The City Council adopts this Chapter, also known as the "Public Art Ordinance," to guide the City of Modesto in the selection, installation, maintenance, and removal of displayed works

of art in public places in order to make the City a more beautiful and enjoyable place for people to live, work, or visit.

This Public Art Ordinance is also adopted to achieve the following goals:

A. Goal 1: Establish a Public Art Ordinance that serves the people of Modesto by making the City a more aesthetically pleasing and enjoyable place to live that reflects the City's diverse culture, history, future, and geography;

B. Goal 2: Institutionalize the Public Art Ordinance within the City's Municipal Code to ensure the long-term life of the Ordinance and the art collection; and

C. Goal 3: Develop a broad base of community and institutional participation and support for the Public Art Ordinance and cultivate new audiences and participants, including youth through public schools, art organizations, local tourist and visitor groups, as well as people who live and work near public art sites.

4-22.02 Definitions.

The following definitions shall apply to this Chapter, and all other words used herein shall have their ordinary meaning:

A. "Art Director" shall mean the Director of Community and Economic Development or other person designated by the City Manager.

B. "Art Project" shall mean a work of artistic value that is unique, but may also be functional, and is acquired by the City independent of the design review process for a new development or existing building or site.

C. "Temporary Art Project" shall mean an Art Project that is built in place but designed so that its usable life will be two (2) or fewer years.

D. “Traveling Art Project” shall mean an Art Project that is acquired by the City, is designed to be mobile, and will only be displayed in the City for two (2) or fewer years.

4-22.03 The Role of the Art Director.

A. Administration.

The Art Director shall administer this Public Art Ordinance. The Art Director’s authority and specific duties to administer this Public Art Ordinance are enumerated in the applicable Sections below.

B. Staff Support for the Culture Commission.

The Art Director shall serve as the professional staff support for the Culture Commission and shall be available to provide objective, professional recommendations on the merits of each Art Project submitted for the Culture Commission’s consideration and other advice and support as needed.

C. City’s Art Program Facilitator.

The Art Director shall also act as a creative and visionary contributor to the City’s long-term development goals of acquiring public art and securing on-going sources of funding for acquisition and maintenance of public art.

4-22.04 Culture Commission’s Authority to Select or Commission Art Projects and to Review and Approve Art Project Proposals from Other Parties.

The City of Modesto’s Culture Commission, as created by Section 1110 of the City of Modesto City Charter, shall have the authority to do the following:

A. Review and Approve/Deny Art Project Proposals.

The Culture Commission shall have the sole authority to review and either approve or deny Art Project proposals submitted by outside parties. The Culture Commission

shall only approve Art Project Proposals that (1) are fully funded (for creation and maintenance) according to the requirements of Section 4-22.07 entitled “Funding” below; (2) will fulfill the purpose of this Chapter by making the City a more beautiful and enjoyable place to live, work, or visit; and (3) that will enhance and/or harmonize with other approved Art Projects in the City.

Section 4-22.05 below sets forth the procedure for the Culture Commission’s review and determination of Art Project proposals by outside parties.

B. Acquire or Commission Works of Art On Its Own Motion.

The Culture Commission may on its own motion, acquire or commission an Art Project for installation or placement at a location of its choosing within the City, provided that (1) the Culture Commission is able to secure the necessary funding required by Section 4-22.07, below; (2) the Art Project will fulfill the purpose of this Chapter by making the City a more beautiful and enjoyable place to live, work, or visit; and (3) the Art Project will enhance and/or harmonize with other approved Art Projects in the City.

The Culture Commission may secure funding either through an outside source *or* through City funding when funds are approved and designated by the City Council to be used for acquisition of City-owned public art. Nothing in this Chapter is intended to give the Culture Commission the authority to spend General Fund money or other City funds without expressed, prior authorization of the City Council.

Section 4-22.06 below sets forth the procedure for the Culture Commission to select Art Projects on its own motion.

4-22.05 Procedure for Review and Determination of Art Project Proposals Submitted By Outside Parties.

Any person or party may propose an Art Project, which shall be submitted on a form developed by the Art Director. The proposal must contain all of the items the Art Director deems necessary to constitute a full and complete submittal in a form that will facilitate Culture Commission review. At a minimum, proposals for Art Projects shall identify the artist, design details, proposed location and funding source(s). The Art Director shall review all proposals to determine whether they contain the required information. If the Art Director deems a proposal complete, he or she shall forward the proposal to the Culture Commission along with his or her written report analyzing whether the Art Project proposed will meet the goals of this Chapter and whether the Art Project will enhance and/or harmonize with other approved Art Projects in the City. In determining this, the Art Director shall use the criteria identified in Section 4-22.06, below, wherever applicable.

4-22.06 Culture Commission Selection of Artists, Designers, Art Work, and Sites.

When the Culture Commission decides by its own motion to acquire a Public Art Project or to commission the creation of an Art Project, it shall follow the following procedures:

A. Methods of Selecting Artists or Designers.

The Culture Commission shall determine the method of selection of the artist or designer, based on the circumstances surrounding the work it wishes to commission. Methods of selection include one (1) of the following:

1. Limited competition: The Culture Commission invites artists and designers to submit proposals. This method may be appropriate where there are time constraints or for unique applications or where there is a very limited population of practitioners.

2. Open competition: Any artist may apply, subject to qualifications and limitations established by the Culture Commission.

B. Criteria for Selection of Artists or Designers.

Regardless of the method employed for selecting the artist or designer, the Culture Commission shall use the following criteria when choosing an artist or designer for a proposed Art Project:

1. The artist or designer's qualifications as demonstrated by past work;
2. Appropriateness of the artist or designer's proposal to the particular project;
3. The artist or designer's probability of successful completion; and
4. Any specific criteria recommended by the Art Director for the particular Art Project proposed.

Selection of artists and designers will be without regard to race, color, creed, national origin, sexual orientation, or gender.

C. Criteria for Selecting Art Works.

The Culture Commission shall select art works based on the following criteria:

1. Quality: Of highest priority are design capabilities of the artist/designer and the inherent quality of the art work(s).
2. Media: All visual art forms may be considered, subject to limitations set by the Culture Commission.
3. Style: Art works of all schools, styles, and tastes should be considered for the City collection.
4. Nature and Context: Art works should be appropriate in scale, material, form, and content for the immediate, general, social, and physical environments with which they are to relate.

5. Permanence: Consideration should be given to structural and surface integrity, permanence, and protection against theft, vandalism, weathering, excessive maintenance, and repair costs.

6. Elements of Design: Consideration should take into account that public art, in addition to meeting aesthetic requirements, also may serve to establish focal points; modify, enhance, or define specific spaces; or establish identity.

7. Public Liability: Art works should be examined for unsafe conditions or factors that may bear on public liability, including constitutional limitations on the content of the Art Project.

8. No Selection of Art Project with a Disruptive Impact: It should be noted that the City is not creating a public forum by designating a site appropriate for the Art Project, so the Culture Commission may decline to select a work of art that it reasonably believes may provoke disturbance and offend workers and visitors including parents and children (e.g., display of sculpture of genitalia). (See e.g. *Swim v. City of Austin*, 105 F.3d. 655 (1996).) The Culture Commission's choice to reject such a submission for display shall be based on the potential impact of the disruptive effect of displaying the art and not because the Culture Commission disagrees with the artist's viewpoint or the message communicated by the work of art.

9. Diversity: Art Projects in Modesto should reflect diversity of style, scale, media, and artists—including ethnicity and gender—and equitable distribution of art works throughout the City.

10. Artist or designer work style: In general, artists or designers who have experience working successfully on design teams and working with the public are preferred.

D. Criteria for Site Selection.

If a specific site for display of an Art Project has not been predetermined by the proposal for an Art Project, the Culture Commission will review publically accessible City-owned sites for suitability, and shall select the City-owned property best suited to display the proposed Art Project. Criteria that would make a site “suitable” shall include the following:

1. The public’s ability to view the art;
2. The site’s size, location, color, and other characteristics which make it appropriate for the Art Project’s scale, size, color, materials used, etc.;
3. Ease of access to art work for maintenance;
4. The location is the type that would allow for security measures to be implemented, if necessary, to minimize the likelihood of vandalism and/or the addition of the Art Project to the location would not increase the likelihood of vandalism to the Art Project or other City property;
5. Display of art at the site will not disrupt employees or the public;
6. Display of art at the site will not permanently damage City property; and
7. Display of art at the site will not pose a threat to public safety.

4-22.07 Funding.

A. Funding for Art Projects, including approved in-kind material and labor costs, may come from City appropriations, grant-making foundations, individuals, and/or from local businesses and organizations.

B. All funds secured for publicly displayed Art Projects shall be deposited into a public art account and shall be used solely for public art. In the case where financial contributions are designated for a specific Art Project, surplus funds shall be returned to the funder when the project is complete or in the case of funds originating from the City’s general

fund or other designated City account, surplus funds shall be returned to the general fund or the other designated City account.

C. A contractual commitment for the contribution of qualified artistic and professional services and materials may be considered in lieu of cash funding for up to ninety percent (90%) of the cash funding necessary for each Art Project. However, at least ten percent (10%) of the funding for each Art Project must be provided in cash to provide for the maintenance of the Art Project.

D. All costs associated with installation, maintenance, security, insurance, and removal of a Temporary Art Project or a Traveling Art Project, as well as repair and restoration of walls and other property at the City-owned installation site will be funded by the individual, group, business or government agency that proposed the acquisition of the Temporary or Traveling Art Project and provided funding for the acquisition. If a City department proposed acquisition of the Temporary or Traveling Art Project, funding for these costs shall be provided by that City department, unless the City Council determines that the funds should come from the City's general fund or some other source of City funding.

4-22.08 Use of Funds.

A. Use of Funds for design, construction, and installation. At least Seventy-Five Percent (75%) of the funds set aside for each Art Project must be spent for:

1. Artist's or designer's fees including travel expenses, conceptual development, and proposals.
2. Artist's or designer's selection processes, including jury selection costs and model or design fees.
3. Semi-finalist proposals and travel expenses.

4. Design work which can include, but is not limited to:
 - a. Outdoor space design elements in areas such as plazas, arcades, and pedestrian passageways;
 - b. Artistic design of roadways, parkways, pedestrian or bicycle paths, transit system improvements, water and wastewater facilities;
 - c. Sites with historic, archeological, and unique geological features;and
 - d. Collaborative projects, i.e., artists as members of design teams working with architects, landscape architects, engineers, etc.
5. The work of art itself, which can be, but is not limited to:
 - a. Major three-dimensional art works; as landmarks, focal points, gateways, fountains, architectural embellishment, and site-specific sculptures;
 - b. Other major art work or craftwork; paintings, collages, ceramics, textiles, neon and light, architectural and decorative glass, reliefs, murals, enamels, and photo works;
 - c. Objects and artifacts to create a sense of place: more modest, small scale interventions by artists such a paving markers, milestones;
 - d. New technologies such as LED displays, websites, video, and projections;
 - e. Street furniture;
 - f. Interior structural works: flooring, frescos, lighting, wall coverings, windows;
 - g. Commemorative works, including statues and inscriptions; and

h. The incremental costs of infrastructure elements such as sound-walls, utility structures, roadway elements, and other items if designed by an artist or design team that includes an artist.

6. Related expenses, including:

- a. gallery fees;
- b. City required permits;
- c. labor and materials;
- d. operating costs;
- e. project related travel;
- f. transportation of the work to the site; and
- g. installation.

7. Frames, mats, mounting, anchorage, pedestals, cases or other materials necessary for the installation and/or security of the work.

8. Slides and other documentation.

9. Insurance.

10. Fees for consultants for work related to the design, construction, or installation of Art Projects.

11. Structures designed specifically for the display of art works.

12. Repair, maintenance, surveys, curatorial services, and other conservation work necessary to keep all art works in the City collection in standard condition.

13. Artists' and craftspersons' budget which can include but is not limited to the following:

- a. Professional fees;

- b. Labor and other contracted services;
- c. Insurance costs related to the project;
- d. Studio overhead/operating costs relevant to the project;
- e. Dealers/agents fees;
- f. Travel and transportation costs;
- g. Site preparation and installation costs;
- h. Project documentation and promotion; and
- i. Fees required for community liaison, education etc.

B. Use of Funds for Administration and Related Activities.

No more than fifteen percent (15%) of the funds set aside for each Art Project

may be spent on:

- 1. Administration;
- 2. Education activities;
- 3. Collection management of public art;
- 4. Dedications and publicity; and
- 5. Identification plaques and labels.

C. Use of Funds for Maintenance.

At least ten percent (10%) of the funds set aside for each Art Project shall be spent on maintenance.

D. Exclusions:

Public art funds shall not be spent for:

- 1. Reproductions of original art works (whether by mechanical means or otherwise) except in the case of video, photography, printmaking, or other media-based art.

2. Objects which are mass produced of standard design, such as playground equipment, benches, decorative lighting, or fountains.

3. Directional elements such as signs, maps, color coding, unless designed and/or executed by an artist or designer.

4. Provision of services or utilities necessary to operate or maintain a work of art over time. Specific elements that are deemed part of the work, e.g. motors, pumps, lights etc., are eligible.

5. Industrial and other artifacts except when incorporated into an original work of art by an artist or designer.

4-22.09 Artist and Designer Rights.

Artists and designers who create Art Projects under this Chapter shall have the following rights under this Chapter:

A. Art Projects and art concepts cannot be altered, modified, removed, or moved from a site which is integral to the concept of the work without the artist's written permission. If a work, nevertheless, has been significantly altered, the artist/designer shall have the right to disclaim authorship. If the City's best and reasonable efforts to contact the artist/designer and receive written permission have failed, the City may proceed with its plans to alter, modify, remove, or move an Art Project from its site.

B. Maintenance of Art Projects shall be the responsibility of the City, not the artist or designer.

C. Repairs and restorations shall be the responsibility of the City. The City shall notify the artist or designer before repairs or restoration in order to provide an opportunity for comment. If that which needs care is art work separate from a building or not integral to the

architecture, the City may offer the artist or collaborative team the right to do the work or to supervise it. The City shall reserve the right to make minor and/or emergency repairs without consulting the artist or designer so long as those repairs are done according to the “Materials and Care” instructions that the artist/designer must provide at the time of acquisition.

D. The artists/designers are entitled to pay according to the current national rate, unless otherwise agreed upon by the artist.

E. Copyright of public art works and art concepts shall belong to the creator(s), but the City must be granted the right to make two-dimensional reproductions for noncommercial purposes in the contract.

F. An artist or designer involved with creating an art work, or art concept shall have rights to supervise construction, fabrication, and/or application of ideas when done by third parties for the purposes of quality and design control.

4-22.10 Artist or Designer Responsibilities.

A. An artist/designer who desires to be selected by the City to create art for the City shall:

1. Submit credentials, proposals, and/or materials as directed for the consideration by the Culture Commission;
2. Conduct necessary research, including attending project orientations and touring project sites and meetings with the public, when possible;
3. When selected, execute and complete the work, or transfer title of an existing work, in a timely and professional manner;
4. Work closely with the project manager and/or other design professionals on commissioned projects;

5. Submit to the Culture Commission for review and approval any significant change in the scope of the project, color, material, design, or setting of the work;

6. Be responsible for all phases of the project as stipulated in the contract;

7. If required by contract, make a public presentation, conduct a community education workshop, or do a residency at an appropriate time and appropriate forum in the community where the art work will be placed or the project will occur; and

8. Be responsible for the timely and safe delivery of Art Project to appropriate destinations as determined by the Art Director.

B. The following warranties should be provided by artists or designers contracted by the City:

1. The art work or art concept is the result of the artistic efforts of the artist/designer except in the case of design collaboration;

2. The art is unique and original and does not infringe upon any copyright;

3. The art or a duplicate has not been accepted for sale elsewhere;

4. The art is free and clear of any liens;

5. The execution and fabrication of the art will be performed in a professional manner in keeping with the laws of the State of California especially regarding safety and environmental issues;

6. The art as fabricated and installed will be free of defects in material and craftsmanship, including any defects consisting qualities which cause or accelerate deterioration;

7. Reasonable maintenance of the art will not require procedures substantially in excess of those described in the maintenance instructions submitted by the artist; and

8. The artist/designer maintains a valid business license and conducts business according to the laws of the state of California.

4-22.11 Gifts of Art to the City.

The Art Director shall review all requests to gift art to the City, and shall recommend to the Culture Commission to accept or decline any art works donated to the City.

A. The Culture Commission shall consider the following criteria in determining whether to accept a gift of art to the City:

1. Aesthetic considerations to assure art works of the highest quality, based on a detailed written proposal and concept drawing for the project, photographs of the art work, if existing, and documentation of the artist's professional qualifications.

2. Financial considerations based on cost of implementation, sources of funding, a maintenance agreement between the City and the donor, and estimated cost to the City over the life of the art work.

3. All donations of art works must have a guaranteed source of funding for maintenance.

4. Liability based on susceptibility of the art work to wear and vandalism, potential danger to the public and special insurance requirements.

5. Environmental considerations based on physical appropriateness to the site and scale of the art work.

6. The project does not create any public safety or security issues.

B. The Culture Commission may accept gifts of art that do meet these criteria in the following situations:

1. Gifts of state presented to the City of Modesto by foreign governments—municipal, state, or national—which may be accepted by the Mayor, the City Council, or the City Manager on behalf of the City.

2. Art work or exhibitions loaned for display on City property for two (2) years or less. Review and approval shall be the responsibility of the Art Director, the owners of the art, and the agency or department with jurisdiction over the space involved.

3. Displays at City cultural centers and museums.

C. The Culture Commission shall consider the following additional criteria in determining whether to accept memorial gifts:

1. A person memorialized must have been deceased for a minimum of three (3) years or an event memorialized must have occurred at least three (3) years ago;

2. The memorial has timeless qualities and makes a statement of significance to future generations;

3. The memorial represents a person or event deemed significant to the community's history;

4. Ramifications to the proposed site are considered including the possibility of diminishing public access or limiting use; and

5. Alternative sites on private property were considered and determined inappropriate.

4-22.12 Removal of Art Projects.

A. The City shall retain the right to remove any work of art in the City's collection regardless of the funding source for that work; however, removing the items from the collection should be a deliberate and seldom-used procedure. It is the Chapter of the City not to dispose of

works simply because they are not currently in fashion and not to dispose of works whose worth might not yet be recognized.

B. Art work may be considered for removal if one (1) or more of the following conditions apply:

1. It has received consistent adverse public reaction for more than a five (5)-year period from a measurably large number of individuals and/or organizations.
2. Removal has been requested by the agency that displays the work.
3. It is found to be fraudulent or not authentic.
4. It possesses faults of design or workmanship.
5. It causes excessive or unreasonable maintenance.
6. It is damaged irreparably, or to an extent where repair is unreasonable or impractical.
7. It represents a physical threat to public safety.
8. A suitable place for display no longer exists.
9. The work is not, or is rarely, displayed.
10. A written request from the artist has been received.
11. The work has resulted in litigation or, in the determination of the City Attorney, significant risk of legal exposure that cannot readily be addressed by means other than removal.

C. Requests to remove Art Project shall be directed to the Art Director. The Art Director shall make a recommendation to the Culture Commission whether to approve or deny requests to remove Art Projects from the City. The Culture Commission has the authority to

approve or deny requests to remove Art Projects from the City, which decision shall be based on the criteria set forth in Section 4-22.12(B) above.

4-22.13 Requests to Borrow City-Owned Art Projects.

Requests to borrow an Art Project from the City shall be granted or denied by the Culture Commission. In considering whether to loan an Art Project from the City's collection, the Culture Commission shall consider the following criteria:

- A. The organization or party borrowing the art work and the purpose for borrowing it;
- B. Duration of loan;
- C. Amount and provider of insurance;
- D. Any expense to the City; and
- E. Any payment for use to the City, and how the City will be credited in any printed or verbal messages about the Art Project.

4-22.14 Maintenance and Conservation.

- A. In accordance with the standards and procedures set forth by the Art Director pursuant to his/her authority under this Chapter, each City department shall designate an individual to maintain and conserve Art Projects in that City department's public spaces.
- B. Regular maintenance of Art Projects (i.e. cleaning) shall be the responsibility of the department that maintains and cleans the area or building in which the work is located, in consultation with the Community and Economic Development Department.
- C. For all non-routine maintenance, City departments shall not execute or cause to be executed any maintenance or repairs to Art Projects without consent and guidance of the Art Director.

D. City departments shall not move any Art Project from the site for which it was selected, nor remove it from display without the consent of the Art Director.

4-22.15 Provision for Review and Amendment

This Public Art Ordinance may only be amended through ordinance of the City Council.

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

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

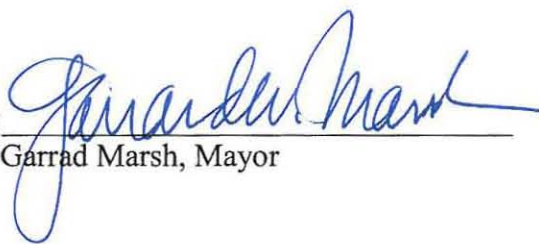
SECTION 4. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of May 2015, by Councilmember Kenoyer, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
Garrad Marsh, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney


FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, MAYOR

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: June 12, 2015

2403930.3

ORDINANCE NO. 3618-C.S.

**AN ORDINANCE AMENDING ARTICLE 5 OF CHAPTER 7
IN ITS ENTIRETY BY REPLACING SECTIONS 10-7.501
THROUGH 10-7.510 WITH NEW SECTIONS 10-7.501
THROUGH 10-7.516, AMENDING ARTICLE 5 OF
CHAPTER 7 OF THE TABLE OF CONTENTS ON PAGE
537, AND AMENDING SECTIONS 10-1.401, 10-3.405, 10-
3.406, 10-5.102, AND 10-9.1002 OF TITLE 10 OF THE
MODESTO MUNICIPAL CODE TO CREATE NEW
DOWNTOWN ZONES**

WHEREAS, in October of 2007, the Redevelopment Agency adopted the Redevelopment Master Plan, which established a vision for the redevelopment of downtown Modesto including an implementing policy calling for new zoning for downtown that would facilitate redevelopment and intensification of downtown; and

WHEREAS, in July of 2010, the City Council adopted the Downtown Core Zone, a new zoning and development code for the central part of downtown utilizing form-based code principles, following the policies of the Redevelopment Master Plan; and

WHEREAS, in 2011, the Strategic Growth Council's Proposition 84 Planning Grant was awarded by the State of California to the City of Modesto to fund the development of form-based zoning for the remainder of the downtown area to facilitate enhanced economic development in the downtown area; and

WHEREAS, on June 7, 2012 and September 19, 2012, workshops were held with stakeholders to discuss the proposed project; and

WHEREAS, on June 23, 2014, a workshop was held with local architects to seek input on the proposed project; and

WHEREAS, on November 20, 2014, a workshop was held with the Downtown Partnership Urban Design Team to seek input on the proposed project; and

WHEREAS, on December 11, 2014, a workshop was held with property owners and interested parties to present the proposed project and to seek input; and

WHEREAS, on January 26, 2015, a Planning Commission study session was held on the proposed project; and

WHEREAS, City staff has drafted an amendment amending Article 5 of Chapter 7 in its entirety so as to replace sections 10-7.501 through 10-7.510 with new sections 10-7.501 through 10-7.516, amending Article 5 of Chapter 7 of the Table of Contents on page 537, and amendment to Sections 10-1.401, 10-3.405, 10-3.406, 10-5.102, and 10-9.1002 of Title 10 of the Modesto Municipal Code (Zoning Regulations), and

WHEREAS, after a public hearing held on March 16, 2015, it was found and determined by the Planning Commission that the requested code amendment will not be detrimental to the public health, safety or welfare because it is intended to improve the downtown area through facilitating increased densities and intensification of shared uses, providing additional housing choices and opportunities, ensuring development occurs at a human scale, promoting store frontage and display on public streets, and improving pedestrian circulation; the requested code amendment will result in an orderly planned use of land because it will help to ensure that new development in downtown is of a type, form and scale that is appropriate to the existing development in downtown; and the requested code amendment is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan and any applicable specific plans(s) because the proposed rezone will promote higher density,

mixed-use development in downtown, provide incentives such as reduced parking standards to encourage economic development in downtown, strengthen downtown as the focal point of community life and the social, cultural, business, governmental, and entertainment center of the City and by preserving and revitalizing the downtown and making it an identifiable center, and is consistent with the Redevelopment Planning District General Plan designation by assisting in implementing the vision and goals of the Redevelopment Master Plan for downtown, and

WHEREAS, by Resolution No. 2015-05, adopted on March 16, 2015, the Planning Commission recommended to the Council that the proposed amendment amending Article 5 of Chapter 7 in its entirety so as to replace sections 10-7.501 through 10-7.510 with new sections 10-7.501 through 10-7.516, amending Article 5 of Chapter 7 of the Table of Contents on page 537, and amendment to Sections 10-1.401, 10-3.405, 10-3.406, 10-5.102, and 10-9.1002 of Title 10 of the Modesto Municipal Code (Zoning Regulations), be approved, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 PM on April 28, 2015, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed amendment amending Article 5 of Chapter 7 in its entirety so as to replace sections 10-7.501 through 10-7.510 with new sections 10-7.501 through 10-7.516, amending Article 5 of Chapter 7 of the Table of Contents on page 537, and amendment to Sections 10-1.401, 10-3.405, 10-3.406, 10-5.102, and 10-9.1002 of Title 10 of the Modesto Municipal Code (Zoning Regulations), and

WHEREAS, the City Council continued the public hearing to May 12, 2015, and
NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. FINDINGS. After a public hearing held on May 12, 2015, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The proposed code amendment will benefit the public health, safety, and welfare because it is intended to improve the downtown area through facilitating increased densities and intensification of shared uses; providing additional housing choices and opportunities; ensuring development occurs at a human scale; promoting store frontage and display on public streets; and improving pedestrian circulation.
2. The proposed code amendment will result in an orderly planned use of land because it will help to ensure that new development in downtown is of a type, form and scale that is appropriate to the existing development in downtown.
3. The proposed code amendment is in accordance with the community's objectives as set forth in the General Plan because it will implement the following General Plan goals and policies:
 - a. General Plan Overall Goal I.C.6 (preserving agricultural land by having new development be relatively compact and of reasonably high density) by promoting higher density, mixed-use development in downtown.
 - b. General Plan Economic Development Goal I.D.1 (striving for a jobs/housing balance by encouraging the economic revitalization of downtown) by allowing higher density development and providing incentives such as reduced parking standards to encourage economic development in downtown.
 - c. General Plan Economic Development Goal I.D.2 by strengthening downtown as the focal point of community life and the social, cultural, business, governmental, and entertainment center of the City and by preserving and revitalizing the downtown and making it an identifiable center.
 - d. The rezoning is consistent with the Redevelopment Planning District General Plan designation by assisting in implementing the vision and goals of the Redevelopment Master Plan for downtown.

SECTION 2. AMENDMENT OF CODE. Title 10 of the Modesto Municipal Code relating to the Zoning Regulations is hereby amended amending Article 5 of Chapter 7 in its entirety so as to replace sections 10-7.501 through 10-7.510 with new sections 10-7.501

through 10-7.516, amending Article 5 of Chapter 7 of the Table of Contents on page 537, and amendment to Sections 10-1.401, 10-3.405, 10-3.406, 10-5.102, and 10-9.1002 of Title 10 of the Modesto Municipal Code (Zoning Regulations), as shown in EXHIBIT A.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Kenoyer, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
Adam U. Lindgren, City Attorney

Ord. No. 3618-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 26th day of May, 2015, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


GARRAD MARSH, MAYOR

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: June 25, 2015

Other amendments to Title 10

Article 5 of Chapter 7 of the Table of Contents on page 537 and Sections 10-1.401, 10-3.405, 10-3.406, 10-5.102, and 10-9.1002 are hereby amended to read as follows:

Page 537 of the Table of Contents

Article 5. ~~Downtown Core (DC) Zone~~ Zones

- 10-7.501 Purpose and Intent.
- 10-7.502 Administration.
- 10-7.503 Exceptions.
- 10-7.504 Organization.
- 10-7.505 Downtown Zone Purpose.
- ~~10-7.503 Planning Districts:~~
- ~~10-7.504 Central District (CD):~~
- ~~10-7.505 Transition District (TD):~~
- ~~10-7.506 Buffer District (BD):~~
- 10-7.506 Central Downtown (CD) Zone.
- 10-7.507 Transition Downtown (TD) Zone.
- 10-7.508 Urban General Downtown (UGD) Zone.
- 10-7.509 Main Street Downtown (MSD) Zone.
- 10-7.510 East Neighborhood Downtown (END) Zone.
- 10-7.511 Traditional Neighborhood Downtown (TND) Zone.
- 10-7.512 Building Types.
- ~~10-7.507~~13 Frontage Types.
- ~~10-7.508~~14 Use Types.
- ~~10-7.509~~15 General Provisions.
- ~~10-7.510~~16 Definitions.

Article 4. Creation of Zones and Zone Boundaries

10-1.401 Names of Zones.

In order to classify and regulate the land use and development of the City of Modesto, the following zones are created:

Low Density Residential	R-1
Medium Density Residential	R-2
Medium-High Density Residential	R-3
Professional Office	P-O
Neighborhood Commercial	C-1
General Commercial	C-2
Highway Commercial	C-3
Commercial-Industrial	C-M
Light Industrial	M-1
Heavy Industrial	M-2
Planned Development	P-D
Airport	A-P
Specific Plan-Holding	SP-H
Specific Plan	SP
Downtown Core <u>Zones</u>	<u>DC See Chapter 7, Article 5</u>

Article 4. Wireless Telecommunication Facilities

10-3.405 Review Process.

(a) **By Zoning Districts.** Telecom facilities shall be allowed in the residential, office, commercial, and industrial zoning districts subject to the review process as provided in Table 3.4-2. Telecom facilities on public buildings and public property are provided for in subsection (b) below:

Table 3.4-2 - Telecom Facility Requirement

Telecom Facility		R-1, R-2, R-3	R-1, R-2, R-3	P-O, C-1	C-2, C-3, C-M, DC	M-1, M-2
		Residential Use	Non-Residential Use			
On Building or other Structure						
Camouflaged		N	P	P	P	P
Non-Camouflaged		N	C	D	D	D
Monopole, Uni-pole, or Tower						
Camouflaged	Uni-pole	N	D	P	P	P
	Monopole	N	D	P	P	P
Non-Camouflaged	Uni-pole	N	C	D	D	D
	Monopole	N	C	C	C	D ¹
	Lattice Tower	N	N	N	N	C
Co-location with existing facility						
Camouflaged		N	P	P	P	P
Non-Camouflaged		N	D	D	D	D
P=Permitted, Building Permit D=Development Plan Review by Director pursuant to Chapter 9, Article 9. Development Plan Review C=Conditional Use Permit by Board pursuant to Chapter 9, Article 7. Conditional Use Permit N=Not permitted						
¹ A conditional use permit is required if the uni-pole or monopole is located within 300 feet of a residential zone.						

10-3.406 Development Standards.

(c) **Height.** In general, for a given location, the facility shall be at the lowest possible height consistent with the radio frequency coverage requirements of the applicant, which shall be disclosed to the City as prescribed by the Director.

- (1) **Maximum Height.** The maximum height limits are as set forth in Tables 3.4-3. Requests for Facilities exceeding the height limits set forth in Tables 3.4-3 shall be made as a variance, and subject to the findings for a variance for Telecom Facilities provided in Municipal Code Section 10-3.407(d).
- (2) **Roof Mounted Facilities.** For roof mounted facilities, antennas and support structures shall not exceed the allowable height limit for the zoning district in which it is located by more than ten (10) feet or exceed the primary roof parapet height by more than six feet, whichever is less.

Table 3.4-3 - Telecom Facility Maximum Allowed Height (measured in feet)

Telecom Facility		R-1, R-2, R-3	R-1, R-2, R-3	P-O, C-1	C-2, C-3, C-M, DC	M-1, M-2
		Residential Use	Non-Residential Use ²			
On Building or other Structure ¹		N	10	10	10	10
Monopole, Uni-pole, or Tower ³		N	50	50	70 4	70 4
1 Additional feet above permitted or actual building or structure height 2 See definition 3 The height of a monopole, uni-pole, or tower that existed prior to the adoption of this ordinance may be increased by 10 feet if shown necessary for collocation purposes for uni-pole or camouflage design subject to development plan review by the Director. 4 The maximum height is 55 feet if the property of which the monopole, uni-pole, or tower is located is adjacent to any residential zone. N = Not permitted						

Article 1. Off-Street Parking Requirements

10-5.102 Number of Required Spaces.

Except as otherwise provided in this chapter, or by the Council, Commission or Board as part of rezoning, use permits or other similar applications, the minimum number of required off-street parking spaces shall be provided as shown in Table 5.1-1:

Table 5.1-1 Parking Requirements

Land Use	Required Parking Spaces		Notes
	City Wide (except Downtown Area)	Downtown Area ^{1 2}	
RESIDENTIAL			
Single-Family Residential	2 per unit	Same	
Second Unit (Granny Flat)	1 additional space	Same	Per Section 10-3.217(b)
Multiple-Family Residential			
Studio	1 per unit	Same	Lots with 5 or more units shall provide 1 guest parking space per 4 units
1 bedroom	1 per unit	Same	
2 or more bedrooms	2 per unit	Same	
Boarding and Lodging House	1 space per 2 beds	Same	
Residential Care Facility, Residential Service Facility, Family Day Care Home	2 spaces per unit 1 additional space for each employee beyond 2 employees	Same	
Assisted Living	1 space per 4 beds, or 1 space per 4 units	Same	
Emergency/Homeless Shelter	1 space per employee	Same	
Mobile Home Park	As specified per Planned Development Zone approval	Same	
Senior Housing	As required by the designated approving authority	Same	
NON-RESIDENTIAL			
Auction Yard	Less than 10,000 square feet of sales area: 1 space per 1,000 square feet of gross building floor area, plus 1 space for each 2,500 feet of open sales area Greater than 10,000 square feet of sales area: 1 space per 1,000 square feet of gross building floor area, and 1 space for each 10,000 square feet of open sales area in excess of 10,000 square feet	Same	
Banquet Hall	1 space per 50 square feet of floor area used for dancing, assembly, dining and bar area	Same	
Bar	1 space per 60 square feet of drinking area	1 space per 80 square feet of drinking area	
Beauty College	2.5 space per training station	Same	
Bingo	1 space per 4 seats	Same	
Car Wash, Automatic	4 spaces, plus an additional dedicated space adjacent to each air, water and vacuum facility	Same	
Car Wash, Full Service	10 spaces or 3 times the internal	Same	Additional spaces may be

Exhibit A

Land Use	Required Parking Spaces		Notes
	City Wide (except Downtown Area)	Downtown Area ^{1 2}	
	washing capacity, whichever is greater.		required by the designated reviewing authority
Car Wash, Self Service	1 space per 2 washing bays.	Same	
Cemetery	As specified per Planned Development Zone approval	Same	
Child Day Care, Commercial	1 space per 5 children	--	
Church or Place of Worship	1 space per 4 seats or 1 space per 50 square feet for non-fixed seats in the building with largest capacity	1 space per 70 square feet for non-fixed seats in the building with largest capacity	
Equipment Rental Yard	1 space per 300 square feet of gross building area, plus 1 space per 1,000 square feet of outdoor equipment storage area	Same	
Emergency Shelter	1 space per employee	Same	
Flea Market (outdoor)	1 space per 200 square feet of sales area	Same	
Health Club, Swimming Pool, Tennis Court	1 space per 200 square feet of gym active area, 1 space per 300 square feet of pool area, 2 spaces per tennis court	1 space per 500 square feet of gym area, 1 space per 500 square feet of pool area, 1 space per tennis court	
Hospital	1.75 spaces per bed	1.5 spaces per bed	
Motel, Hotel	1 space per guest room. Additional spaces for restaurants, meeting facilities, and related uses	Same	
Library	1 space per 300 square feet	1 space per 500 square feet	
Manufacturing	1 space per 600 square feet	Same	
Motor Vehicle Repair, Machinery Repair	1 space per 300 square feet	1 space per 600 square feet	
Mortuary or Funeral Home	1 space per 4 seats in largest room use for services	1 space per 5 seats in largest room use for services	Tandem spaces may be counted
Museum	1 space per 500 square feet	Same	
Office, Medical or Dental	1 space per 200 square feet	Same	
Office or Service Business	1 space per 300 square feet	1 space per 500 square feet	
Recreation Facility, Indoor	1 space per 300 square feet	1 space per 500 square feet	
Recreational Facility, Outdoor	10 spaces per usable recreation acre	Same	
Recycling Collection	1 space per 300 square feet	Same	
Restaurant	1 space per 60 square feet of dining area	1 space per 80 square feet of dining area	
Restaurant, Outdoor Seating	1 to 12 seats: No parking required More than 12 seats: 1 space per 4 seats	No parking required	
Retail Business	1 space per 300 square feet	1 space per 500 square feet	
Sanitarium, Nursing Home, 24 hour care facility	1 space per 4 beds plus parking as required for proprietor's dwelling	Same	
School, Elementary, Middle, Junior High	1.5 spaces per classroom, plus 1 space per 300 square feet of office area		The designated reviewing authority may approve the joint use of spaces pursuant to Section 10-5.104 for
School, High	1 space per 150 square feet of		

Land Use	Required Parking Spaces		Notes
	City Wide (except Downtown Area)	Downtown Area ^{1,2}	
	classroom floor area, plus 1 space per 300 square feet of office floor area		churches with school facilities
School, College, Professional, Trade, Vocational	1 space per 50 square feet of classroom floor area, plus space per 300 square feet of office area		
Self Storage	4 spaces, plus 2 spaces for resident manager's quarters	Same	
Theaters	1 space per 4 seats	1 space per 5 seats	
Vehicle Sales and Rental, Outdoor	1 space per 300 square feet of building area (includes office, sales, parts, repair etc.)		Customer parking should be delineated on plans
Veterinary Hospital	1 space per 300 square feet including animal runs	1 space per 500 square feet including animal runs	
Warehouse	1 space per 2,000 square feet up to 10,000 square feet, 1 space per 5,000 square feet after 10,000 square feet	Same	
Wholesale	1 space per 300 square feet	1 space per 800 square feet	

¹ See Section 10-7.609-a For new development in Downtown Zones, see Article 5 of Chapter 7 for required parking spaces.

² See Section 10-2.121 for Downtown Area Map

Article 10. Development Plan Review

10-9.1002 Applicability.

(b) The following are subject to development plan review:

- (1) All development projects in the P-O, C-1, C-2, or C-3, C-M, M-1, M-2, or ~~D-G~~ Downtown (Chapter 7, Article 5) zones which do not otherwise require a Conditional Use Permit or other similar approval unless exempted as provided in Section 10-9.1002 (c) below.
- (2) In the P-D zone, for all Residential, Commercial and Industrial uses, changes in development plan pursuant to Section 10-7.108 (c).
- (3) In the R-2 and R-3 zones , five or more units.
- (4) Wireless Telecommunication Facilities pursuant to Chapter 3, Article 4.
- (5) All projects that exceed one-story in height in the R-1, R-2, and R-3 zones located next to the R-1 zone pursuant to Section 10-4.110.
- (6) A Large Family Day Care pursuant to Section 10-3.204 (a) (2).

Article 5. Downtown Zones

10-7.501 Purpose and Intent.

This Article establishes a form-based code as the mechanism for development review and entitlement within Downtown. The form based code focuses on the form of the built environment as primary and the uses contained within the built environment as secondary. Downtown consists of six (6) form-based code zones with distinct development criteria. Portions of Downtown consist of conventional zones that are focused more on land use rather than form and are not regulated under this Article. The six Downtown Zones are delineated on the Zoning Map and defined in the Planning Zones Purpose Section 10-7-505. Downtown Zones are intended to:

- (a) Implement policies of the Modesto Urban Area General Plan by promoting higher density, mixed-use development to create a balanced, vibrant downtown and active neighborhood centers;
- (b) Preserve and enhance downtown’s historic buildings and sites;
- (c) Ensure development is convenient and safe for pedestrians and bicycle riders;
- (d) Provide additional housing choices and opportunities;
- (e) Reduce dominance of off-street parking areas and parking structures; and,
- (f) Encourage useable private open spaces.

10-7.502 Administration.

- (a) **Applicability.** The provisions of this Article shall supersede any standards, provisions or regulations of all other articles of Title 10 that are in conflict with its provisions. All other standards, provisions or regulations of Title 10 that are not in conflict with this article shall remain in effect. When applying other provisions of Title 10 to the Downtown Zones, the Downtown Zones shall be considered as the equivalents to the following zones provided in Table 7.5-1 below:

Table 7.5-1 Equivalent Zone

Downtown Zones	Equivalent Zones in Title 10
Central Downtown (CD)	Neighborhood Commercial (C-1)
Transition Downtown (TND)	Neighborhood Commercial (C-1)
Urban General Downtown (UGD)	Neighborhood Commercial (C-1)
Main Street Downtown (MSD)	Neighborhood Commercial (C-1)
East Neighborhood Downtown (END)	Neighborhood Commercial (C-1) Low Density Residential (R-1) for wireless facilities
Traditional Neighborhood Downtown (TND)	Low Density Residential (R-1)

This Article shall apply to new development within the Downtown Zones except as specified below.

- (1) All development requires Development Plan Review. Development Plan Reviews, Conditional Use Permits, and Variances shall be reviewed in accordance with the processes established by Chapter 9 of Title 10 of the Municipal Code.

10-7.503 Exceptions.

- (a) **Existing Development Exception.** All legally established development (buildings, parking and other physical site improvements) in existence prior to June 25, 2015 is subject to the following provisions:

(1) Development Standards.

- (i) Remodels and repairs of existing buildings and expansions up to 25% of the existing total building gross floor area, may utilize the development standards applicable to the Downtown Modesto Historic Zoning Designation (see definition in Section 10-7.516) that applied to the parcel, as shown on Figure 7.5-1.
- (ii) Repairs and changes to site improvements and expansions up to 25% of the existing total land area, may utilize the development standards applicable to the Downtown Modesto Historic Zoning Designation that applied to the parcel, as shown on Figure 7.5-1.
- (iii) Expansions of more than 25% are subject to the development standards of this Article unless an administrative exception is granted by the Director to allow using applicable development

standards to the Downtown Modesto Historic Zoning Designation that applied to the parcel, as shown on Figure 7.5-1. In granting an exception, the Director shall utilize the criteria provided in Section 10-7.503 (a) (3).

- (iv) The Traditional Neighborhood Downtown Zone shall be considered equivalent to the R-2 Zone when applying the development standards for expansions authorized under Sections (i) – (iii) above.
- (v) Alternatively, expansions of buildings and land area may utilize the development standards applicable to the parcel by the provisions of this Article.

(2) Use Types.

All uses in the Downtown Zones shall be in accordance with this Article, except as provided below:

- (i) All permitted uses legally established prior to June 25, 2015 may continue to operate and may be replaced by a non-conforming use of the same type and expanded by up to 25%. Replacement uses shall be limited to uses permitted by the previous zoning (Figure 7.5-1). Once a new use permitted by this Article replaces a use not permitted by this Article, then all future uses shall be in accordance with this Article.
- (ii) No use existing on the date of the adoption of this Article may be expanded more than 25% in area unless the use is in full conformance with the provisions of this Article unless an administrative exception is granted by the Director to allow the expansion of the existing use. In granting an exception, the Director shall utilize the criteria provided in Section 10-7.503 (a) (3).

(3) Criteria for Expansion. Expansions of existing development include building and use expansions on the subject property. Expansions not consistent with this Article may occur onto adjacent properties subject to a Conditional Use Permit. Use and building expansions of more than 25% shall meet at least three of the following criteria.

- (i) The expansion is not detrimental to the implementation of the Downtown Zone in which the expansion is located.
- (ii) The expansion maintains compatibility with neighboring properties.
- (iii) The expansion promotes economic development and revitalization of the downtown area.
- (iv) The expansion allows adaptive reuse of buildings and/or land.

(b) New Development Exception. It is recognized that there exists in the Downtown area many older lots and buildings that pre-exist current regulations and that it may not be feasible for development on these sub-standard parcels or buildings to meet all of the standards of this Article. Consequently, the Director may grant an administrative exception to allow for minor deviations from the development standards of this Article, with or without conditions, only after determining that:

- (1) No practical alternative exists;
- (2) The development would still achieve the Purpose and objectives of the subject Downtown Zone set forth in section 10-7.505;
- (3) No detrimental impact would result to the project site or neighboring properties;
- (4) The proposed project would otherwise be in compliance with all applicable standards and requirements; and,
- (5) The deviation granted is the minimum deviation necessary to make possible the development of the property in a manner that otherwise complies with the provisions of this Article.

(c) Previously Approved Project Exception. All unexpired development approvals granted in the Downtown Zones approved prior to June 25, 2015, but not yet constructed, shall be allowed to develop in accordance with the previous approval.

(d) Warrants for Central and Transition Downtown Zones. A warrant is a minor deviation in the setback or stepback provisions that under limited circumstances still achieves the objectives specified in the Purpose and Intent of the Central and Transition Downtown Zones sections found in section 10-7.505. Deviations from the following development provisions may be approved by the Director where the following findings are made:

- (1) Minimum 15-foot stepback from street property line(s) above the sixth floor within the Central and Transition Downtown Zones:
 - (i) The building occupies a corner lot;

- (ii) No other deviations of this nature exist within buildings fronting on street sections extending one (1) block from the associated intersection;
 - (iii) The width of the building along any public street is no more than one hundred (100) feet, and
 - (iv) The building is no more than ten (10) stories tall in the Central Downtown Zone or eight (8) stories tall in the Transition Downtown Zone; and,
 - (v) The building maintains a setback of at least five (5) feet above the sixth floor.
- (2) Minimum 30-foot setback from the interior property line above the sixth floor within the Central and Transition Downtown Zones:
 - (i) The width of the subject parcel is less than one hundred ten (110) feet;
 - (ii) No more than two (2) other buildings constructed above six (6) stories exist within the subject block frontage; and
 - (iii) The building maintains a setback of at least twenty (20) feet above the sixth floor.
 - (3) Maximum zero-foot setback from interior property line at floors 1-6 within the Central and Transition Downtown Zones:
 - (i) The area is provided for a paseo or a plaza; and
 - (ii) No more than one (1) other paseo or plaza exists within the subject block frontage; and,
 - (iii) A minimum ten-foot wide, unobstructed pedestrian access/circulation area is provided.
- (e) **Civic Buildings.** Deviations for civic buildings from the provisions of this article that are not provided for by warrant may be approved by Board of Zoning Adjustment provided the following findings can be made:
- (1) The property is proposed to be used for civic building(s)/grounds that provide a regional amenity by furthering cultural opportunities, or the subject property is proposed to be used for governmental civic building(s)/grounds that provide a necessary service or particular societal amenity; and,
 - (2) The nature of the civic building(s)/grounds is such that application of the provisions of this article would preclude its use for the intended purpose.
- (f) **Landmark Buildings** Deviations for landmark buildings from the provisions of this article that are not provided for by warrant may be approved by Board of Zoning Adjustment provided the following findings can be made:
- (1) The property is proposed to be developed with a building or structure that employs a form and architectural style that is of high quality and will serve as a landmark attraction that is uniquely recognizable as being associated with Modesto; and,
 - (2) The form and architectural style cannot be achieved without a deviation from the provisions of this article.

10-7.504 Organization.

- (a) **Downtown Zones.** The Downtown Zones provide the primary development standards that regulate building placement, building height, land use types, and parking. Building placement regulations are based on Frontage Types. Building height and land use type regulations are based on Building Types. Building Types and Frontage Types are further described below. Downtown includes six (6) zones based on form-based coding principles. Each zone has unique characteristics and regulations.
- (b) **Building Types.** Building Types identify specific regulations for the building and site development addressing important characteristics of the built form. The standards include defining the building form, compatible Frontage Types, building size and massing, lot access, parking details and accessory structures. There are nine (9) Building Types and only specified Building Types are allowed in each Downtown Zone.
- (c) **Frontage Types.** Frontage Types address the site and design features of the building frontage focusing on the interface between the private and public spaces. There are six (6) Frontage Types provided and specified Frontage Types are permitted with certain compatible Building Types.
- (d) **Use Types.** Allowed land use types are identified for each Downtown Zone.
- (e) **Using This Code.** In utilizing this code, the first step is to determine in which Downtown Zone the property lies. The second step is to review the applicable Downtown Zone section. The next step is to review the applicable Building Type and Frontage Type sections. The Use Type section contains further information about permitted land uses.

10-7.505 Downtown Zones Purpose.

The Zoning Map identifies six (6) form-based code zones in the downtown area. Each Downtown Zone is different in terms of purpose, development standards, intensity, and allowed uses. The Downtown Zones are similar to conventional zones in that they address development standards and land uses. Where they differ is that the Downtown Zones address building and lot form and allow mixed land uses on individual parcels.

- (a) **Central Downtown (CD).** This zone is intended to foster the most intensive and active urban environment in the Downtown, while ensuring an overall human scale to development. This is accomplished with large, but unobtrusive building envelopes that accommodate a mixture of uses, including residential, with an interface that promotes a very strong public/private connection and lively streetscape.

The district contains Historic Preservation sites that are included on the landmark preservation list in the General Plan. Special considerations for these sites are provided in the general provisions section of this article.

- (b) **Transition Downtown (TD).** This zone is intended to foster an intensive and active urban environment, but at a reduced scale from what is found in the Central District. This is accomplished with medium-large building envelopes that accommodate a mixture of uses, including residential, with an interface that promotes a strong public/private connection and lively streetscape.

In addition to Historic Preservation sites, the zone contains the site of a future passenger rail station. The future station is intended to accommodate associated regional rail and future high speed rail service within the Downtown.

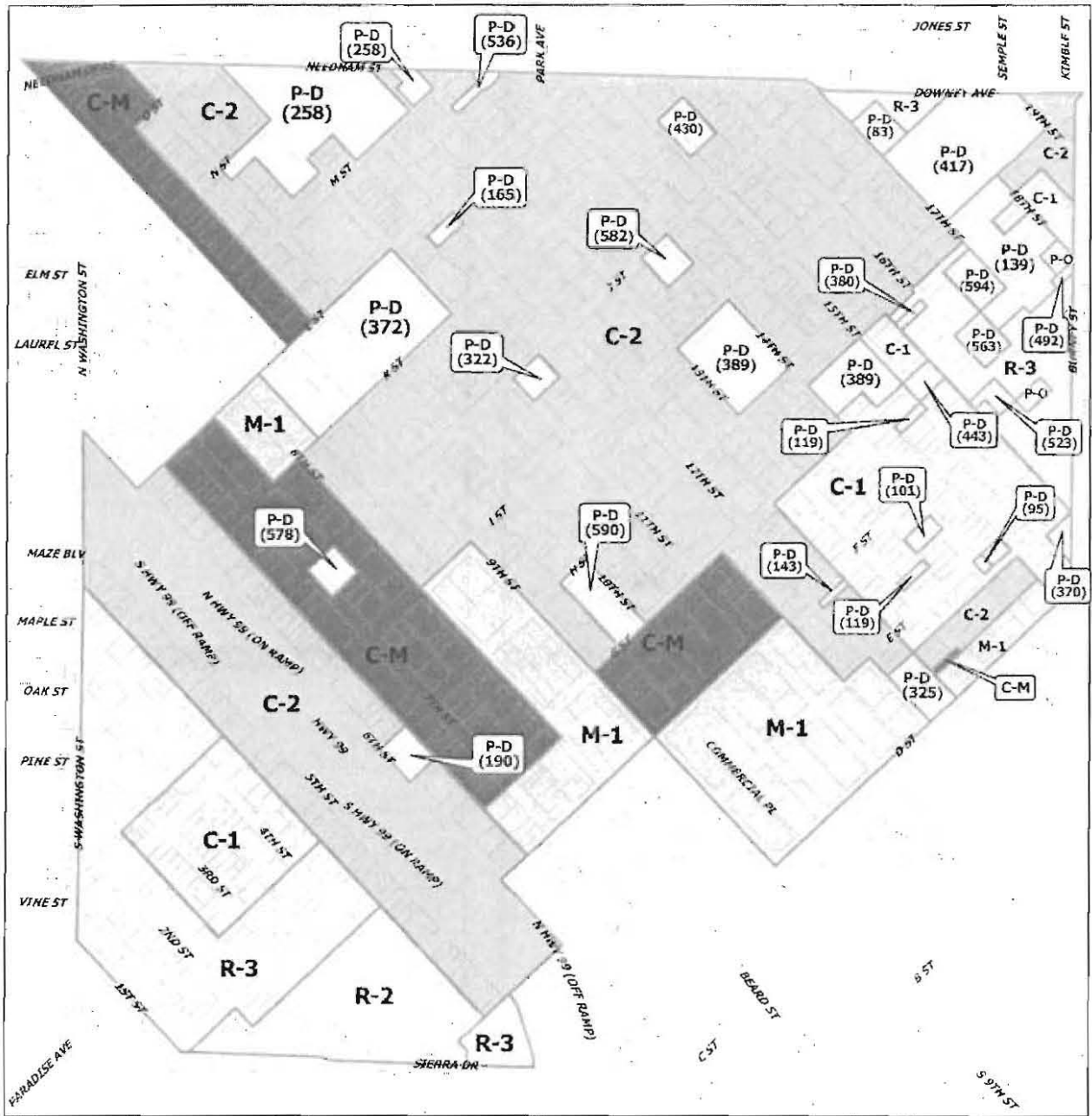
- (c) **Urban General Downtown (UGD).** The Urban General Downtown Zone is intended to create space for more urban activities. New housing is highly desirable because residents help ensure that street life is safe and because residents provide passive nighttime security for day uses. This zone links the Central Downtown Zone to the outer districts and areas of downtown.

- (d) **Main Street Downtown (MSD).** This zone is intended to promote and enhance a vibrant “main street” commercial environment within walking distance of the surrounding neighborhood. The Main Street Downtown Zone is intended to be the commercial focus of the surrounding neighborhood but at a smaller scale than the Central Downtown Zone. The focus of this district is on commercial uses but it also accommodates residential uses.

- (e) **East Neighborhood Downtown (END).** The purpose of this zone is to facilitate the continuing transition of the east area of downtown that was originally developed as a residential neighborhood but is in the process of changing to commercial and office uses. This zone would allow a mixture of uses where new development would include a variety of housing types and commercial uses.

- (f) **Traditional Neighborhood Downtown (TND).** This zone is intended to allow new residential development that is compatible with the traditional single family residential character of the neighborhood. This objective is accomplished by addressing certain provisions such as frontage types, setbacks, building envelope, building height, building type, and yard areas to be compatible with the historical and existing characteristics of this residential neighborhood.

Figure 7.5-1



**DOWNTOWN MODESTO
HISTORIC ZONING
DESIGNATIONS**

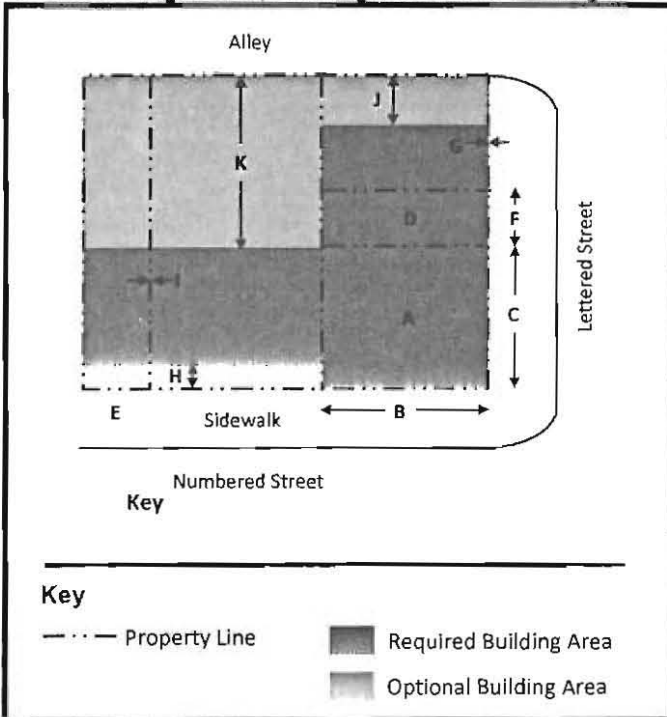


1:9,000

- Med Density Residential (R-2)
- Med-High Density Residential (R-3)
- Planned Development (P-D)
- Professional Office (P-O)
- Neighborhood Commercial (C-1)
- General Commercial (C-2)
- Highway Commercial (C-3)
- Commercial-Industrial (C-M)
- Light Industrial (M-1)

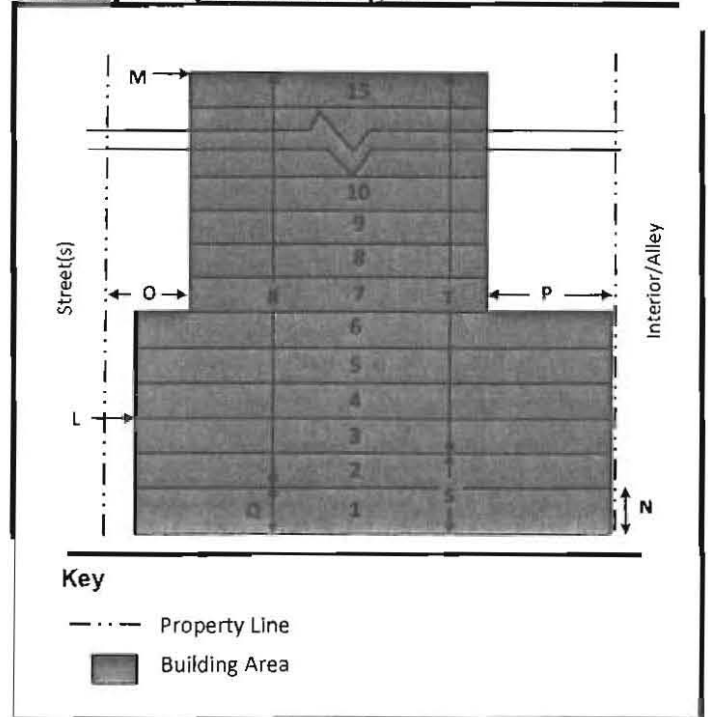
10-7.506 Central Downtown (CD) Zone

Parcel Configuration, Building Placement, Frontages



Parcel Configuration		
Corner Parcel (At Street Intersection)		
Parcel Area	5,000 sf. min.	A
Width Along Numbered Street	50' min.	B
Width Along Lettered Street	50' min.	C
Interior Parcel		
Parcel Area	1,250 sf. min.	D
Width Along Numbered Street	25' min.	E
Width Along Lettered Street	25' min.	F
Notes		
All parcels shall front on a public street except air space condominiums and parcels used exclusively for parking and/or circulation gaining access to/from the alley.		
Permitted Frontages & Building Placement (Floors 1-6)		
Build-to Line		
Shopfront Frontage ¹	0' min, 2' max	G
Stoop Frontage ¹	5' min, 8' max	H
Setback		
Interior	0' max	I
Alley		
≤ 50' From Lettered Street ²	22' max	J
> 50' From Lettered Street ³	90' max	K
Notes		
80% of the façade shall be built along a build-to line.		
¹ Frontage types are defined in Section 10-7.513.		
² Setback from Alley where building is at or less than 50' from Lettered Street.		
³ Setback from Alley where building is beyond 50' from Lettered Street.		

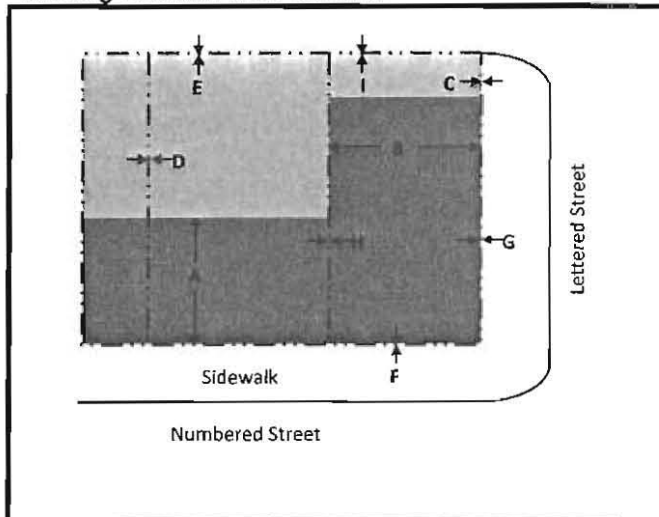
Building Configuration, Use Types



Building Configuration		
Height		
Building Min.	3 Stories	L
Building Max.	15 Stories	M
Floor to Ceiling Height		
First Floor	12' min.	N
Stepback (Floors 7-15)		
Street Frontage(s)	12' min.	O
Interior/Alley	30' min.	P
Notes		
Top floor height measured to eave or base of parapet.		
Combining of floor area on the building interior to accommodate theater or mezzanine space is permitted.		
Permitted Use Types by Frontages		
Stoop Frontage		
First Floor	Civic, Residential	Q
Floors 2-15	Civic, Office, Residential	R
Shopfront Frontage		
Floors 1-2	Retail, Office, Lodging	S
Floors 2-15	Office, Lodging, Residential	T
Notes		
Frontage types are defined in Section 10-7.513.		
Use types are defined in Section 10-7.514.		

10-7.506 Central Downtown (CD) Zone

Parking Location and Provision



Key

- - - Property Line
- Ground Level Parking Area
- Upper Levels Parking Area

Parking Location (Distance From Property Line)

Ground Level (Surface or Structured Parking)

Numbered Street	50' min.	A
Lettered Street		
> 22' from Alley ¹	50' min.	B
≤ 22' from Alley ²	0' min. ³	C
Interior	0' min.	D
Alley	0' min.	E

Levels 2-Upper Deck (Structured Parking)

Numbered Street	0' min. ³	F
Lettered Street	0' min. ³	G
Interior	0' min.	H
Alley	0' min.	I

Notes

¹ Setback from Lettered Street where parking is greater than 22' from Alley.

² Setback from Lettered Street where parking is at or Less than 22' from Alley.

³ Subject to Section 10-7.515 a (1)

Parking Provision

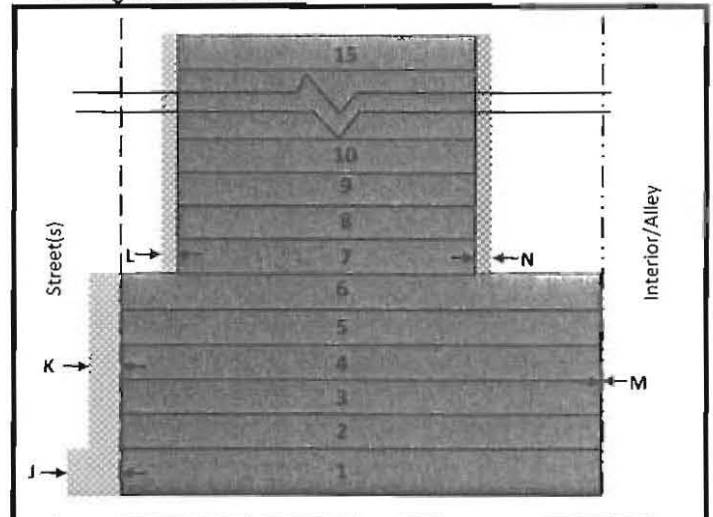
Minimum Spaces Required (Off-Street)

Ground Floor	
Residential, Lodging	No parking required
Retail, Civic, Office	No parking required
Floors 2-15	
Residential, Lodging	1 per unit
Retail, Civic, Office	1 per 500 square feet

Maximum Spaces Permitted (Off-Street)

Ground Floor	
Residential, Lodging	1 per unit
Retail, Civic, Office	1 per 500 square feet
Floors 2-15	
Residential, Lodging	1 per unit
Retail, Civic, Office	1 per 300 square feet

Building Encroachments



Key

- - - Property Line
- - - Build-to Line
- Building Area
- Encroachment

Building Encroachments

Street Frontages

Ground Floor	8' max	J
Floors 2-6	5' max	K
Floors 7-15	2' max	L

Interior/Alley

Floors 1-6	0' max	M
Floors 7-15	2' max	N

Notes

Awnings, canopies, signs and stoops may extend up to the full width of the permitted encroachment at ground floor.

Awnings and balconies may extend the full width of the permitted encroachment at floors 2-6.

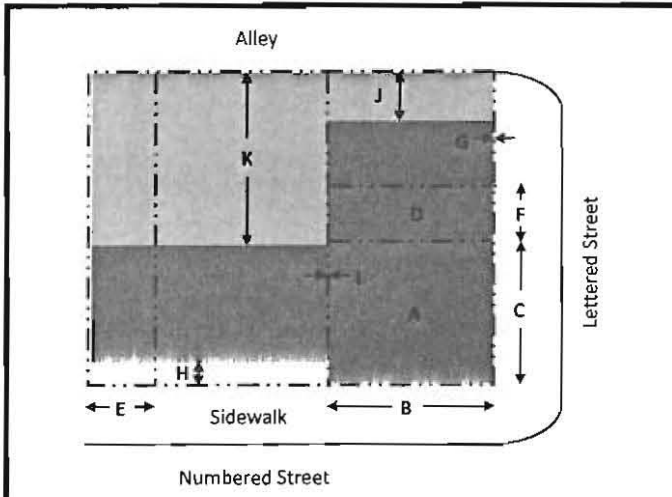
Other architectural features may extend two feet maximum into the permitted encroachment.

Notes

Shared parking is permitted by Section 10-7.515

10-7.507 Transition Downtown (TD) Zone

Parcel Configuration, Building Placement



Key

- - - Property Line
- Required Building Area
- Optional Building Area

Parcel Configuration

Corner Parcel (At Street Intersection)

Parcel Area	5,000 sf. min	A
Width Along Numbered Street	50' min	B
Width Along Lettered Street	50' min	C

Interior Parcel

Parcel Area	1,250 sf. min	D
Width Along Numbered Street	25' min	E
Width Along Lettered Street	25' min	F

Notes

All parcels shall front on a public street except air space condominiums and parcels used exclusively for parking and/or circulation gaining access to/from the alley.

Permitted Frontages & Building Placement (Floors 1-6)

Build-to Line

Shopfront Frontage ¹	0' min, 2' max	G
Stoop Frontage ¹	5' min, 8' max	H

Setback

Interior	0' max	I
Alley		
≤ 50' from Lettered Street ²	22' max	J
>50' from Lettered Street ³	90' max	K

Notes

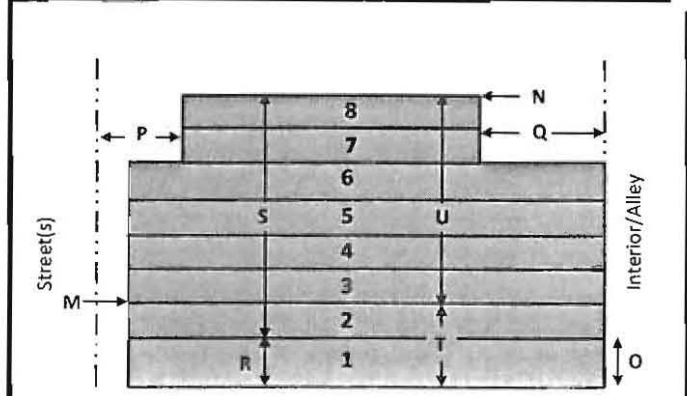
70% of the façade shall be built along a build-to line.

¹ Frontage types are defined in Section 10-7.513.

² Setback from Alley where building is at or less than 50' from Lettered Street.

³ Setback from Alley where building is beyond 50' from Lettered Street.

Building Configuration, Frontages, Use Types



Key

- - - Property Line
- Building Area

Building Configuration

Height

Building Min.	2 Stories	M
Building Max.	8 Stories ¹	N
Floor to Ceiling Height		
First Floor	12' min	O

Stepback (Floors 7-8)

Street Frontage(s)	12' min	P
Interior/Alley	30' min	Q

Notes

Top floor height measured to eave or base of parapet.

Combining of floor area on the building interior to accommodate theater or mezzanine space is permitted.

¹ Maximum 3 stories along G and 12th Streets when next to END.

Permitted Use Types by Frontages

Stoop Frontage

First Floor	Civic, Residential	R
Floors 2-8	Civic, Office, Residential	S

Shopfront Frontage

Floors 1-2	Retail, Office, Lodging, Service	T
Floors 2-8	Office, Lodging, Residential	U

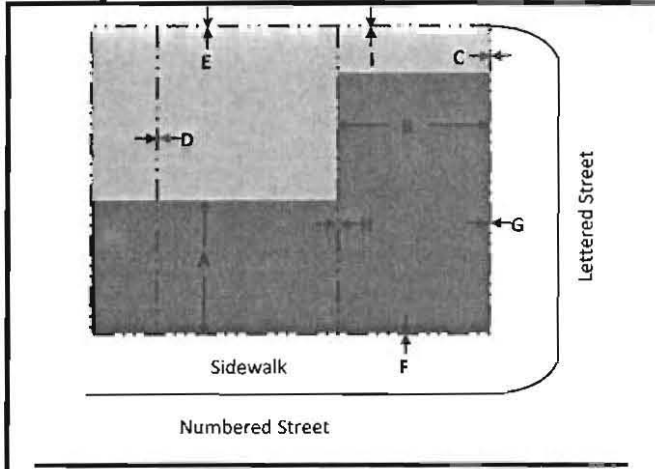
Notes

Frontage types are defined in Section 10-7.513.

Use types are defined in Section 10-7.514.

10-7.507 Transition Downtown (TD) Zone

Parking Location and Provision



Key

--- Property Line	■ Ground Level Parking Area
■ Upper Levels Parking Area	

Parking Location (Distance From Property Line)		
Ground Level (Surface or Structured Parking)		
Numbered Street	50' min.	A
Lettered Street	> 22' from Alley ¹	50' min. B
	≤ 22' from Alley ²	0' min. ³ C
Interior	0' min.	D
Alley	0' min.	E
Levels 2-Upper Deck (Structured Parking)		
Numbered Street	0' min. ³	F
Lettered Street	0' min. ³	G
Interior	0' min.	H
Alley	0' min.	I

Notes

¹Setback from Lettered Street where parking is greater than 22' from Alley.

²Setback from Lettered Street where parking is at or Less than 22' from Alley.

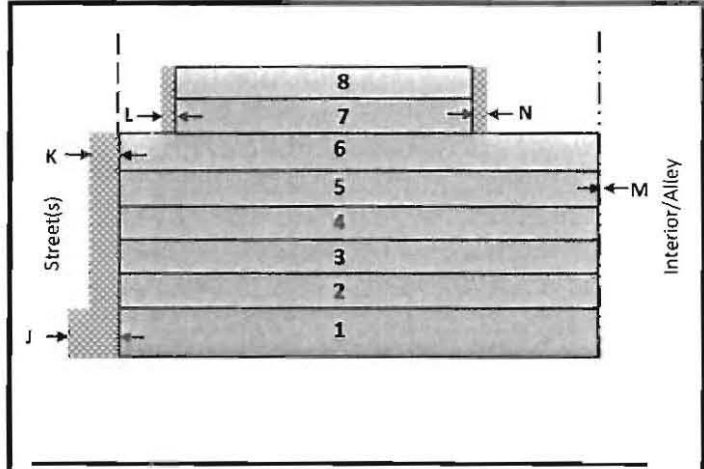
³Subject to Section 10-7.515 a (1)

Parking Provision		
Minimum Spaces Required (Off-Street)		
Ground Floor		
Residential, Lodging	1 per unit	
Retail/Civic, Office, Service	1 per 500 square feet	
Floors 2-8		
Residential, Lodging	1 per unit	
Retail, Civic, Office, Service	1 per 500 square feet	
Maximum Spaces Permitted (Off-Street)		
Ground Floor		
Residential, Lodging	1.5 per unit	
Retail, Civic, Office, Service	1 per 300 square feet	
Floors 2-8		
Residential, Lodging	1.5 per unit	
Retail, Civic, Office, Service	1 per 300 square feet	

Notes

Shared parking is permitted by Section 10-7.515.

Building Encroachments



Key

--- Property Line	■ Building Area
--- Build-to Line	■ Encroachment

Building Encroachments		
Street Frontages		
Ground Floor	8' max	J
Floors 2-6	5' max	K
Floors 7-8	2' max	L
Interior/Alley		
Floors 1-6	0' max	M
Floors 7-8	2' max	N

Notes

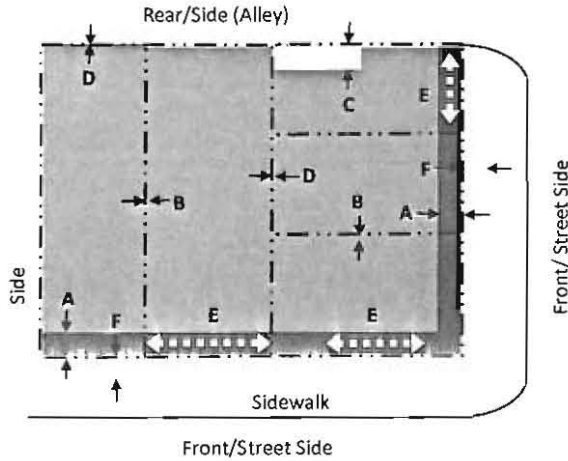
Awnings, canopies, signs and stoops may extend up to the full width of the frontage encroachment at ground floor.

Awnings and balconies may extend the full width of the permitted encroachment at floors 2-6.

Other architectural features may extend two feet maximum into the permitted encroachment.

10-7.508 Urban General Downtown (UGD) Zone

Building Placement



Key

- Property
- Building Area
- Setback Area

Building Placement				
Setbacks	Frontage Types	Min	Max	
Front	Stoop, Porch	5'	8'	A
Street Side	Shopfront, Forecourt	0'	2'	A
Side	(without alley)	0'	-	B
	(with alley)	0'	25'	C
Rear		0'	-	D

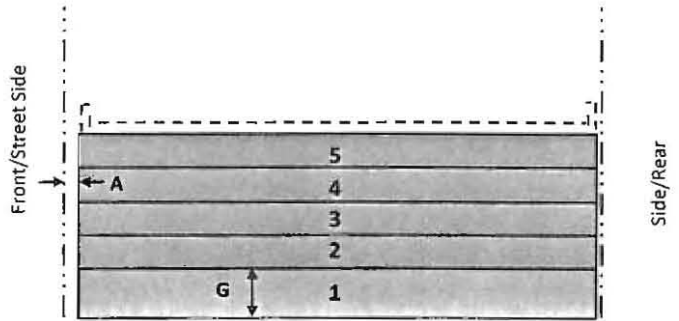
In Setback Area ²			
Frontage Type	Min		
Front	Shopfront	100%	E
	Forecourt	50%	E
	Stoop, Porch	80% ³	E
Street Side	Shopfront	100%	E
	Forecourt	50%	E
	Stoop, Porch	30% ³	E

Encroachment Into ⁴			
Frontage Type	Max		
Minimum Setback			
Front	Stoop, Porch	5' ⁵	A
Street Side	Stoop, Porch	5' ⁵	A
Side		0'	
Rear		0'	
Public Right of Way	Shopfront, Forecourt	5' ⁶	F

Notes

- ¹ Frontage types are defined in Section 10-7.513.
- ² Building Placement in Setback Area is defined in Section 10-7.516.
- ³ 60% in front and 80% in street side setback areas for Courtyard Building Type.
- ⁴ Encroachment is defined in Section 10-7.516.
- ⁵ Applies to balconies, porches, stoops, and architectural features.
- ⁶ Applies to awnings, balconies, canopies, and building signs subject to building codes.

Building Height and Use Type



Key

- Property Line
- Building

Building Height				
Floors	Building Type	Min	Max	
Floors	Front Yard House, Bungalow Court	1	2	
	Du-Tri-Quadplex, Row House Mansion Apartment, Courtyard, Live-Work	1	3	
	Stacked Flats, Commercial Block	2	5 ²	
	Stacked Flats, Live-Work	1	5 ²	
Ground Floor Height (Floor to Ceiling)	Stacked Flats, Live-Work	9'		G
	Commercial Block	12'		G

Notes

- ¹ Building types are defined in Section 10-7.512.
- ² Maximum 3 floors along G Street and 12th Street next to END and along Needham Street and Downey Avenue.

Use Type by Building Type and Floor						
Building Type	Use Type by Floor ¹					
	Res	Civ	Lod	Off	Ser	Ret ²
Front Yard House	1-2	1-2	1-2	1-2	1-2	1
Du-Tri-Quadplex	1-3	1-3	1-3	1-3	1-3	1
Bungalow Court	1-2	1-2	1-2	1-2	1-2	1
Row House	1-3	1-3	1-3	1-3	1-3	1
Mansion Apartment	1-3	1-3	1-3	1-3	1-3	1
Courtyard	1-3	1-3	1-3	1-3	1-3	1
Stacked Flats	1-5	1-5	1-5	1-5	1-5	1
Live-Work ³	1-3	1	1	1	1	1
Commercial Block	2-5	1-5	1-5	1-5	1-5	1

Key

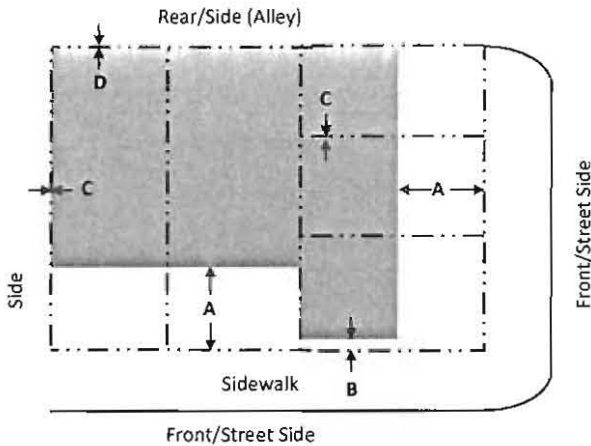
- Res: Residential Lod: Lodging Ser: Service
- Civ: Civic Off: Office Ret: Retail

Notes

- ¹ Use types are defined in Section 10-7.514.
- ² Restaurants are permitted on the second floor.
- ³ First floor of Live-Work buildings may have residential space, but must have commercial space facing the street.

10-7.508 Urban General Downtown (UGD) Zone

Parking Placement



Key

--- Property Line ■ Parking Area

Allowed Building and Frontage Types by Lot Width

Building Types	Frontage Types				Lot Width		
	Common Yard	Porch	Stoop	Fore court	Shop front	Min	Max
Front Yard House		P	P			50'	75'
Du- Tri- Quadplex		P	P			50'	100'
Bungalow Court		P	P			75'	150'
Row House		P	P			20'	50'
Mansion Apartment		P	P			50'	100'
Courtyard		P	P			100'	150'
Stacked Flats			P	P	P	100'	
Live-Work		P	P	P	P	20'	150'
Commercial Block				P	P	25'	

P – Permitted

Parking			
Setbacks		Min	
Front	Ground Level	35'	A
	Under Ground and Upper Levels	2'	A
Street Side All Levels		5' ^{1,2}	B
Side		0' ³	C
Rear		0' ³	D

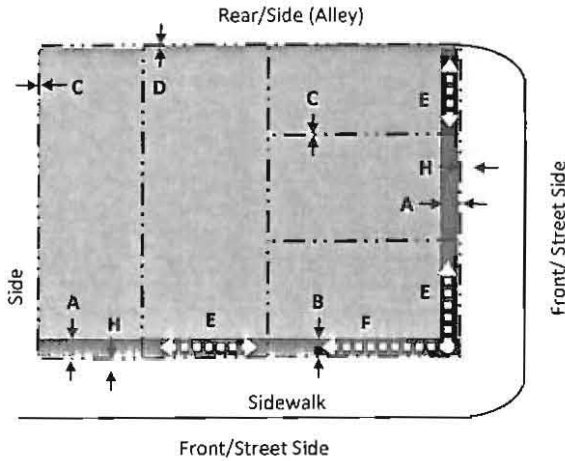
Use Type (All Floors)	Required Off-Street Spaces ^{4,5}	
	Min	Max
Residential, Lodging	1 per unit	2 per unit
Office, Retail, Service, Civic	1 per 500 sf	1 per 300 sf

Notes

- ¹ Provide a minimum 3.5' high screen next to parking area adjacent to sidewalk.
- ² Vehicular access is permitted from street only if access to alley is not available subject to Director approval. Maximum driveway width is 12' for fewer than 10 spaces and 20' for 10 or more.
- ³ 4' minimum when parking backs directly onto an alley.
- ⁴ On corner lots, no parking spaces are required on ground floor for the first 50% of floor area or units (5 or more units only).
- ⁵ Additional parking requirements are provided in Section 10-7.515 (a).

10-7.509 Main Street Downtown (MSD) Zone

Building Placement



Key

- - - - Property Line
- Building Area
- Setback Area

Building Placement				
Setbacks	Frontage Type ¹	Min	Max	
Front	Shopfront, Forecourt	0'	5'	A
Street Side	Stoop	5'	8'	B
Side		0'	-	C
Rear		0'	-	D
Next to TND				
Side (1/2/3 stories)		5'/10'/30' ²	-	C
Rear (1/2/3 stories)		5'/10'/30' ²	-	D

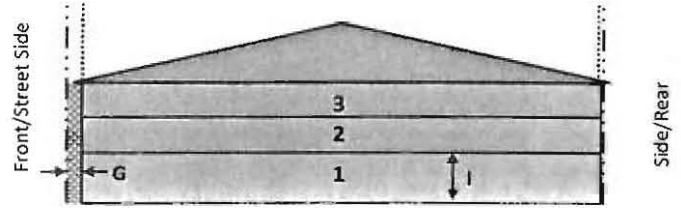
In Setback Area ³	Frontage Type ¹	Min ⁴	Max	
Front	Forecourt	50%	-	E
	Shopfront, Stoop	80% ⁵	-	E
Street Side	Forecourt	40%	-	F
	Shopfront, Stoop	80% ⁵	-	F

Encroachment Into ⁶	Frontage Type ¹	Max	
Minimum Setback			
Front Setback	Stoop	5' ⁷	G
Street Side Setback	Stoop	5' ⁷	G
Side Setback		0'	
Rear Setback		0'	
Public Right-of-Way	Shopfront, Forecourt	5' ⁸	H

Notes

- ¹ Frontage types are defined in Section 10-7.513.
- ² Greater setbacks on upper floors are not required on lower floors.
- ³ Building Placement in Setback Area is defined in Section 10-7.516.
- ⁴ Façade must be built from street corner except a corner Forecourt.
- ⁵ Minimum may be reduced to help meet required parking subject to Director approval as follows:
 - 55% for interior lot located next to alley.
 - 30% on Numbered Street for corner lot next to D, H, and I Streets.
 - 50% on Lettered Street for corner lot that sides on E, F, G, J, and K Streets.
- ⁶ Encroachment is defined in Section 10-7.516.
- ⁷ Applies to balconies, porches, stoops, and architectural features.

Building Height, Use Types, Encroachment



Key

- - - - Property Line
- Building
- Setback Line
- Encroachment (In Setback)

Building Height				
	Building Type ¹	Min	Max	
Floors	Rowhouse, Mansion Apartment, Courtyard, Live Work, Commercial Block	1	3	
Ground Floor Height (Floor to Ceiling)	Live Work	9'	-	I
	Commercial Block	12'		

¹ Building types are defined in Section 10-7.512.

Use Type by Building Type and Floor

Building Type ¹	Use Type by Floor					
	Res ²	Civ	Lod	Off	Ser	Ret ³
Rowhouse	1-3	1-3	1-3	1-3	1-3	1
Mansion Apartment	1-3	1-3	1-3	1-3	1-3	1
Courtyard	1-3	1-3	1-3	1-3	1-3	1
Live Work ⁴	1-3	1	1	1	1	1
Commercial Block	2-3	1-3	1-3	1-3	1-3	1

Key

- Res - Residential
- Lod - Lodging
- Ser - Service
- Civ - Civic
- Off - Office
- Ret - Retail

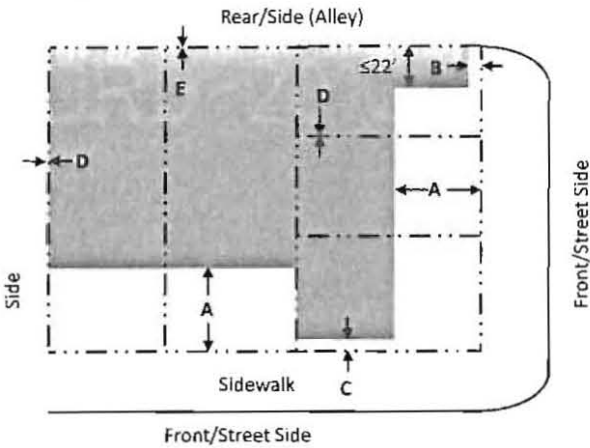
Notes

- ¹ Use types are defined in Section 10-7.514.
- ² On D Street, residential uses shall be located at least 30' from street property line.
- ³ Restaurants are permitted on the second floor.
- ⁴ First floor of Live-Work buildings may have residential space, but must have commercial space facing the street.

^b Applies to awnings, balconies, canopies, and wall signs subject to building codes.

10-7.509 Main Street Downtown (MSD) Zone

Parking



Key

--- Property Line ■ Parking Area

Parking	
Setback	Min
Front	35'
≤ 22' from Alley	5' ¹
Street Side	5' ²
Side	0' ³
Rear	0' ³

Use Type (All Floors)	Required Spaces (Off-Street) ^{4, 5}	
	Min	Max
Residential, Lodging	1 per unit	2 per unit
Retail, Civic, Office, Service	1 per 500 sf	1 per 300 sf

Notes

- ¹ Applies to lots with side lot line on alley and front lot line on Lettered Street.
- ² Provide a minimum 3.5' high screen next to parking area adjacent to sidewalk.
- ³ 4' minimum when parking backs directly onto an alley.
- ⁴ On corner lots, no parking spaces are required on ground floor for the first 50% of floor area or units.
- ⁵ Additional parking requirements are provided in Section 10-7.515 (a).

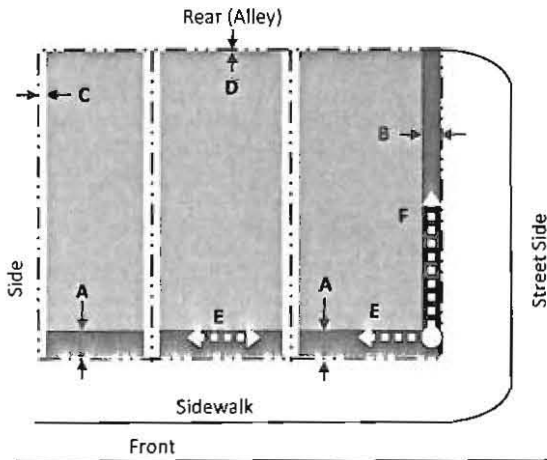
Allowed Building and Frontage Types by Lot Width

Building Types	Frontage Types					Lot Width	
	Common Yard	Porch	Stoop	Fore court	Shop front	Min	Max
Rowhouse			P			20'	50'
Mansion Apartment			P			50'	150'
Courtyard			P			100'	150'
Live Work			P	P	P	20'	150'
Commercial Block				P	P	25'	200'

Key
P – Permitted

10-7.510 East Neighborhood Downtown (END) Zone

Building Placement



Key

- - - Property Line
- Building Area
- Setback Area

Building Placement				
Setbacks	Frontage Type	Min	Max	
Front	Shopfront, Forecourt	0'	5'	A
	Stoop	5'	25'	A
	Porch	10'	25'	A
	Common Yard	15'	25'	A
Street Side	Shopfront, Stoop, Forecourt	0'	5'	B
	Porch, Common Yard	7.5'	20'	B
Side		5' ²	-	C
Rear		0'	-	D
Next to TND				
Side (1/2/3 floors)		5'/10'/30' ³	-	C
Rear (1/2/3 floors)		5'/10'/30' ³	-	D

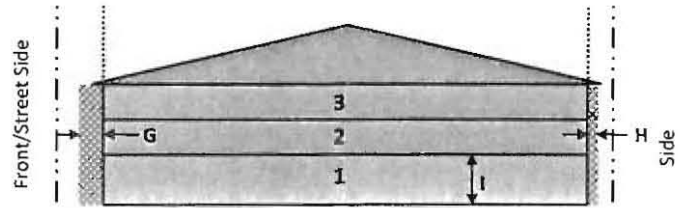
In Setback Area ⁴	Frontage Type ¹	Min ⁵	Max	
Front	Shopfront, Stoop	80%	-	E
	Porch, Common Yard, Forecourt	50%	-	E
Street Side	Shopfront, Stoop	50%	-	F
	Forecourt	40%	-	F
	Porch, Common Yard	20'	-	F

Encroachment into ⁶	Frontage Type ¹	Max
Minimum Setbacks		
Front	Porch, Common Yard, Stoop	5' ⁷
Street Side	Porch, Common Yard	2' ⁷
Side		2' ⁷
Rear		0'

Notes

- ¹ Frontage types are defined in Section 10-7.513.
- ² May be zero for rowhouse or to match adjacent building.
- ³ Greater setbacks on upper floors are not required on lower floors.
- ⁴ Building Placement in Setback Area is defined in Section 10-7.516.
- ⁵ Façade must be placed from street corner except a corner Forecourt.
- ⁶ Encroachment is defined in Section 10-7.516.
- ⁷ Applies to balconies, porches, stoops, and architectural features. A

Building Height, Use Types, Encroachment



Key

- - - Property Line
- Building
- Setback Line
- Encroachment

Building Height			
	Building Type	Min	Max
Floors	Front Yard House, Bungalow Court	1	2
	Du-Tri-Quadplex, Rowhouse, Mansion Apartment, Courtyard, Live Work, Commercial Block	1	3
Ground Floor Height (Floor to Ceiling)	Live Work, Commercial Block	12'	I

Notes

- ¹ Building types are defined in Section 10-7.512.

Use Type by Building Type and Floor						
Building Type	Use Type by Floor ¹					
	Res	Civ	Lod	Off	Ser	Ret ²
Front Yard House	1-2	1-2	1-2	1-2	1-2	1
Du-Tri-Quadplex	1-3	1-3	1-3	1-3	1-3	1
Bungalow Court	1-2	1-2	1-2	1-2	1-2	1
Rowhouse	1-3	1-3	1-3	1-3	1-3	1
Mansion Apartment	1-3	1-3	1-3	1-3	1-3	1
Courtyard	1-3	1-3	1-3	1-3	1-3	1
Live Work ³	1-3	1	1	1	1	1
Commercial Block	2-3	1-3	1-3	1-3	1-3	1

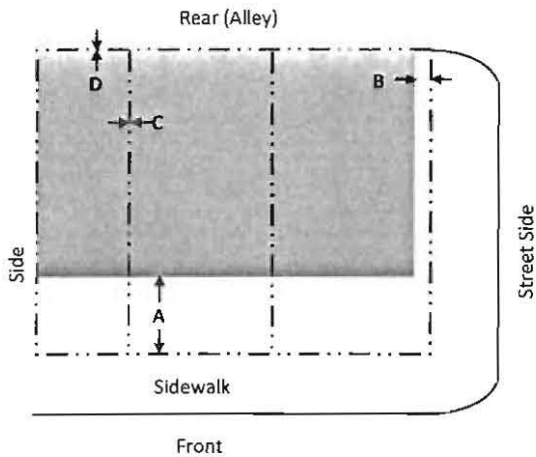
Key

- Res - Residential
 - Civ - Civic
 - Lod - Lodging
 - Off - Office
 - Ser - Service
 - Ret - Retail
- ¹ Use types are defined in Section 10-7.514.
 - ² Restaurants are permitted on the second floor.
 - ³ First floor of Live-Work buildings may have residential space, but must have commercial space facing the street.

porch may encroach 6' into the front setback.

10-7.510 East Neighborhood Downtown (END) Zone

Parking



Key

--- Property Line ■ Parking Area

Parking			
Setback	Min		
Front	35'		A
Street Side	5' ¹		B
Side	0' ²		C
Rear	0' ²		D

Use Type (All Floors)	Required Spaces (Off-Street) ^{3,4}	
	Min	Max
Residential, Lodging	1 per unit	2 per unit
Retail, Civic, Office	1 per 500 sf	1 per 300 sf

Notes

¹ Provide a minimum 3.5' high screen next to parking area adjacent to sidewalk.

² 4' minimum when parking backs directly onto an alley.

³ On corner lots, no parking spaces are required on ground floor for the first 50% of floor area or units (5 or more units only).

⁴ Additional parking requirements are provided in Section 10-7.515 (a).

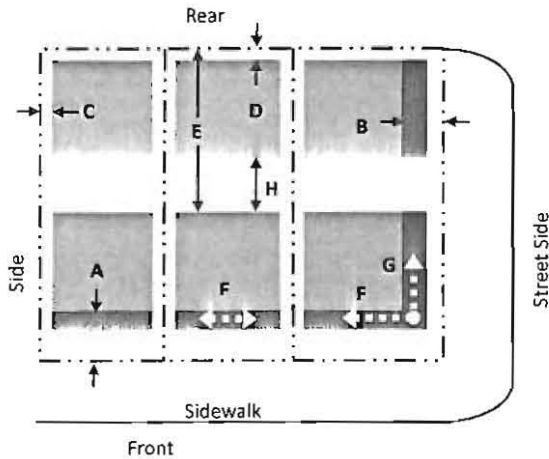
Allowed Building and Frontage Types by Width

Building Types	Frontage Types					Lot Width	
	Common Yard	Porch	Stoop	Fore court	Shop front	Min	Max
Front Yard House	P	P				50'	75'
Duplex	P	P	P			50'	100'
Tri-Quadplex		P	P			50'	100'
Bungalow Court		P	P			75'	150'
Rowhouse		P	P			20'	50'
Mansion Apartment		P	P			50'	150'
Courtyard		P	P			100'	150'
Live Work			P	P	P	20'	150'
Commercial Block				P	P	25'	200'

Key
P - Permitted

10-7.511 Traditional Neighborhood Downtown (TND) Zone

Building Placement



Key

- - - - - Property Line
- Building Area
- Setback Area

Building Placement				
Setbacks	Frontage Type	Min	Max	
Front	Porch, Common Yard	15'	25'	A
Street Side	Porch, Common Yard	7.5'	20'	B
Side (1/1.5, 2 Floors)		5'/10' ²	-	C
Rear (1/1.5 Floors)		5'/10' ²	-	D
Rear Building		75' ³	-	E

In Setback Area ⁴	Frontage Type ¹	Min ⁵	Max	
Front	Porch, Common Yard	50 %	-	F
Street Side	Porch, Common Yard	20'	-	G

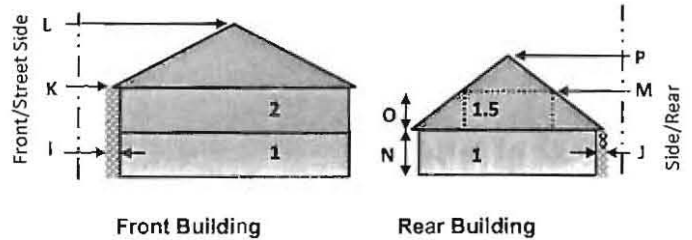
Distance Between Buildings	Min	
Between Habitable Buildings	25'	H
For Non-Habitable Buildings	10'	H

Encroachment Into ^{6/}	Frontage Type ¹	Max	
Minimum Setbacks			
Front	Porch, Common Yard	5' /	I
Street Side	Porch, Common Yard	5' /	I
Side		2' /	J
Rear		2' /	J

Notes

- ¹ Frontage types are defined in Section 10-7.513.
- ² Greater setbacks on upper floors are not required on lower floors.
- ³ The setback from alley is 60' if only one building is on the site and 65' for attached patio of front building.
- ⁴ Building Placement in Setback Area is defined in Section 10-7.516.
- ⁵ Façade must be built from street corner.
- ⁶ Encroachment is defined in Section 10-7.516.
- ⁷ Applies to balconies, porches, stoops, and architectural features. A porch may encroach 6' into the front setback.

Building Height, Use Type, Encroachment



Key

- - - - - Property Line
- Building Area
- Habitable Area
- Encroachment

Building Height				
Building Type	Min	Max		
Front Building				
Floors	1	2	K	
Overall Height	-	30'	L	
Rear Building				
Floors	1	1.5	M	
Ground Floor Height (Floor to Eave)	-	10'	N	
1.5 Floor Height (Floor to Ceiling)	8'	-	O	
Overall Height	-	25'	P	

Notes

- ¹ Building types are defined in Section 10-7.512.

Building Type	Use Type by Floor ¹					
	Res	Civ	Lod	Off	Ser	Ret
Front Yard House	1-1.5, 2	1-1.5, 2	-	-	-	-
Duplex	1-1.5, 2	1-1.5, 2	-	-	-	-

Key
 Res - Residential Lod - Lodging Ser - Service
 Civ - Civic Off - Office Ret - Retail

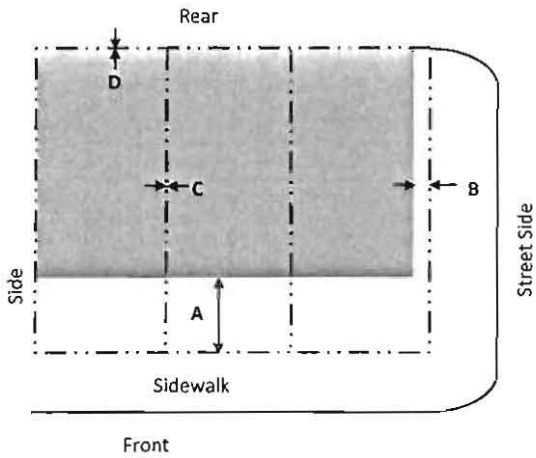
Notes

- ¹ Use types are defined in Section 10-7.514.

10-7.511 Traditional Neighborhood Downtown (TND) Zone

Parking

Allowed Building and Frontage Types by Lot Width



Key

--- Property Line ■ Parking Area

Building Types	Frontage Types					Lot Width	
	Common Yard	Porch	Stoop	Fore court	Shop front	Min	Max
Front Yard House	P	P				50'	75'
Duplex	P	P				50'	100'
Key P – Permitted							

Maximum density is 1 dwelling unit per 2,000 square feet of lot area.

Parking		
Setback	Min	
Front	35'	A
Street Side	7.5'	B
Side	0'	C
Rear	0' ¹	D

Use Type (All Floors)	Required Spaces (Off-Street) ²	
	Min	Max
Residential	1 per unit	2 per unit
Civic	1 per 500 sf	1 per 300 sf

Notes

¹ 4' minimum when parking backs directly onto an alley.

² Additional parking requirements are provided in Section 10-7.515 (a).

10-7.512 Building Types.

Building Types help achieve the desired built form and pedestrian orientation in the Downtown. The following Building Types are allowed in the Downtown are described in the following pages:

- (a) Bungalow Court
- (b) Commercial Block
- (c) Courtyard
- (d) Du-Tri-Quadplex
- (e) Front Yard House
- (f) Live Work
- (g) Mansion Apartment
- (h) Row House
- (i) Stacked Flats

Building Type: (a) Bungalow Court

(1) DESCRIPTION

Small, fully detached units designed for one household each and may be used for nonresidential purposes where allowed by zone. Units in a Bungalow Court typically face each other across common open space. A court contains four or more individual bungalows.

(2) ACCESS

Primary pedestrian access for each individual unit is from an internal walkway connected to the street. There may also be secondary pedestrian access from the alley. The alley will provide automobile access and access for services and utilities.

(3) PARKING

Required off-street parking should be accessed from the alley and may be covered or uncovered. Tandem parking is permitted for residential use. See Sections 10-7.505 to 10-7.511 Downtown Zones and 10-7.515 General Provisions for additional information on parking.

(4) OPEN SPACE

The courtyard around which bungalows are arranged should be sized to provide usable outdoor space for residents.

(5) FRONTAGE

Units in a Bungalow Court typically face each other and the units nearest the street typically present the side of the building to the street. A formal entrance often frames the common open space between bungalows facing each other.

Compatible frontage types include:

- (i) Stoop
- (ii) Porch

Ground floor residential units should be raised above sidewalk grade for privacy based on building setback. See Section 10-7.513 Frontage Types for additional information.

(6) BUILDING SIZE AND MASSING

Individual bungalows may be one or two stories in height.

(7) ACCESSORY STRUCTURES

Bungalow Courts may have accessory buildings such as a garage, carport, or laundry building accessed from the alley.

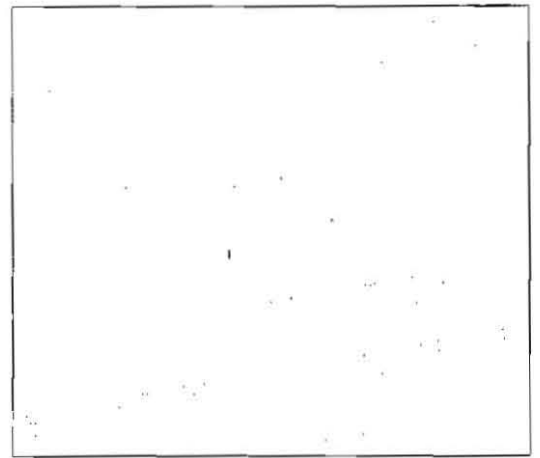


Diagram of a Bungalow Court



Craftsman Bungalow Court



Spanish Revival Bungalow Court



Modern Ranch Bungalow Court

Building Type: (b) Commercial Block

(1) DESCRIPTION

A building designed for non-residential tenants on the ground floor and residential or non-residential tenants on upper floors. Ground level units should be between 25 and 30 feet wide, although more than one may be leased to a single tenant.

(2) ACCESS

Each ground floor unit should have a separate, individual pedestrian entrance from the street. Primary pedestrian access to upper floors should be from the street by way of a common lobby which takes direct access from the sidewalk. The building may also have secondary access from the alley. The alley will also provide access for services, utilities, and vehicles. Buildings on corner lots may have either a corner entry or an entry on each street.

(3) PARKING

Parking may be provided both on- and off-site. See Sections 10-7.505 to 10-7.511 Downtown Zones and 10-7.515 General Provisions for requirements on parking. Parking may be provided both on- and off-site.

(4) OPEN SPACE

Not required.

(5) FRONTAGE

Compatible frontage types include:

- (i) Shopfront
- (ii) Forecourt

See Section 10-7.513 Frontage Types for additional information.

(6) BUILDING SIZE AND MASSING

A Commercial Block building may be one to fifteen stories in height, depending on the zone. Hallways may be either single- or double-loaded. Due to the mass of larger Commercial Block buildings, light courts are encouraged to reduce energy use by allowing natural light and breezes to penetrate the building interior and reducing energy use for lighting and air conditioning.

(7) ACCESSORY BUILDINGS

Accessory buildings should not be allowed in conjunction with a Commercial Block building.

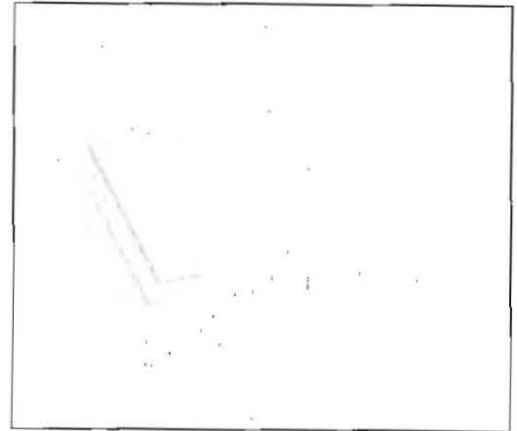


Diagram of a Commercial Block Building



Four-Story Commercial Block Building



Three-Story Commercial Block Building

Building Type: (c) Courtyard

(1) DESCRIPTION

A group of multi-family buildings or a single multi-family building arranged to share one or more common courtyards upon a qualifying lot in any zone. The courtyard serves as a semi-public space, as its use is shared among units. A Courtyard Building may be used for nonresidential purposes where allowed by zone.

(2) ACCESS

Primary pedestrian access for units in a Courtyard Building that are adjacent to the street should be taken from the street. Primary pedestrian access for interior units should be taken directly from the courtyard at ground level. There may also be secondary pedestrian access from the alley. The alley will provide automobile access and access for services and utilities.

(3) PARKING

Required off-street parking should be accessed from the alley and may be covered or uncovered. Tandem parking is permitted for residential use. See Sections 10-7.505 to 10-7.511 Downtown Zones and 10-7.515 General Provisions for additional information on parking.

(4) OPEN SPACE

The courtyard around which buildings are arranged should be sized to provide usable outdoor space for residents.

(5) FRONTAGE

Compatible frontage types include:

- (i) Stoop
- (ii) Porch

Ground floor residential units should be raised above sidewalk grade for privacy based on building setback. See Section 10-7.513 Frontage Types for additional information.

(6) BUILDING SIZE AND MASSING

A Courtyard Building may be one to three stories in height, depending on the zone.

(7) ACCESSORY STRUCTURES

A Courtyard Building may have accessory building such as a garage, carport, or laundry building accessed from the alley.

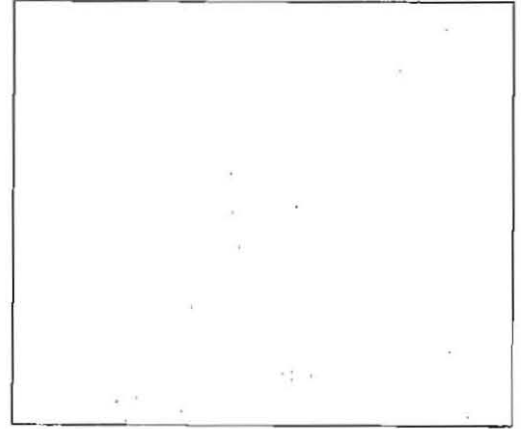


Diagram of a Courtyard Building



Neoclassical Revival Courtyard Building with Stoops



Ranch-Style Courtyard Building with Stoops



Courtyard Almost Fully Enclosed

Building Type: (d) Du- Tri- Quadplex

(1) DESCRIPTION

Fully attached units that share walls, designed for two to four households, located upon a qualifying lot. Such buildings may be used for nonresidential purposes where allowed by zone.

(2) ACCESS

Primary pedestrian access for each individual unit should be from the street. There may also be secondary pedestrian access from the alley. The alley will provide automobile access and access for services and utilities.

(3) PARKING

Required off-street parking should be accessed from the alley and may be covered or uncovered. Tandem parking is permitted for residential use. See Sections 10-7.505 to 10-7.511 Downtown Zones and 10-7.515 General Provisions for additional information on parking.

(4) OPEN SPACE

Open space is not required with this building type.

(5) FRONTAGE

Compatible frontage types include:

- (i) Stoop
- (ii) Porch
- (iii) Common Yard (For duplex where allowed)

Ground floor residential units should be raised above sidewalk grade for privacy based on building setback. See Section 10-7.513 Frontage Types for additional information.

(6) BUILDING SIZE AND MASSING

A Du- Tri- Quadplex Building may be one to three stories in height, depending on the zone. Existing Du- Tri- Quadplexes shall maintain existing side and front yards.

(7) ACCESSORY STRUCTURES

A Du- Tri- Quadplex may have accessory buildings such as a garage, carport, or laundry building accessed from the alley.

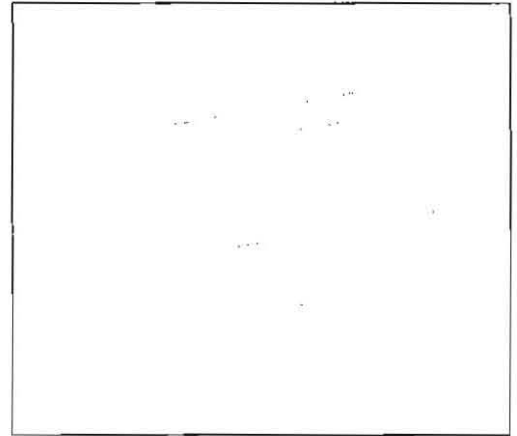


Diagram of Du- Tri- Quadplex



Italian Renaissance Quadplex with Stoops



Craftsman Bungalow Quadplex with Porches and Stoops

Building Type: (e) Front Yard House

(1) DESCRIPTION

A detached building designed as a single dwelling unit. A Front Yard House may be used for nonresidential purposes where allowed by zone.

(2) ACCESS

Primary pedestrian access to a Front Yard House is from the public sidewalk. There may also be secondary pedestrian access from the alley. The alley will typically provide access for services, utilities, and vehicles.

(3) PARKING

Parking is usually accessed from the alley and may be covered or uncovered. Tandem parking is allowed for residential use. Parking may be accessed from the street, as allowed by zoning district. See Sections 10-7.505 to 10-7.511 Downtown Zones and 10-7.515 General Provisions for additional information on parking.

(4) OPEN SPACE

One usable, at-grade, outdoor space shall be provided behind the Front Yard House and shall occupy no less than 15 percent of the lot area and shall have a minimum dimension of 20 feet or as specified by zone.

(5) FRONTAGE

Compatible frontage types include:

- (i) Stoop
- (ii) Porch
- (iii) Common Yard

Ground floor residential units should be raised above sidewalk grade for privacy based on building setback. See Section 10-7.513 Frontage Types for additional information.

(6) BUILDING SIZE AND MASSING

A Front Yard House may be one or two stories in height. New Front Yard Houses should have side and front yards consistent with the original pattern of most other Front Yard Houses of similar size and scale in the same vicinity.

(7) ACCESSORY STRUCTURES

A Front Yard House may have a garage or carport. A Front Yard House used as a residence may also have one or more accessory dwelling units depending on the zone. Accessory dwellings should be located on the rear half of the lot and facing the alley, where an alley exists. Accessory dwelling units located on corner lots may be oriented to the side street.

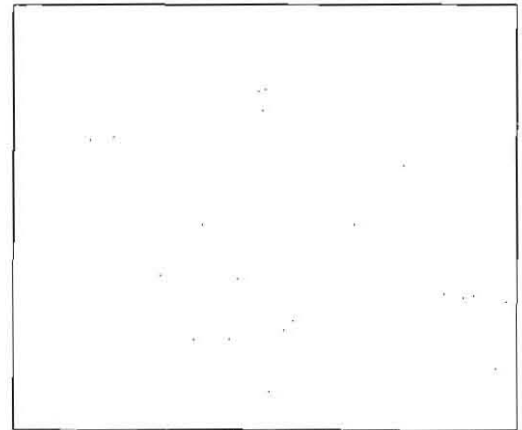


Diagram of Front Yard Houses



Front Yard House with Stoop



Front Yard House with Porch

Building Type: (f) Live/Work Building

(1) DESCRIPTION

A Live/Work Building provides housing for one family with ground floor work space for members of the same family and usable outdoor space. Allowed land uses on a qualifying lot as permitted by zone.

(2) ACCESS

Primary pedestrian access to both the work space and living area should be from the street. There may also be secondary pedestrian access to the living space from the alley. The alley will provide access for services, utilities, and vehicles.

(3) PARKING

Required parking should be accessed from the alley and may be covered or uncovered. Tandem parking is permitted for residential use. See Sections 10-7.505 to 10-7.511 Downtown Zones and 10-7.515 General Provisions for additional information on parking.

(4) OPEN SPACE

One usable, at-grade, outdoor space is provided behind the Live/Work Building and shall occupy no less than 15 percent of the lot area and shall have a minimum dimension of 20 feet or as specified by zone.

(5) FRONTAGE

Compatible frontage types include:

- (i) Shopfront
- (ii) Forecourt
- (iii) Stoop
- (iv) Porch

Ground floor residential units should be raised above sidewalk grade for privacy based on building setback and frontage type. See Section 10-7.513 Frontage Types for additional information.

(6) BUILDING SIZE AND MASSING

A Live/Work Building can be two or three stories in height, depending upon the zone.

(7) ACCESSORY STRUCTURES

A Live/Work Building may have accessory buildings such as a garage or carport that should be accessed from the alley. A Live-Work Building may also have one accessory dwelling unit, located on the back half of the lot and facing the alley, where an alley exists. Accessory dwelling units located on corner lots may be oriented to the side street.

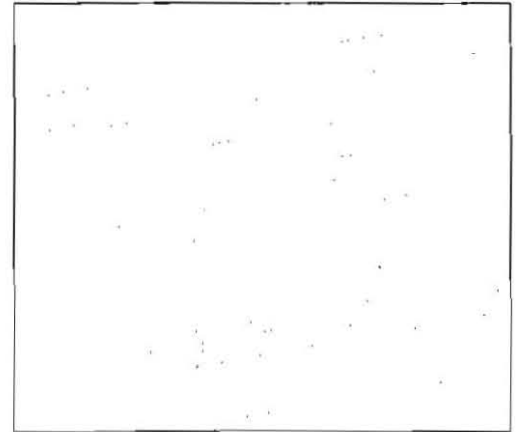


Diagram of Live/Work Buildings



Live Work Building with Ground-Floor Grocer



Live/Work Buildings with Ground Floor Retail

Building Type: (g) Mansion Apartments

(1) DESCRIPTION

A detached building with the appearance from the street of a large house which contains more than four dwellings and that may be located upon a qualifying lot. A Mansion Apartment may be used for nonresidential purposes where allowed by zone.

(2) ACCESS

Pedestrian access to each dwelling in a Mansion Apartment is provided individually from a common lobby, which in turn is accessed directly from the sidewalk. The central lobby may also provide secondary access from the alley.

(3) PARKING

Required off-street parking should be accessed from the alley and may be covered or uncovered. The alley also provides access to utilities and may provide secondary pedestrian access. See Sections 10-7.505 to 10-7.511 Downtown Zones and 10-7.515 General Provisions for additional information on parking.

(4) OPEN SPACE

Open space is not required for this building type.

(5) FRONTAGE

Compatible frontage types include:

- (i) Stoop
- (ii) Porch

Ground floor residential units should be raised above sidewalk grade for privacy based on building setback. See Section 10-7.513 Frontage Types for additional information.

(6) BUILDING SIZE AND MASSING

A Mansion Apartment may be one to three stories in height, depending upon the zone.

(7) ACCESSORY STRUCTURES

A Mansion Apartment may have accessory buildings such as a garage, carport, or uncovered parking, accessed from the alley.

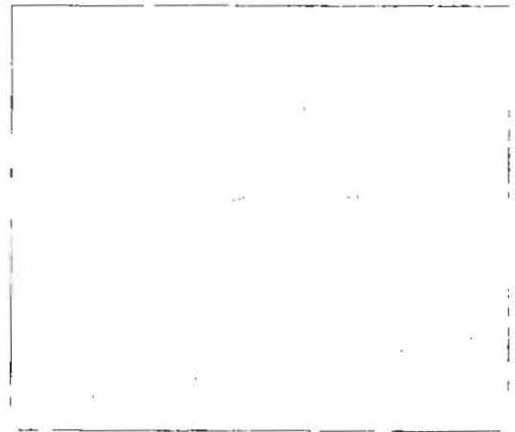


Diagram of a Mansion Apartment



French Country Mansion Apartment with Stoops



Mansion Apartment with Porch



Mansion Apartment with Stoop

Building Type: (h) Row House

(1) DESCRIPTION

Row Houses are two or more attached two- or three-story dwellings with zero side yard setbacks. Each dwelling is designed for use by a single family. A Row House may be used for nonresidential purposes where allowed by zone.

(2) ACCESS

Primary pedestrian access is from the public sidewalk. There may also be secondary pedestrian access from the alley. The alley will provide primary access for services, utilities, and vehicles.

(3) PARKING

Required parking may be in a garage or carport or may be uncovered. Tandem parking is permitted for residential use. See Sections 10-7.505 to 10-7.511 Downtown Zones and 10-7.515 General Provisions for additional information on parking.

(4) OPEN SPACE

One usable, at-grade, outdoor space shall be provided behind the Row House building and shall occupy no less than 15 percent of the lot area and shall have a minimum dimension of 20 feet or as specified by zone.

(5) FRONTAGE

Compatible frontage types include:

- (i) Stoop
- (ii) Porch

Because living space is on the ground level, the ground floor should be raised above sidewalk grade for privacy. See Section 10-7.513 Frontage Types for additional information.

(6) BUILDING SIZE AND MASSING

A Row House may be one to three stories in height, depending on the zone.

(7) ACCESSORY STRUCTURES

A Row House may have accessory buildings such as a garage or carport, accessed from the alley. One separate accessory dwelling unit with primary pedestrian access from the alley may be allowed on the back half of the lot where an alley exists, as allowed by district. Accessory dwelling units located on corner lots may be oriented to the side street.

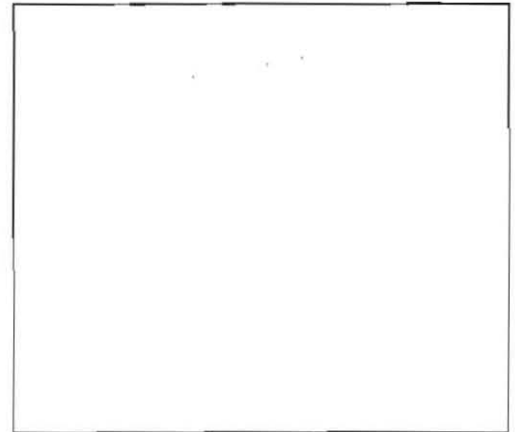


Diagram of Row Houses



Two Different Row House Designs



Narrow Three-Story Row Houses

Building Type: (i) Stacked Flats

(1) DESCRIPTION

A residential building comprised of either rental or for-sale dwelling units, typically single-story units, but multi-story units are also allowed. A Stacked Flat may be used for nonresidential purposes where allowed by zone.

(2) ACCESS

Primary pedestrian access is from the public sidewalk using a common lobby. Individual ground floor units may take direct access from the sidewalk. There may also be secondary pedestrian access from the alley. The alley will also provide access for services, utilities, and vehicles.

(3) PARKING

See Sections 10-7.505 to 10-7.511 Downtown Zones and 10-7.515 General Provisions for requirements on parking. Parking may be provided both on- and off-site.

(4) OPEN SPACE

Balconies may be provided along the street frontages and along the alley above the ground floor, but may not encroach into the public right of way unless allowed by zone. Common rooftop open space is also allowed.

(5) FRONTAGE

Compatible frontage types include:

- (i) Stoop
- (ii) Shopfront
- (iii) Forecourt

Because living space is on the ground level, the ground floor for the stoop frontage type should be raised above sidewalk grade for privacy based on building setback. See Section 10-7.513 Frontage Types for additional information.

(6) BUILDING SIZE AND MASSING

A Stacked Flat Building may be two to five stories in height, depending on the zone.

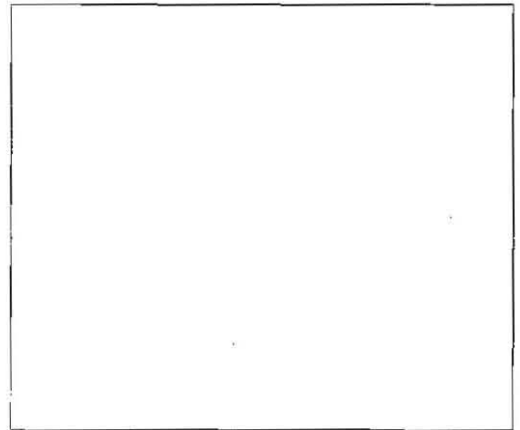


Diagram of Stacked Flats



Modern Stacked Flats with Stoop Frontage



Stacked Flats with Storefront Frontage

10-7.513 Frontage Types.

Frontage Types address the features of the building frontage focusing on the interface between private and public spaces. The following Frontage Types are described in the following pages:

- (a) Common Yard
- (b) Forecourt
- (c) Porch
- (d) Shopfront
- (e) Stoop

Frontage Type: (a) Common Yard

(1) DESCRIPTION

The Common Yard frontage has a landscaped frontage where the front façade has a much greater set back from the front property line than a Porch or Stoop Frontage. The greater setback provides a buffer from the street. The front yard is typically unfenced and is visually continuous with adjacent yards. The front door includes a covered entry at least two feet deep. Common Yard frontage may be combined with Stoop frontage.

(2) DESIGN FEATURES

- (i) Building is set back 15 to 25 feet
- (ii) The ground floor is raised 8 to 36 inches above grade

(3) BUILDING TYPES

Common Yard frontage is compatible with:

- (i) Front Yard House
- (ii) Duplex

(4) FRONTAGE TYPES

Common Yard frontage is also compatible with:

- (i) Porch frontage
- (ii) Stoop frontage

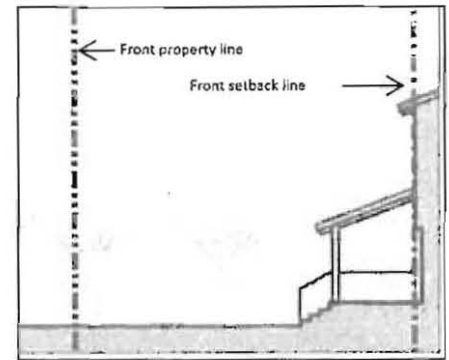


Diagram of Common Yard Frontage



Common Yard Frontage with Front Yard House



Common Yard Frontage and Stoop

Frontage Type: (b) Forecourt

(1) DESCRIPTION

A Forecourt may be added to any building that has a Shopfront façade. The Forecourt is created by recessing the façade over a portion of the building frontage. A Forecourt is not covered and must be at least 10 feet by 10 feet and can be suitable for a garden, patio, or outdoor dining. A Forecourt must be open to the sidewalk.

(2) DESIGN FEATURES

- (i) At least 10 feet and up to 30 feet deep, as measured from the building façade
- (ii) At least 10 feet wide and up to 50 percent of lot width
- (iii) May be combined with the following frontage types:
 - a) Shopfront
- (iv) Ground floor level should be at sidewalk grade

(3) BUILDING TYPES

Forecourt frontage is compatible with:

- (i) Commercial Block
- (ii) Stacked Flats
- (iii) Live Work

See Section 10.7-512 Building Types, for more information.

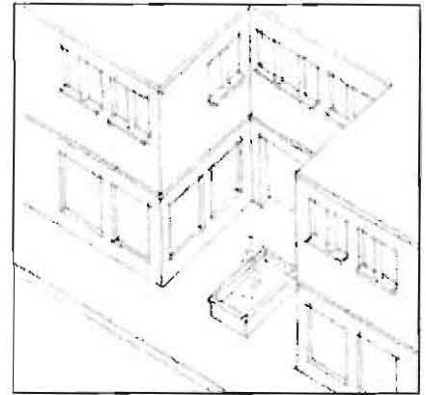


Diagram of Forecourt



Forecourt on a Commercial Block Building



Forecourt and Arcade



Forecourt Offers Shaded Seating

Frontage Type: (c) Porch

(1) DESCRIPTION

Porches are a frontage type most commonly associated with single family houses, but may also be used with other building types. Under most circumstances, the building façade (Porch) is typically set back from the front property line and creates a middle space between the privacy of the building interior and the public space of the sidewalk.

(2) DESIGN FEATURES

- (i) At least six feet deep
- (ii) At least 12 feet wide
- (iii) Same net clear space measured from floor to ceiling and same elevation as ground floor
- (iv) Porch and ground floor level may be at grade up to a maximum 36 inches above grade depending on building setback with the minimum and maximum to be provided as follows:

Building Setback	Porch and Ground Floor Level Above Grade	
	Minimum	Maximum
0 to 8'	24"	36"
> 8' to 15'	18"	36"
> 15'	0"	36"

(6) BUILDING TYPES

Porch frontage is compatible with:

- (i) Live-Work
- (ii) Row House
- (iii) Front Yard House
- (iv) Du- Tri- Quadplex
- (v) Bungalow Court
- (vi) Mansion Apartment
- (vii) Courtyard

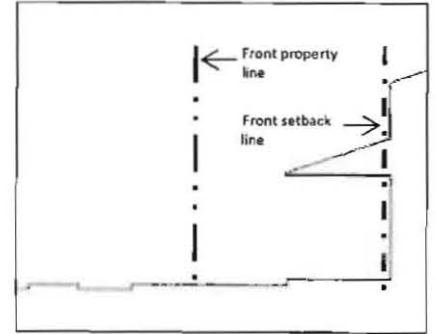


Diagram of a Porch



Porch on a Two-Story Front Yard House



Wraparound Porch

Frontage Type: (d) Shopfront

(1) DESCRIPTION

A Shopfront is placed at or close to the right-of-way line, with the entrance(s) at or very near sidewalk grade. This is conventional for retail frontage and often has a shed roof or awning over the entrance(s), windows, or across the entire building frontage. Entrances may be recessed. Clear glass normally covers the majority of the ground floor façade to allow potential customers to see inside.

(2) DESIGN FEATURES

- (i) Net clear ground floor to ceiling height should be 12 to 18 feet tall
- (ii) Window and door openings should be at least nine feet tall and comprise at least 70 percent of the ground floor wall area or setback line at the sidewalk edge. Glazing should not be opaque or reflective and any tinting should be light enough to allow visibility into the windows from the street and sidewalk.
- (iii) The storefront assembly (doors, display windows, bulkheads, associated framing) should not be deeply set back (maximum of eight feet) from the rest of the building façade, so that pedestrians have a clear view of the interior.
- (iv) Door and window glass should not extend to sidewalk grade, but should be supported by a bulkhead from 12 to 30 inches high, as measured from sidewalk grade.
- (v) Shopfront can be combined with Forecourt.
- (vi) Ground floor level should be at sidewalk grade.

(3) BUILDING TYPES

Shopfront frontage is compatible with:

- (i) Stacked Flats
- (ii) Commercial Block
- (iii) Live-Work

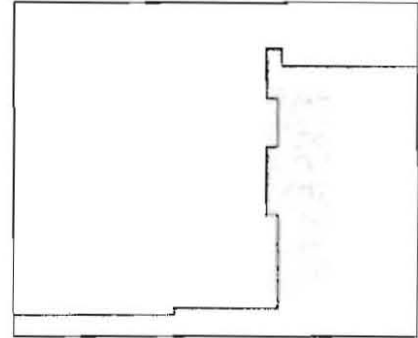


Diagram of a Shopfront



Shopfront on a One-Story Commercial Block



Shopfront on a Multi-Story Commercial Block



Shopfront on a Multi-Story Commercial Block

Frontage Type: (e) Stoop

(1) DESCRIPTION

A stoop is an elevated entry typically placed close to the front property line in urban settings with the ground floor elevated from the sidewalk. In less urban settings a stoop may be less elevated but with a greater set back. This frontage type is typically associated with ground-floor residential units that have shallow setbacks, but it can also be used on commercial buildings and single family houses. A shed roof or awning may cover the stoop.

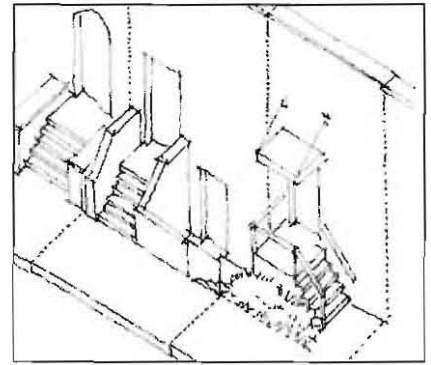


Diagram of Different Stoops

(2) DESIGN FEATURES

- (i) Landing is at least two feet deep
- (ii) Landing is at least three feet wide
- (iii) Stoop and ground floor level may be at grade up to a maximum 36 inches above grade depending on building setback with the minimum and maximum to be provided as follows:

Building Setback	Stoop and Ground Floor Level Above Grade	
	Minimum	Maximum
0 to 8'	24"	36"
> 8' to 15'	18"	36"
> 15'	0"	36"



Stacked Flats with Stoops

(3) BUILDING TYPES

Stoop frontage is compatible with the following building types:

- (i) Live-Work
- (ii) Stacked Flats
- (iii) Row House
- (iv) Front Yard House
- (v) Du- Tri- Quadplex
- (vi) Bungalow Court
- (vii) Mansion Apartment
- (viii) Courtyard



Row Houses with Stoops



Front Yard House with Stoop

10-7.514 Use Types.

Use Type categories and examples of each category are described in Table 7.5-2 Use Types below. Sections 10-7.506 to 10-7.511 provide development standards for the Downtown Zones and they identify permitted Use Types by Building Type and floor.

Table 7.5-2 Use Types

Use Type Definitions	Use Type Examples ^{1,2,3}	See Sections
Civic		
Civic uses are generally not-for-profit and serve a public benefit by furthering social, cultural, artistic, religious or educational opportunities. These uses provide a service that typically generates substantial visitation and activity during operating hours.	Government (Buildings, Facilities, Parks, etc.) Place of Worship School Performing Arts Theater Museum/Aquarium Art Gallery	
Lodging		
Lodging uses offer temporary housing for a fee. The housing options may range from shared studios to multi-bedroom suites with full food preparation and consumption facilities. The duration of stay will range from one night to as long as one month.	Hotel/Motel Bed and Breakfast Hostel	
Office		
Office uses provide administrative services for firms and institutions or services to individuals, firms, or other entities. These uses typically operate between 7am and 6pm Monday through Friday.	Attorney Architect/Engineer Financial Planner Dentist/Doctor Real Estate Professional Staffing Agency	10-2.159 10-2.159 10-2.159 10-2.160 10-2.159 10-2.159
Residential		
Residential uses are housing units occupied by the owner or renter. Each unit provides an independent living facility including provisions for living, sleeping, cooking, eating, and sanitation.	Duplex Multiple Family (Apartment, Rowhouse, etc.) Single-Family Home Residential Care Facilities ⁴	10-2.172
Retail		
Retail uses are for-profit businesses that offer durable goods, nondurable goods, entertainment and/or recreational services that are purchased, consumed or enjoyed by patrons on-site and off-site. These uses tend to have a fast turnover, with complete transactions typically lasting a few minutes to a couple of hours.	Bar/Club ⁵ Café/Restaurant Movie Theater General Retail (Department Store, etc.) ⁶ Neighborhood Retail (Apparel, Grocery, etc.) Recreational Facility (Bowling, Health Club, etc.)	10-2.174 10-2.175 10-2.165
Service		
Businesses that provide repair, cleaning or personal services, or rent durable goods or facilities, or sell wholesale goods to retailers. Service uses that generate substantial amounts of noise, odor, or other nuisance activities such as vehicle repairs, contractor services, and outdoor kennels are not permitted. Transactions can last less than an hour or can involve appointments and may take more than one day to complete.	Banquet Halls Car Rental Catering Business Janitorial Services Personal Services (Dance Studio, Salon, etc.) Repair Services (Appliance, Electronic, etc.)	10-2.199 10-2.179 10-2.181
Notes		
1. Determination of permitted uses shall be made by the Director based on the above definitions and examples as well as the land use regulations in Title 10.		
2. See individual Downtown Zones for permitted uses by Building Type and floors.		
3. Adult entertainment, single-room occupancies, homeless and emergency shelters are not permitted in the Downtown Zones.		
4. A residential care facility providing care for seven or more persons is subject to a conditional use permit.		
5. Establishments providing entertainment are subject to the provisions of Article 4 of Chapter 1 of Title 4.		
6. Central and Transition Zones only		

(a) **Parking.**

(1) Design.

- (i) Except where in conflict with the provisions of this article, all parking areas shall be designed in accordance with Section 10-5.105 of the Modesto Municipal Code.
- (ii) Parking structures shall not exceed six (6) levels, plus an upper deck, in the Central and Transition Downtown Zones and two (2) levels, plus an upper deck, in the other Downtown Zones.
- (iii) Parking structures in the requisite building placement area not concealed behind a habitable liner shall conform to all building placement and building configuration requirements of the respective Downtown Zone and provide a facade that gives the appearance of being habitable.
- (iv) In the Central and Transition Downtown Zones, where surface parking occurs within (50) feet of a lettered street and (22) feet of the alley, a minimum three and one-half-foot high streetscreen shall be provided along a line co-planer with the adjoining building's facade.

(2) Access in the Central and Transition Downtown Zones.

- (i) Vehicular access to and from parking areas shall occur through the alley.
- (ii) Pedestrian access to and from parking areas shall occur within buildings, paseos, plazas or the area along lettered streets designated for ground level parking.

(3) Access in the Urban General, Main Street and East Neighborhood Downtown Zones.

Vehicular access to and from parking areas shall occur through the alley except as follows:

- (i) On corner lots, parking may be accessed through the street side to help meet required parking subject to Director approval.
- (ii) Where alley access is not available or feasible, street access shall be subject to Director approval.
- (iii) Where street access is approved, the maximum driveway width is 12 feet for less than ten spaces and 20 feet for ten or more spaces.
- (iv) A continuous drive aisle may extend a maximum 140' from the street.
- (v) Parking may back onto a street in the East Neighborhood Downtown Zone for one Front Yard House building type serving up to two spaces with a maximum driveway width of 12 feet. If the parking is approved to back onto the street side of a corner lot, the minimum setback is 20 feet.

(4) Access in the Traditional Neighborhood Downtown Zone.

- (i) Where alley access is not available or feasible, then one street access is permitted with a maximum driveway width of 12 feet subject to Director approval.
- (ii) Where street access is approved, a single family dwelling may have up to two spaces that back onto the street.
- (iii) If the parking is approved to back onto the street side of a corner lot, the minimum setback is 20 feet.

(5) Shared Parking.

The minimum number of required parking spaces may be reduced when a building contains different use types. Parking may also be reduced between buildings with different use types that are located within immediately adjacent blocks.

- (i) When parking is shared between buildings located on different sites, a parking agreement is required as approved by the Director.
- (ii) The reduction in parking shall be determined by dividing the sum of the parking required by two (2) use types occupying the same amount of building floor area (square footage) by the associated factor from Table 7.5-3.

(6) Off-Site Parking.

Off-site parking may be used to meet the parking requirements of this article.

- (i) Off-site parking shall be located within (1,460) feet of the building it serves, as measured along streets, alleys and sidewalks from the nearest point of the parking area to the nearest point of the building. Off-site parking shall be provided through a long-term lease as approved by the Director.

(7) Required Spaces for Church or Place Worship. The required parking spaces for a church or place of worship are provided in Section 10-5.102, Table 5.1-1, Parking Requirements.

Table 7.5-3 Shared Parking

	Civic	Lodging	Office	Residential	Retail	Service
Civic	1	1.5	1.2	1.3	1.2	1.2
Lodging	1.5	1	1.7	1.1	1.3	1.5
Office	1.2	1.7	1	1.4	1.2	1.1
Residential	1.3	1.1	1.4	1	1.2	1.3
Retail	1.2	1.3	1.2	1.2	1	1.1
Service	1.2	1.5	1.1	1.3	1.1	1

Example: A building that is comprised of an office use type occupying one hundred thousand (100,000) square feet and a residential use type occupying fifty thousand (50,000) square feet may divide the sum of the parking required for fifty thousand (50,000) square feet of office use type (one hundred (100) spaces) and 50,000 square feet of residential use type (e.g., seventy-five (75) spaces) by 1.4 resulting in the requirement for one hundred twenty-five (125) parking spaces (175/1.4 = 125). Then add the minimum parking required for the remaining fifty thousand (50,000) square feet of office use type (one hundred (100) spaces) to determine the total parking requirement for the building (125 + 100 = 225 total parking spaces).

(b) Public/Private Transition Area.

(1) Outdoor Dining and Display.

- (i) Where there is at least ten (10) foot wide continuous sidewalk and safe path of travel for all users of the sidewalk remaining after the following temporary uses are installed or established, use of public right-of-way adjoining the street property line(s) for the following purposes shall be allowed:
 - a) Outdoor dining, subject to obtaining the requirements of Articles 1 and 2 of Chapter 15 of Title 4;
 - b) Display of public art;
 - c) Display of merchandise;
 - d) Display of sidewalk signs;
 - e) Display of seasonal items;
 - f) Display of removable planters/flower pots.
- (ii) Outdoor dining, merchandise display and sidewalk signs shall relate to the commercial activity taking place within the adjoining ground floor business.
- (iii) All merchandise display, sidewalk signs, outdoor dining and associated enclosures shall be removed during non-business hours.
- (iv) Sidewalk signs are limited to one (1) per parcel per public street frontage.
- (v) Display of merchandise is limited to fifty (50) percent of the lineal width of the associated business along the street(s).

(c) Special Areas.

(1) Historic Preservation Sites.

- (i) Relocation or demolition of buildings that are on the National Register of Historic Places, California Register of Historic Resources, or designated as a Landmark Preservation Site is not permitted, except in accordance with Modesto Municipal Code, Title 9, Chapter 10 and California Code Regulations, Title 14, Division 6, Chapter 3, Section 15000 – 15387.
- (ii) Development adjoining historic preservation sites shall be no greater than two (2) stories higher or lower than the historic building.

(d) Miscellaneous Design Issues.

(1) Design Guidelines.

- (i) All development within the Downtown Zones is subject to the City of Modesto Design Guidelines for Commercial and Industrial Development, where applicable.

(2) Wireless Telecommunications.

- (i) Wireless facilities are subject to the provisions of Article 4 of Chapter 3 as they apply to the C-1 Zone (CD, TD, UGD, MSD) and R-1 Zone (END, TND).
- (3) Rooftop Utilities.
 - (i) All building utilities and mechanical equipment located on rooftops shall be screened within penthouses or attics.
- (4) Ground-Level Utilities.
 - (i) All ground-level building utilities and mechanical equipment not contained within buildings shall be located within the area designated for ground-level parking.
- (5) Blocks Without Alleys.
 - (i) In the Central and Transition Downtown Zone, development occurring on lots without alleys shall assume an alley parallel to and one hundred forty (140) feet behind the numbered street(s) property line(s) for the purposes of complying with the development provisions.
 - (ii) Developments that comprise an entire block may build over the alley following an abandonment of the subject alley.
- (6) Properties Containing Multiple Planning Districts.
 - (i) Where one (1) property contains two (2) Downtown Zones, the boundary between the zones shall be treated in the same manner as a property line for the purposes of complying with the associated development provisions of the respective Downtown Zones.
- (e) **Signs.**

Except where in conflict with the provisions of this article, all signs shall conform with Chapter 6, as they apply to the equivalent zones specified in Section 10-7.502(a).

 - (1) Downtown Zone Sidewalk Signs. (See Section 10-7.516(i))
 - (i) Downtown Zone sidewalk signs of a size, design and materials as approved by the City Council and as administered by the Downtown Improvement District are permitted in the locations specified in Section 10-7.515(b) of this article.
 - (2) Wall Signs.
 - (i) Permitted subject to the provisions of Section 10-6.107, Table 6.1-2 of the Modesto Municipal Code, except maximum sign area shall be one (1) square foot per linear foot of width of the wall upon which the sign is placed (CD, TD, UGD, MSD only).
 - (3) Projecting Signs.
 - (i) Permitted subject to the provisions of Section 10-6.107, Table 6.1-2 of the Modesto Municipal Code, except maximum sign area shall be limited to twelve (12) square feet and the sign may not project more than five (5) feet from the facade of the building or as provided by zone (CD, TD, UGD, MSD only).
 - (4) Projecting Marquee Signs.
 - (i) Permitted subject to the provisions of Section 10-6.107, Table 6.1-2 of the Modesto Municipal Code, except the sign may only project eight (8) feet beyond the building façade or as provided by zone, and the sign shall only be permitted for theaters (CD, TD, UGD, MSD only).
 - (5) Canopy Signs.
 - (i) Permitted subject to the provisions of Section 10-6.107, Table 6.1-2 of the Modesto Municipal Code, except maximum sign area shall be one (1) square foot per linear foot of width of the wall upon which the canopy is affixed (CD, TD, UGD, MSD only).
- (f) **Outdoor Storage.**
 - (1) Outdoor storage shall only occur within the optional building area and is limited to items relating to business being conducted within the building on the same property (CD and TD only).

10-7.516 Definitions.

- (a) **Adjacent.** Sharing a common property line or Downtown Zone line, even if separated by a street or alley. Properties that are separated by a street are considered adjacent even if they are located diagonally across an intersection.
- (b) **Adjoining.** Sharing a common boundary.
- (c) **Architectural Feature.** An accessory exterior building feature including awnings, roofs, windows, doors, cornices, canopies, eaves, chimneys, down spouts, bulkheads, or similar design elements.
- (d) **Attic.** An area above the top floor of a building that is typically residential in nature with a pitched roof, which is designed to house utilities and/or equipment and provide insulation.

- (e) **Block Frontage.** A frontage area running along one (1) street, between the nearest two (2) transecting streets.
- (f) **Build-to Line.** A linear plane paralleling the street property lines along which the building facade must be placed.
- (g) **Building Placement in Setback Area.** Percentage of the front building width to be placed along the street frontage within the setback area.
- (h) **Co-planer.** Even with the surface of a building.
- (i) **Downtown Modesto Historic Zoning Designation.** The zoning in effect prior to September 3, 2010, for properties located in the Central Downtown and Transition Downtown Zones, and the zoning in effect prior to June 25, 2015 for properties located in the Urban General Downtown, Main Street Downtown, East Neighborhood Downtown, and Traditional Neighborhood Downtown, as shown in Figure 7.5-1
- (j) **Downtown Zone Sidewalk Sign.** An A-frame sign designed in accordance with provisions approved by the City Council and administered by the Downtown Improvement District that is available to businesses in the Downtown Zone through the Downtown Improvement District.
- (k) **Encroachment.** Extension of building elements beyond the build-to line, minimum setback, minimum stepback, or right-of-way. The building elements are secondary building features including a porch, stoop, balcony, wall sign, and architectural features.
- (l) **Facade.** The plane of the building and its architectural elements facing the public street. The “face” of the building.
- (m) **Floor to Ceiling Height.** The net clear internal building space from finished floor to finished ceiling.
- (n) **Frontage.** The area between the facade of a building and the street property line.
- (o) **Habitable Liner.** A relatively shallow building area that is conditioned and intended for human activities (residence, office, etc.), which separates a parking structure from the public realm.
- (p) **Historic Preservation Site.** See Section 10-7.515(c).
- (q) **Paseo.** A 15-foot to 30-foot wide, open-air area for pedestrian passage between the public sidewalk and parking or other uses to the rear of property, which provides storefronts along one (1) or both sides.
- (r) **Penthouse.** An area above the top story of a building, which is used to store mechanical equipment, building utilities, etc. Penthouses are either well-integrated into the architecture of the building they serve or are set back from the building’s edges and designed to be inconspicuous.
- (s) **Plaza.** An open air area greater than thirty (30) feet wide that is used for public meeting space or passive open space.
- (t) **Setback.** The minimum or maximum dimension from property line that a building, parking, or other development structure must be placed with the exception of specifically permitted encroachments to the minimum setback.
- (u) **Setback Area.** The area between the minimum and maximum setbacks along the street frontage.
- (v) **Single Room Occupancies.** Rooms that can be leased or rented for extended periods of time or as a primary residence without the provision of either separate or common food preparation and consumption facilities.
- (w) **Stepback.** The minimum dimension from property line that the tower element or upper levels of a building must be placed.
- (x) **Story.** A level within a building or structure measured from the finished floor to the finished floor above, or to the eave or base of the parapet in the case of the top floor, that is generally accessible and used by patrons of the building. Enclosures for mechanical equipment above the top floor, and attics in the case of a pitched roof, are not considered a building story for the purposes of this Code.
- (y) **Streetscreen.** A wall built along a line co-planer with the adjoining building’s façade used to screen a parking area or other areas not otherwise screened by a building from the adjoining street.
- (z) **Upper Deck.** The highest level or “roof” of a parking structure.

ORDINANCE NO. 3619-C.S.

AN ORDINANCE AMENDING SECTION SECTIONS 29-3-9 AND 32-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO TO REZONE A PORTION OF THE DOWNTOWN CORE (DC) ZONE TO THE PROPOSED CENTRAL DOWNTOWN (CD) ZONE, PROPERTY LOCATED IN BLOCKS 53-58, 66-71, 83-86, AND 92-94 OF DOWNTOWN MODESTO (INITIATED BY THE CITY OF MODESTO)

WHEREAS, the City Council has considered an amendment to Article 5 of Chapter 7 of Title 10 of the Municipal Code to create a new Central Downtown (CD) Zone, and

WHEREAS, a verified application for an amendment to Sections 29-3-9 and 32-3-9 of the Zoning Map of the City of Modesto was initiated by the City of Modesto to rezone a portion of Downtown Core (DC) Zone to the proposed Central Downtown (CD) Zone, property located in Blocks 53-58, 66-71, 83-86, and 92-94 of downtown Modesto, and

WHEREAS, after a public hearing held on March 16, 2015, it was found and determined by the Planning Commission that the requested zone change will not be detrimental to the public health, safety or welfare because it is intended to improve the downtown area through facilitating increased densities and intensification of shared uses, providing additional housing choices and opportunities, ensuring development occurs at a human scale, promoting store frontage and display on public streets, and improving pedestrian circulation; the requested zone change will result in an orderly planned use of land because it will help to ensure that new development in downtown is of a type, form and scale that is appropriate to the existing development in downtown; and the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan and any applicable specific

plans(s) because the proposed rezone will promote higher density, mixed-use development in downtown, provide incentives such as reduced parking standards to encourage economic development in downtown, strengthen downtown as the focal point of community life and the social, cultural, business, governmental, and entertainment center of the City and by preserving and revitalizing the downtown and making it an identifiable center, and is consistent with the Redevelopment Planning District General Plan designation by assisting in implementing the vision and goals of the Redevelopment Master Plan for downtown, and

WHEREAS, by Resolution No. 2015-06, adopted on March 16, 2015, the Planning Commission recommended to the Council that the application initiated by the City of Modesto to amend Sections 29-3-9 and 32-3-9 of the Zoning Map of the City of Modesto to rezone the hereinafter described property a portion of Downtown Core (DC) Zone to the proposed Central Downtown (CD) Zone, property located in Blocks 53-58, 66-71, 83-86, and 92-94 of downtown Modesto, be approved,

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

SECTION 1. After a public hearing held on May 12, 2015, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety or welfare because it is intended to improve the downtown area through facilitating increased densities and intensification of shared uses; providing additional housing choices and opportunities; ensuring development occurs at a human scale; promoting store frontage and display on public streets; and improving pedestrian circulation.

2. The requested change will result in an orderly planned use of land because it will help to ensure that new development in downtown is of a type, form and scale that is appropriate to the existing development in downtown.
3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plan(s) because it will implement the following General Plan goals and policies:
 - a. General Plan Overall Goal I.C.6 (preserving agricultural land by having new development be relatively compact and of reasonably high density) by promoting higher density, mixed-use development in downtown.
 - b. General Plan Economic Development Goal I.D.1 (striving for a jobs/housing balance by encouraging the economic revitalization of downtown) by allowing higher density development and providing incentives such as reduced parking standards to encourage economic development in downtown.
 - c. General Plan Economic Development Goal I.D.2 by strengthening downtown as the focal point of community life and the social, cultural, business, governmental, and entertainment center of the City and by preserving and revitalizing the downtown and making it an identifiable center.
 - d. The rezoning is consistent with the Redevelopment Planning District General Plan designation by assisting in implementing the vision and goals of the Redevelopment Master Plan for downtown.

SECTION 2. ZONING CHANGE. Sections 29-3-9 and 32-3-9 of the Zoning Map of the City of Modesto are hereby amended to rezone the following described property a portion of Downtown Core (DC) Zone to the proposed Central Downtown (CD) Zone, property located in Blocks 53-58, 66-71, 83-86, and 92-94 of downtown Modesto, described as follows:

Legal Description as shown in Exhibit "A"

SECTION 3. ZONING MAP. Sections 29-3-9 and 32-3-9 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 12th day of May, 2015, by Councilmember Kenoyer, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:
By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community & Economic Development
Department, Planning Division

Ord. No. 3619-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 26th day of May, 2015, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


GARRAD MARSH, MAYOR

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: June 25, 2015

CENTRAL DOWNTOWN

Downtown Core to Central Downtown (CD)

All that certain real property situate in a portion of the Southeast Quarter of Section 29 and the Northeast Quarter of Section 32, 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:

Area No. 1:

Parcel "C" as shown on the map filed on May 11, 1988 in Book 40 of Parcel Maps, at page 86, Stanislaus County Records.

Also including the east 40 feet of L Street, the south 40 feet of 11th Street and the west 40 feet of K Street, all being immediately adjacent to the above described lots.

Containing 4.24 acres, more or less.

APN: 105-048-011.

Area No. 2:

Lots 6 through 32 in Block 86 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the east 40 feet of L Street, the west 40 feet of K Street, the south 40 feet of 12th Street, the north 40 feet of 11th Street and the entire 20 feet of alley, all being immediately adjacent to the above described lots.

Containing 3.47 acres, more or less.

APNs: 105-028-003, 105-028-004, 105-028-005 and 105-028-006, 105-028-007, 105-028-012, 105-028-013 and 105-028-014.

Area No. 3:

Lots 17 through 32 in Block 92 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the east 40 feet of K Street, the west 40 feet of J Street, the south 10 feet of the alley and the north 40 feet of 12th Street all being immediately adjacent to the above described lots.

Containing 2.09 acres, more or less.

APNs: 105-022-006, 105-022-007, 105-022-008, 105-022-011, 105-022-013 and 105-022-014.

Area No. 4:

Lots 17 through 32 in Block 93 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the east 40 feet of J Street, the west 50 feet of I Street, the south 10 feet of the alley and the north 40 feet of 12th Street all being immediately adjacent to the above described lots.

Containing 2.09 acres, more or less.

APNs: 105-023-007, 105-023-008, 105-023-009, 105-023-010 and 105-023-011.

Area No. 5:

Lots 20 through 32 in Block 94 of the City of Modesto as shown on that map of City Blocks of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the east 50 feet of I Street, the south 10 feet of the alley and the north 40 feet of 12th Street all being immediately adjacent to the above described lots.

Containing 1.65 acres, more or less.

APNs: 105-024-012, 105-024-013, 105-024-014, 105-024-015, 105-024-016, 105-024-017, 105-024-018 and a westerly portion of 105-024-010.

Area No. 6:

All that portion of Block 83 of the City of Modesto, as per map recorded July 15, 1938 in Volume 13 of Maps, described as follows:

From a point at the south corner of said Block 83, thence commencing North 43° 9' 57" West 100 feet to the Point of Beginning, thence North 43° 9' 57" West 300 feet to the west corner of said Block 83, thence North 43° 48' 33" East 300 feet to the north corner of said Block 83, thence South 43° 10' 1" East 300 feet, thence South 46° 15' 13" West 300 feet to the Point of Beginning.

Also including the west 50 feet of I Street, the north 40 feet of 11th Street and the south 40 feet of 12th Street all being immediately adjacent to the above description.

Containing 3 acres, more or less.

APNs: 105-025-002 and northwesterly portions of 105-025-003, 105-025-004, 105-025-005.

Area No. 7:

Lots 1 through 12 and 17 through 32 in Block 69 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the east 50 feet of I Street, the south 40 feet of 11th Street, the north or south 10 feet of the alley adjacent to the lots listed, the west 40 feet of H Street and the north 40 feet of 10th Street all being immediately adjacent to the above described lots.

Containing 3.66 acres, more or less.

APNs: A western portion of 105-039-013 and a large southeastern portion of 105-039-014.

Area No. 8:

The portion of Block 70 comprising Lots 17 through 32 of the City of Modesto as shown on that map of City Blocks of the City of Modesto as recorded in Volume 13 of Maps, on Page 70 in the Stanislaus County Records.

Also including the east 40 feet of H Street, the south 10 feet of the alley, the west 40 feet of G Street and the north 40 feet of 10th Street all being immediately adjacent to the above described lots.

Containing 2.09 acres, more or less.

APNs: 106-041-007, 106-041-008, 106-041-010, 106-041-016, 106-041-018, 106-041-019 and 106-041-020.

Area No. 9:

The portion of Block 71 comprising Lots 17 through 32 of the City of Modesto as shown on that map of City Blocks of the City of Modesto as recorded in Volume 13 of Maps, on Page 71 in the Stanislaus County Records.

Also including the east 40 feet of G Street, the south 10 feet of the alley, the west 40 feet of F Street and the north 40 feet of 10th Street all being immediately adjacent to the above described lots.

Containing 2.09 acres, more or less.

APNs: 106-040-009 and a southerly portion of 106-040-010.

Area No. 10:

The portion of Block 53 comprising Lots 1 through 16 of the City of Modesto as shown on that map of City Blocks of the City of Modesto as recorded in Volume 13 of Maps, on Page 53 in the Stanislaus County Records.

Also including the east 40 feet of G Street, the north 10 feet of the alley, the west 40 feet of F Street and the south 40 feet of 10th Street all being immediately adjacent to the above described lots.

Containing 2.09 acres, more or less.

APNs: 106-043-001, 106-043-002, 106-043-003, 106-043-004 and 106-043-005.

Area No. 11:

The portion of Block 54 comprising Lots 1 through 16 of the City of Modesto as shown on that map of City Blocks of the City of Modesto as recorded in Volume 13 of Maps, on Page 54 in the Stanislaus County Records.

Also including the east 40 feet of H Street, the north 10 feet of the alley, the west 40 feet of G Street and the south 40 feet of 10th Street all being immediately adjacent to the above described lots.

Containing 2.09 acres, more or less.

APNs: 106-042-001, 106-042-002, 106-042-003, 106-042-004, 106-042-005, 106-042-006 and 106-042-007.

Area No. 12:

The portion of Block 55 comprising Lots 1 through 16 of the City of Modesto as shown on that map of City Blocks of the City of Modesto as recorded in Volume 13 of Maps, on Page 55 in the Stanislaus County Records.

Also including the east 50 feet of I Street, the north 10 feet of the alley, the west 40 feet of H Street and the south 40 feet of 10th Street all being immediately adjacent to the above described lots.

Containing 2.14 acres, more or less.

APNs: 105-040-001, 105-040-017, 105-040-018 and 105-040-019.

Area No. 13:

The portion of Block 56 comprising Lots 1 through 16 of the City of Modesto as shown on that map of City Blocks of the City of Modesto as recorded in Volume 13 of Maps, on Page 56 in the Stanislaus County Records.

Also including the east 40 feet of J Street, the north 10 feet of the alley, the west 50 feet of I Street and the south 40 feet of 10th Street all being immediately adjacent to the above described lots.

Containing 2.14 acres, more or less.

APNs: 105-041-001, 105-041-002, 105-041-003, 105-041-004, 105-041-005, 105-041-006, 105-041-007, 105-041-008, 105-041-016, 105-041-017, 105-041-018 and 105-041-019.

Area No. 14:

The portion of Block 57 comprising Lots 1 through 16 of the City of Modesto as shown on that map of City Blocks of the City of Modesto as recorded in Volume 13 of Maps, on Page 57 in the Stanislaus County Records.

Also including the east 40 feet of K Street, the north 10 feet of the abandoned alley, the west 40 feet of J Street and the south 40 feet of 10th Street all being immediately adjacent to the above described lots.

Containing 2.09 acres, more or less.

APNs: 105-042-005, 105-042-006 and the northern portion of 105-042-016.

Area No. 15:

The entirety of Blocks 67, 68, 84 and 85 comprising on each Lots 1 through 32 of the City of Modesto as shown on that map of City Blocks of the City of Modesto as recorded in Volume 13 of Maps, on Pages 67, 68, 84 and 85 in the Stanislaus County Records.

Also including the east 40 feet of K Street, the north 40 feet of 10th Street, the west 50 feet of I Street, the south 40 feet of 12th Street, the entire width of 11th Street, the entire width of J Street and the entire width of any alley, all being immediately adjacent to the above described lots.

Containing 16.92 acres, more or less.

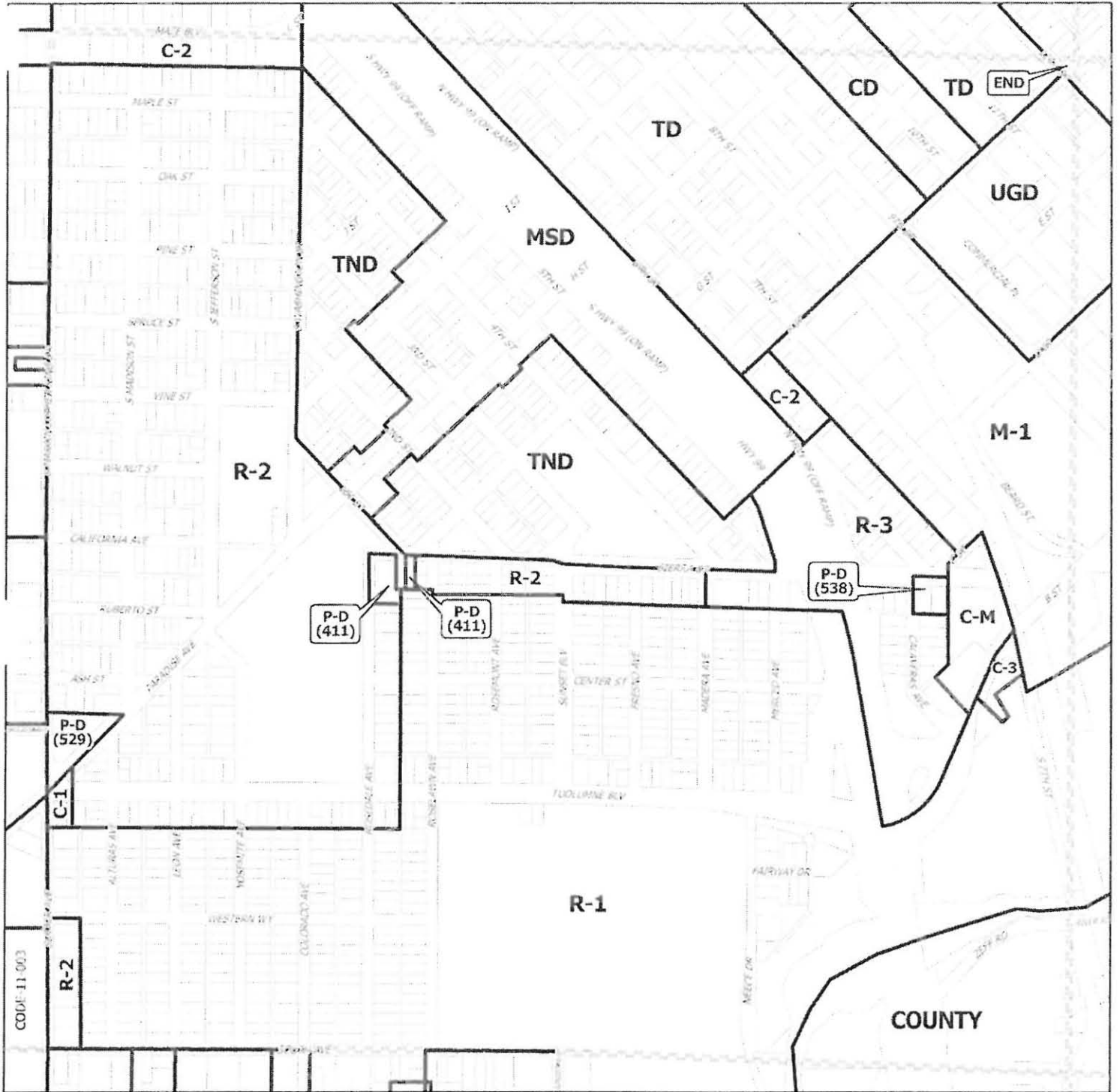
APNs: 105-026-001, 105-026-002, 105-026-003, 105-026-004, 105-026-006, 105-026-007, 105-027-001, 105-027-002, 105-027-003, 105-027-004, 105-027-005, 105-027-009, 105-027-010, 105-027-011, 105-027-012, 105-027-013, 105-027-014, 105-037-031, 105-037-032, 105-037-033, 105-037-034, 105-037-035, 105-38-001, 105-038-019, 105-038-021, 105-038-022, 105-038-023 and 105-038-024.



ZONING MAP OF THE CITY OF MODESTO

29-3-9

Ord. 3619-C.S.; Ord. 3620-C.S.;
 Ord. 3621-C.S.; Ord. 3622-C.S.;
 Ord. 3623-C.S.



ZONING MAP OF THE CITY OF MODESTO

32-3-9



Ord. 3619-C.S.; Ord. 3620-C.S.;
 Ord. 3621-C.S.; Ord. 3622-C.S.;
 Ord. 3623-C.S.; Ord. 3624-C.S.

ORDINANCE NO. 3620-C.S.

AN ORDINANCE AMENDING SECTIONS 28-3-9, 29-3-9 AND 32-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO TO REZONE A PORTION OF THE DOWNTOWN CORE (DC) ZONE TO THE PROPOSED TRANSITION DOWNTOWN (TD) ZONE, PROPERTY LOCATED IN BLOCKS 31-36, 39-44, 53-58, 69- 71, 81-83, 92-95, 104-107 AND 140-144 OF DOWNTOWN MODESTO (INITIATED BY THE CITY OF MODESTO)

WHEREAS, the City Council has considered an amendment to Article 5 of Chapter 7 of Title 10 of the Municipal Code to create a new Transition Downtown (TD) Zone, and

WHEREAS, a verified application for an amendment to Sections 28-3-9, 29-3-9 and 32-3-9 of the Zoning Map of the City of Modesto was initiated by the City of Modesto, to rezone a portion Downtown Core (DC) Zone to the proposed Transition Downtown (TD) Zone, property located in Blocks 31-36, 39-44, 53-58, 69- 71, 81-83, 92-95, 104-107 and 140-144 of downtown Modesto, and

WHEREAS, after a public hearing held on March 16, 2015, it was found and determined by the Planning Commission that the requested zone change will not be detrimental to the public health, safety or welfare because it is intended to improve the downtown area through facilitating increased densities and intensification of shared uses, providing additional housing choices and opportunities, ensuring development occurs at a human scale, promoting store frontage and display on public streets, and improving pedestrian circulation; the requested zone change will result in an orderly planned use of land because it will help to ensure that new

development in downtown is of a type, form and scale that is appropriate to the existing development in downtown; and the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan and any applicable specific plans(s) because the proposed rezone will promote higher density, mixed-use development in downtown, provide incentives such as reduced parking standards to encourage economic development in downtown, strengthen downtown as the focal point of community life and the social, cultural, business, governmental, and entertainment center of the City and by preserving and revitalizing the downtown and making it an identifiable center, and is consistent with the Redevelopment Planning District General Plan designation by assisting in implementing the vision and goals of the Redevelopment Master Plan for downtown, and

WHEREAS, by Resolution No. 2015-07, adopted on March 16, 2015, the Planning Commission recommended to the Council that the application initiated by the City of Modesto to amend Sections 28-3-9, 29-3-9 and 32-3-9 of the Zoning Map of the City of Modesto to rezone the hereinafter described property a portion Downtown Core (DC) Zone to the proposed Transition Downtown (TD) Zone, property located in Blocks 31-36, 39-44, 53-58, 69-71, 81-83, 92-95, 104-107 and 140-144 of downtown Modesto, be approved,

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

SECTION 1. After a public hearing held on May 12, 2015, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety or welfare because it is intended to improve the downtown area through

facilitating increased densities and intensification of shared uses; providing additional housing choices and opportunities; ensuring development occurs at a human scale; promoting store frontage and display on public streets; and improving pedestrian circulation.

2. The requested change will result in an orderly planned use of land because it will help to ensure that new development in downtown is of a type, form and scale that is appropriate to the existing development in downtown.
3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plan(s) because it will implement the following General Plan goals and policies:
 - a. General Plan Overall Goal I.C.6 (preserving agricultural land by having new development be relatively compact and of reasonably high density) by promoting higher density, mixed-use development in downtown.
 - b. General Plan Economic Development Goal I.D.1 (striving for a jobs/housing balance by encouraging the economic revitalization of downtown) by allowing higher density development and providing incentives such as reduced parking standards to encourage economic development in downtown.
 - c. General Plan Economic Development Goal I.D.2 by strengthening downtown as the focal point of community life and the social, cultural, business, governmental, and entertainment center of the City and by preserving and revitalizing the downtown and making it an identifiable center.
 - d. The rezoning is consistent with the Redevelopment Planning District General Plan designation by assisting in implementing the vision and goals of the Redevelopment Master Plan for downtown.

SECTION 2. ZONING CHANGE. Sections 28-3-9, 29-3-9 and 32-3-9 of the Zoning Map of the City of Modesto are hereby amended to rezone the following described property a portion of Downtown Core (DC) Zone to the proposed Transition Downtown (TD) Zone, property located in Blocks 31-36, 39-44, 53-58, 69- 71, 81-83, 92-95, 104-107 and 140-144 of downtown Modesto described as follows:

Legal Description as shown in Exhibit "A"

SECTION 3. ZONING MAP. Sections 28-3-9, 29-3-9 and 32-3-9 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 12th day of May, 2015, by Councilmember Kenoyer, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and ordered printed and published by the following vote:

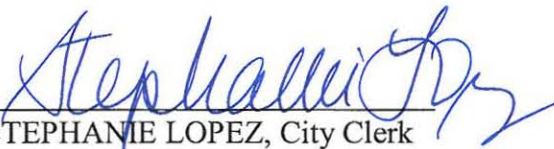
AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None


APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

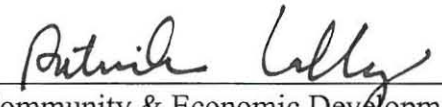
By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community & Economic Development
Department, Planning Division

Ord. No. 3620-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 26th day of May, 2015, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


GARRAD MARSH, MAYOR

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: June 25, 2015

TRANSITION DOWNTOWN

Downtown Core (DC) to Transition Downtown

All that portion of the Southwest Quarter of the Southwest Quarter of Section 28, the Southeast Quarter of Section 29, and the Northeast Quarter of Section 32, 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:

Area No. 1:

Lots 1 through 5 in Block 86 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the east 40 feet of L Street, the north half of the 20-foot wide alley and the south 40 feet of 12th Street, all being immediately adjacent to the above described lots.

Containing 0.40 acres, more or less.

APNs: 105-028-001 and 105-028-002.

Area No. 2:

Lots 1 through 16 in Block 71 of the City of Modesto , as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the east 40 feet of G Street, the north 10 feet of the alley, the west 40 feet of F Street and the south 40 feet of 11th Street all being immediately adjacent to the above described lots.

Containing 2.1 acres, more or less.

APNs: 106-040-001 and a northerly portion of 106-040-010.

Area No. 3:

Lots 1 through 16 in Block 70 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the east 40 feet of H Street, the north 10 feet of the alley, the west 40 feet of G Street and the south 40 feet of 11th Street all being immediately adjacent to the above described lots.

Containing 2.1 acres, more or less.

APNs: 106-041-003, 106-041-004 and 106-041-017.

Area No. 4:

The northeasterly 133.5 feet of Lots 13 through 16 in Block 69 of the City of Modesto, as per map recorded in July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the north 40 feet of 11th Street, the north 10 feet of the alley and the west 40 feet of H Street all being immediately adjacent to the above described lots.

Containing .61 acres, more or less.

APN: 105-039-013 (portion)

Area No. 5:

All of Block 81 and Block 82 of the City of Modesto, as per maps recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the east 40 feet of H Street, the north 40 feet of 11th Street, the west 40 feet of F Street, the south 40 feet of 12th Street, the entire width of 80-foot wide G Street, and the entire width of any alley, all being immediately adjacent to the above described lots.

Containing 8.37 acres, more or less.

APNs: 106-029-001, 106-029-005, 106-029-006, 106-029-007, 106-029-008, 106-029-009, 106-029-010 106-028-006 and 106-028-012.

Area No. 6:

All that portion of Block 83 of the City of Modesto, as per map recorded July 15, 1938 on Volume 13 of Maps, described as follows:

Beginning from a point at the south corner of said Block 83, thence commencing North 43° 9' 57" West 100 feet, thence North 46° 50' 13" East 300 feet, thence South 43° 10' 1" East 100 feet, thence South 46° 50' 13" West 300 feet to the Point of Beginning.

Also including the west 40 feet of H Street, the north 40 feet of 11th Street and the south 40 feet of 12th Street all being immediately adjacent to the above described lots.

Containing 1.22 acres, more or less.

APNs: Eastern portions of 105-025-003, 105-025-004 and 105-025-005.

Area No. 7:

Lots 1 through 20 in Block 94 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the east 50 feet of I Street, the north or south 10 feet of the alley adjacent to the lots listed, the west 40 feet of H Street, the north 40 feet of 12th and the south 40 feet of 13th Street all being immediately adjacent to the above described lots.

Containing 2.75 acres, more or less.

APNs: 105-024-001, 105-024-002, 105-024-003, 105-024-004 and an easterly portion of 105-024-010.

Area No. 8:

Lots 1 through 16 in Block 93 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the east 40 feet of J Street, the west 50 feet of I Street, the north 10 feet of the alley and the south 40 feet of 13th Street all being immediately adjacent to the above described lots.

Containing 2.1 acres, more or less.

APNs: 105-023-004, 105-023-005, 105-023-006 and 105-023-012.

Area No. 9:

Lots 1 through 16 in Block 92 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the east 40 feet of K Street, the west 40 feet of J Street, the north 10 feet of the alley and the south 40 feet of 13th Street all being immediately adjacent to the above described lots.

Containing 2.09 acres, more or less.

APNs: 105-022-001, 105-022-002, 105-022-005, and 105-022-012.

Area No. 10:

All of Blocks 95, 104, 105, 106 and 107 of the City of Modesto, as per maps recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the northeastern half of 80-foot wide G Street, the southwestern half of 80-foot wide 14th Street, the southeastern half of 80-foot wide K Street, the northeastern half of 80-foot wide 13th Street, the entire width of H, I and J Streets, and the entire width of the alleys in Blocks 95, 104, 105, 106 and 107, all being immediately adjacent to the above described lots.

Containing 21 acres, more or less.

APNs 106-027-002, 106-027-003, 106-027-004, 106-027-005, 106-027-006, 106-027-007, 106-027-008, 106-027-009, 106-027-010, 106-027-011, 106-027-012, 106-015-001, 106-015-002, 106-015-003, 106-015-004, 106-015-005, 106-015-006, 106-015-007, 106-015-008, 106-015-009, 106-015-010, 106-015-011, 106-015-012, 106-015-013, 106-015-014, 106-015-015, 105-014-006, 105-015-001, 105-015-002, 105-015-003, 105-015-004, 105-015-005, 105-015-006, 105-015-007, 105-015-008, 105-015-009, 105-015-010, 105-015-011, 105-015-012, 105-015-013, 105-015-014, 105-016-001, 105-016-002, 105-016-003, 105-016-004, 105-016-005, 105-016-006, 105-016-007, 105-016-008, 105-016-009, 105-016-010 and 105-016-011.

Area No. 11:

Parcels "A" and "B" on as shown on the map recorded May 11, 1988 in Volume 40 of Parcel Maps, at Page 86, Stanislaus County Records.

Also including the east 40 feet of L Street, the north 40 feet of 9th Street and the west 40 feet of K Street, all being immediately adjacent to the above described lots. Containing 2.00 acres, more or less.

APNs: 105-048-008 and 105-048-010.

Area No. 12:

Lots 17 through 32 in Block 53 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the east 40 feet of G Street, the south 10 feet of the alley, the west 40 feet of F Street and the north 40 feet of 9th Street all being immediately adjacent to the above described lots.

Containing 2.1 acres, more or less.

APNs: 106-043-007, 106-043-008, 106-043-09, 106-043-010 and 106-043-011.

Area No. 13:

Lots 17 through 32 in Block 54 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the east 40 feet of H Street, the south 10 feet of the alley, the west 40 feet of G Street and the north 40 feet of 9th Street all being immediately adjacent to the above described lots.

Containing 2.1 acres, more or less.

APNs: 106-042-010, 106-042-011, 106-042-012 and 106-042-013.

Area No. 14:

Lots 17 through 32 in Block 55 of the City of Modesto, as per map recorded on July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the east 50 feet of I Street, the south 10 feet of the alley, the west 40 feet of H Street and the north 40 feet of 9th Street all being immediately adjacent to the above described lots.

Containing 2.1 acres, more or less.

APNs: 105-040-014, 105-040-015, and 105-040-016.

Area No. 15:

Lots 17 through 32 in Block 56 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the east 40 feet of J Street, the south 10 feet of the alley, the west 50 feet of I Street and the north 40 feet of 9th Street all being immediately adjacent to the above described lots.

Containing 2.1 acres, more or less.

APNs: 105-041-015, 105-041-021 and 105-041-022.

Area No. 16:

Lots 17 through 32 in Block 57 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the east 40 feet of K Street, the south 10 feet of the abandoned alley, the west 40 feet of J Street and the north 40 feet of 9th Street all being immediately adjacent to the above described lots.

Containing 2.1 acres, more or less.

APNs: 105-042-007 and the southern portion of 105-042-016.

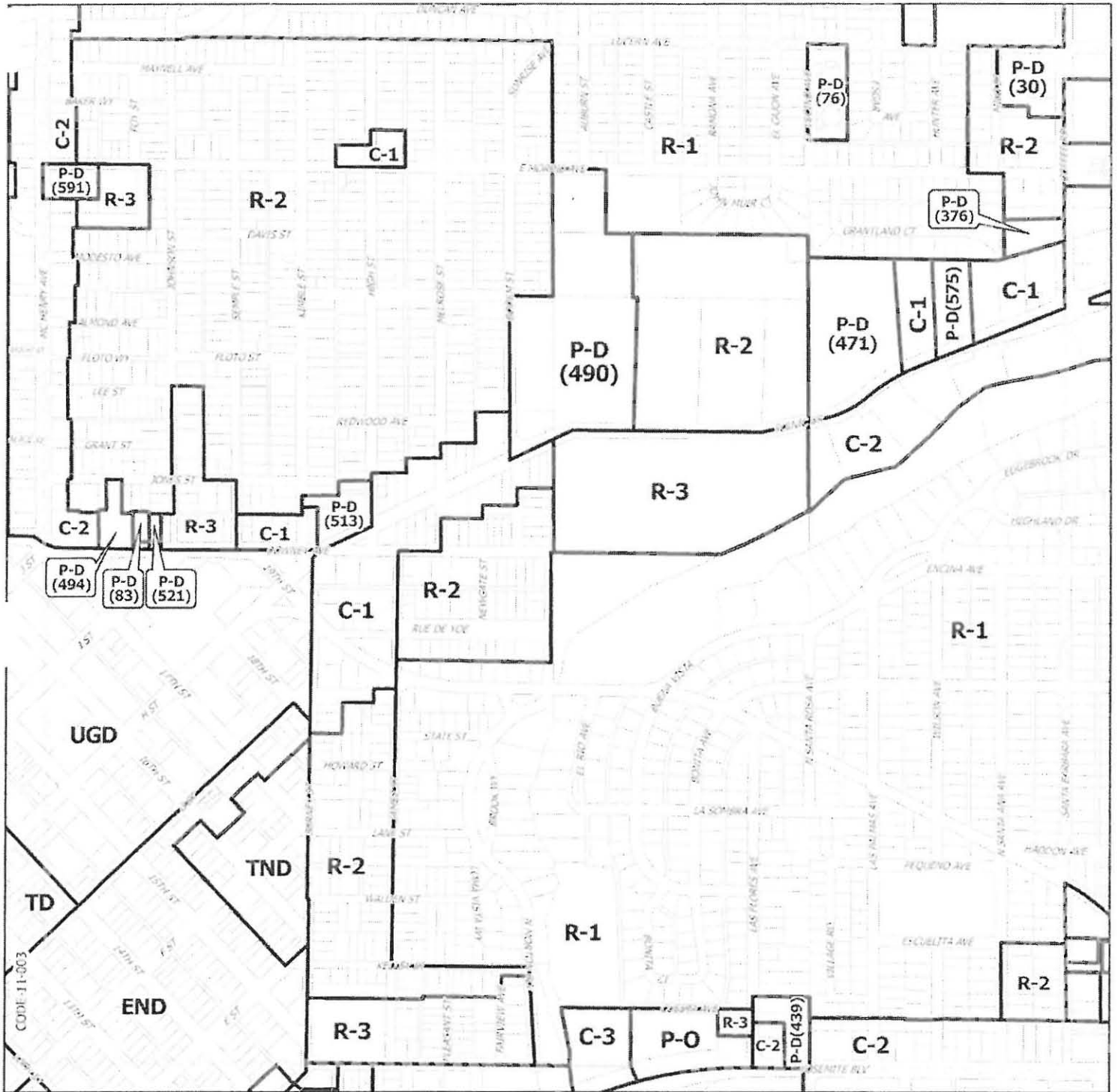
Area No. 17:

All of Blocks 31, 32, 33, 34, 35, 36, 40, 41, 42, 43, 44, 45, 140, 141, 142, 143 and 144 of the City of Modesto, as per maps recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the east 40 feet of L Street, the north 40 feet of 6th Street, the west 40 feet of F Street, the south 40 feet of 9th Street, the entire width of K, I, H, G, 7th and 8th Streets, and the entire width of any alley, all being immediately adjacent to the above described lots.

Containing 75.90 acres, more or less.

APNs: 104-008-002, 104-008-005, 104-008-007, 104-008-008, 104-008-009, 104-007-001, 104-007-008, 104-007-0010, 104-007-011, 104-006-001, 104-006-005, 104-006-006, 104-006-007, 104-006-008, 104-006-009, 104-006-010, 104-006-011, 104-005-001, 104-005-002, 104-005-003, 104-005-004, 104-005-005, 104-005-006, 104-005-007, 104-005-008, 103-003-001, 103-003-002, 103-003-003, 103-003-004, 103-003-005, 103-003-006, 103-003-009, 103-003-010, 103-003-013, 103-003-014, 103-003-015, 103-003-016, 103-003-017, 103-003-018, 103-004-003, 103-004-004, 103-004-005, 103-004-006, 103-004-007, 103-004-008, 103-004-009, 103-004-011, 103-004-012, 103-012-001, 103-012-004, 103-012-005, 103-012-006, 103-012-007, 103-012-008, 103-012-009, 103-013-004, 103-013-005, 103-013-006, 103-013-007, 103-013-008, 103-013-011, 103-013-016, 103-013-019, 103-013-020, 104-017-003, 104-017-004, 104-017-005, 104-017-008, 104-017-009, 104-001-012, 104-017-0013, 104-017-014, 104-016-001, 104-016-002, 104-016-003, 104-016-004, 104-016-007, 104-016-008, 104-016-009, 104-016-010, 104-016-011, 104-016-012, 104-016-013, 104-015-006, 104-015-007, 104-015-008, 104-015-009, 104-015-010, 104-015-014, 104-015-015, 104-015-018, 104-015-019, 104-015-020, 104-015-021, 104-014-001, 104-014-002, 104-014-003, 104-014-004, 104-014-005, 104-014-006, 104-014-007, 104-014-012, 104-014-013, 104-014-014, 104-014-015, 104-014-016, 105-048-005, 105-048-006, 104-003-008, 104-003-010, 104-004-004, 104-004-006, 104-004-007, 103-001-002, 103-001-003, 103-001-004, 103-001-006, 103-001-007, 103-001-009, 103, 002-009 and the western portion of 103-002-002 measuring 440 feet from the western property line towards the east and the western portion of 103-002-101 measuring about 360 feet from the eastern parcel line of parcel number 103-002-009 towards the east.



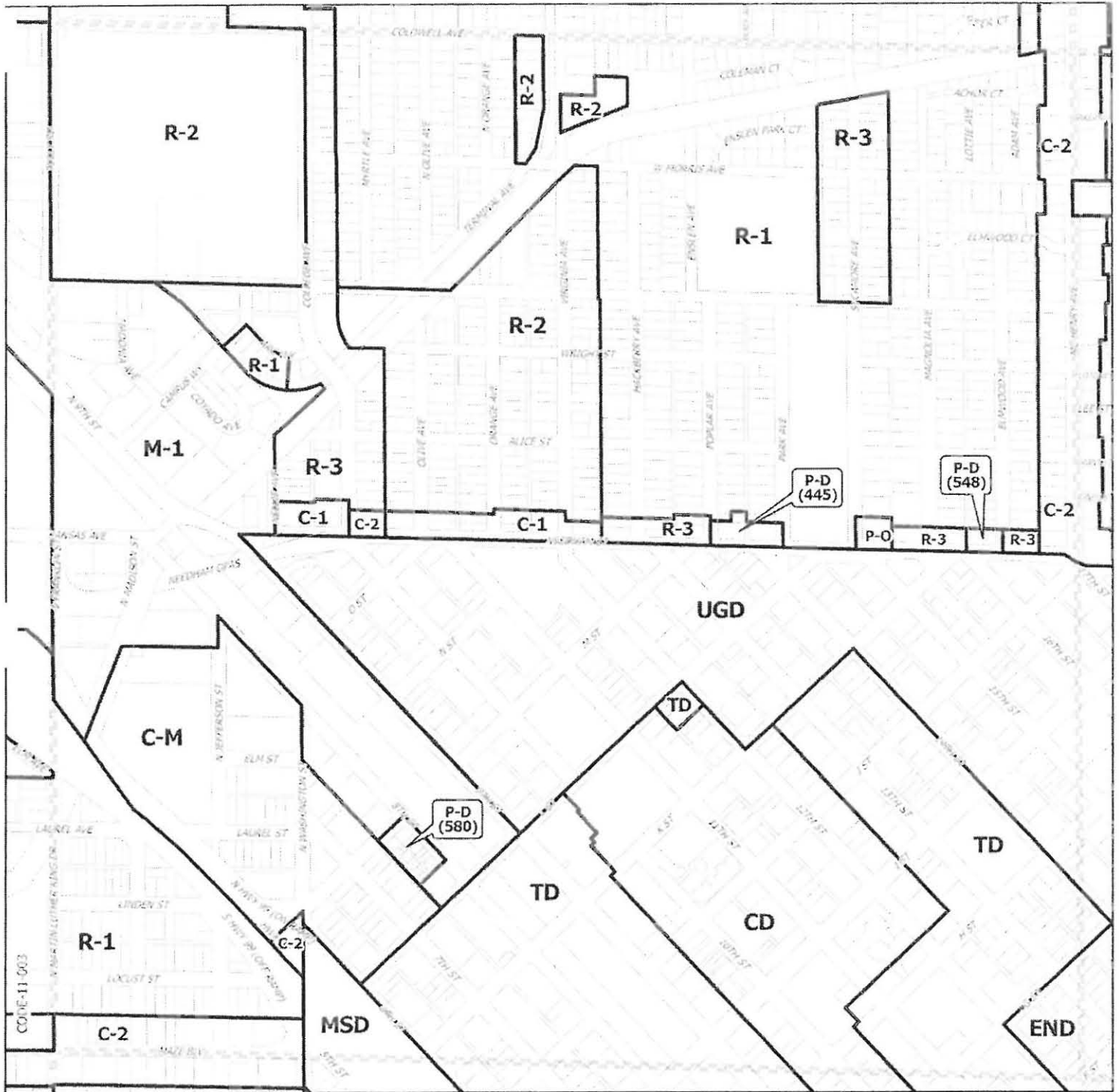
ZONING MAP OF THE CITY OF MODESTO

28-3-9



1 inch = 400 feet

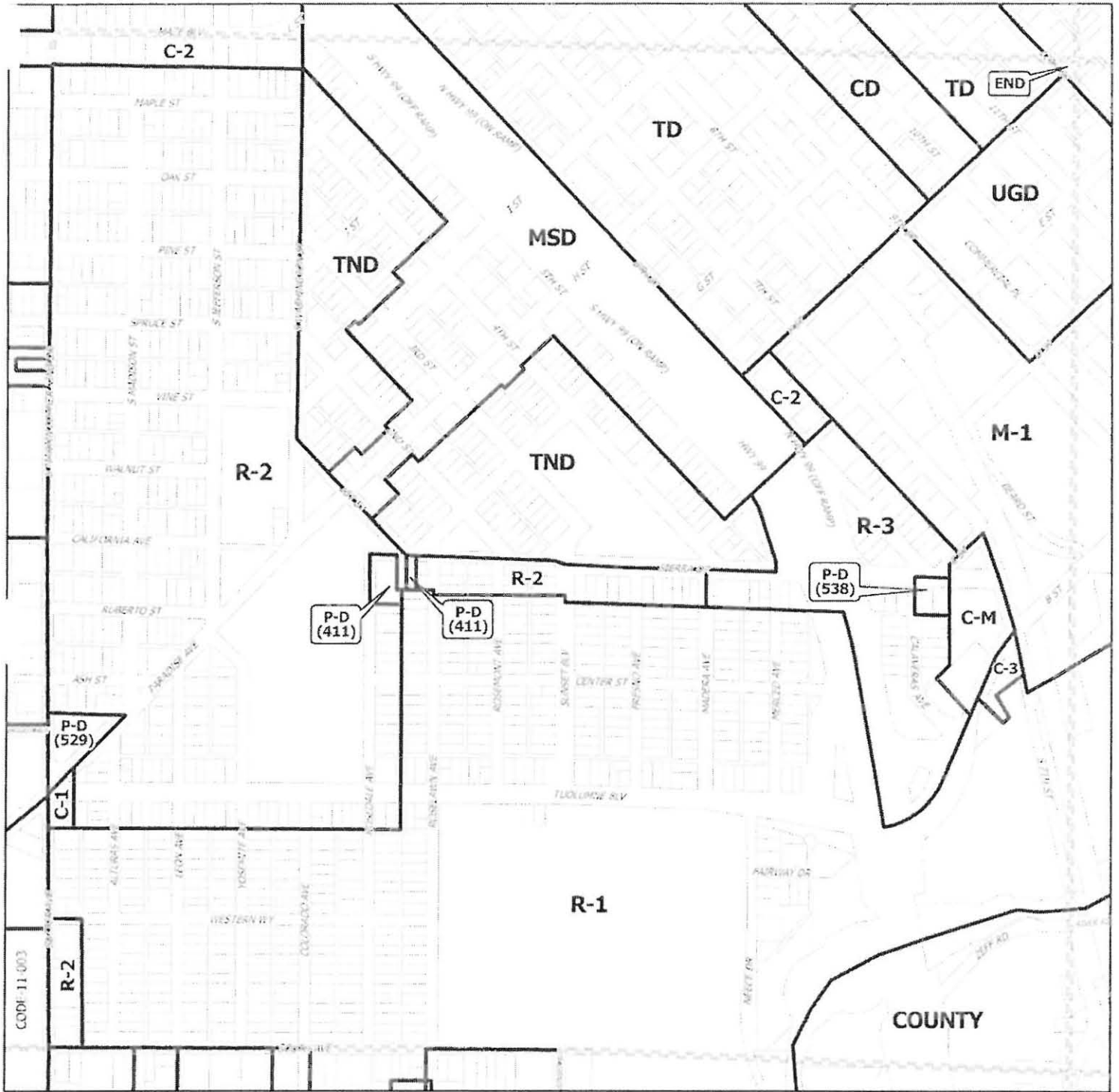
Ord. 3620-C.S.; Ord. 3621-C.S.;
Ord. 3623-C.S.; Ord. 3624-C.S.



ZONING MAP OF THE CITY OF MODESTO

29-3-9

Ord. 3619-C.S.; Ord. 3620-C.S.;
 Ord. 3621-C.S.; Ord. 3622-C.S.;
 Ord. 3623-C.S.



1 inch = 700 feet

Ord. 3619-C.S.; Ord. 3620-C.S.;
 Ord. 3621-C.S.; Ord. 3622-C.S.;
 Ord. 3623-C.S.; Ord. 3624-C.S.

ZONING MAP OF THE CITY OF MODESTO

32-3-9

ORDINANCE NO. 3621-C.S.

AN ORDINANCE AMENDING SECTION SECTIONS 28-3-9, 29-3-9, 32-3-9 AND 33-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO TO REZONE FROM MEDIUM-HIGH DENSITY RESIDENTIAL (R-3), NEIGHBORHOOD COMMERCIAL (C-1), GENERAL COMMERCIAL (C-2), COMMERCIAL-INDUSTRIAL (C-M), AND PLANNED DEVELOPMENT (P-D (83), (139), (258), (380), (389), (417), (430), (536) (594)) ZONES TO THE PROPOSED URBAN GENERAL DOWNTOWN (UGD) ZONE, PROPERTY LOCATED IN BLOCKS 51, 52, 59-65, 72, 73, 79, 80, 87-91, 108-114, 120-127, 129-133, G, H, I, J, K AND L OF DOWNTOWN MODESTO (INITIATED BY THE CITY OF MODESTO)

WHEREAS, the City Council has considered an amendment to Article 5 of Chapter 7 of Title 10 of the Municipal Code to create a new Urban General Downtown (UGD) Zone, and

WHEREAS, a verified application for an amendment to Sections 28-3-9, 29-3-9, 32-3-9 and 33-3-9 of the Zoning Map of the City of Modesto was initiated by the City of Modesto, to rezone from Medium-High Density Residential (R-3), Neighborhood Commercial (C-1), General Commercial (C-2), Commercial-Industrial (C-M), and Planned Development (P-D (83), (139), (258), (380), (389), (417), (430), (536) (594)) Zones to the proposed Urban General Downtown (UGD) Zone, property located in Blocks 51, 52, 59-65, 72, 73, 79, 80, 87-91, 108-114, 120-127, 129-133, G, H, I, J, K and L of downtown Modesto, and

WHEREAS, after a public hearing held on March 16, 2015, it was found and determined by the Planning Commission that the requested zone change will not be detrimental to the public health, safety or welfare because it is intended to improve the downtown area

through facilitating increased densities and intensification of shared uses, providing additional housing choices and opportunities, ensuring development occurs at a human scale, promoting store frontage and display on public streets, and improving pedestrian circulation; the requested zone change will result in an orderly planned use of land because it will help to ensure that new development in downtown is of a type, form and scale that is appropriate to the existing development in downtown; and the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan and any applicable specific plans(s) because the proposed rezone will promote higher density, mixed-use development in downtown, provide incentives such as reduced parking standards to encourage economic development in downtown, strengthen downtown as the focal point of community life and the social, cultural, business, governmental, and entertainment center of the City and by preserving and revitalizing the downtown and making it an identifiable center, and is consistent with the Redevelopment Planning District General Plan designation by assisting in implementing the vision and goals of the Redevelopment Master Plan for downtown, and

WHEREAS, by Resolution No. 2015-08, adopted on March 16, 2015, the Planning Commission recommended to the Council that the application initiated by the City of Modesto to amend Sections 28-3-9, 29-3-9, 32-3-9 and 33-3-9 of the Zoning Map of the City of Modesto to rezone the hereinafter described property from Medium-High Density Residential (R-3), Neighborhood Commercial (C-1), General Commercial (C-2), Commercial-Industrial (C-M), and Planned Development (P-D (83), (139), (258), (380), (389), (417), (430), (536) (594)) Zones to the proposed Urban General Downtown (UGD) Zone, property located in Blocks

51, 52, 59-65, 72, 73, 79, 80, 87-91, 108-114, 120-127, 129-133, G, H, I, J, K and L of downtown Modesto, be approved,

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

SECTION 1. After a public hearing held on May 12, 2015, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety or welfare because it is intended to improve the downtown area through facilitating increased densities and intensification of shared uses; providing additional housing choices and opportunities; ensuring development occurs at a human scale; promoting store frontage and display on public streets; and improving pedestrian circulation.
2. The requested change will result in an orderly planned use of land because it will help to ensure that new development in downtown is of a type, form and scale that is appropriate to the existing development in downtown.
3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plan(s) because it will implement the following General Plan goals and policies:
 - a. General Plan Overall Goal I.C.6 (preserving agricultural land by having new development be relatively compact and of reasonably high density) by promoting higher density, mixed-use development in downtown.
 - b. General Plan Economic Development Goal I.D.1 (striving for a jobs/housing balance by encouraging the economic revitalization of downtown) by allowing higher density development and providing incentives such as reduced parking standards to encourage economic development in downtown.
 - c. General Plan Economic Development Goal I.D.2 by strengthening downtown as the focal point of community life and the social, cultural, business, governmental, and entertainment center of the City and by preserving and revitalizing the downtown and making it an identifiable center.

- d. The rezoning is consistent with the Redevelopment Planning District General Plan designation by assisting in implementing the vision and goals of the Redevelopment Master Plan for downtown.

SECTION 2. ZONING CHANGE. Sections 28-3-9, 29-3-9, 32-3-9 and 33-3-9 of the Zoning Map of the City of Modesto is hereby amended to rezone the following described property from Medium-High Density Residential (R-3), Neighborhood Commercial (C-1), General Commercial (C-2), Commercial-Industrial (C-M), and Planned Development (P-D (83), (139), (258), (380), (389), (417), (430), (536) (594)) Zones to the proposed Urban General Downtown (UGD) Zone, property located in Blocks 51, 52, 59-65, 72, 73, 79, 80, 87-91, 108-114, 120-127, 129-133, G, H, I, J, K and L of downtown Modesto, described as follows:

Legal Description as shown in Exhibit "A":

SECTION 3. ZONING MAP. Sections 28-3-9, 29-3-9, 32-3-9 and 33-3-9 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 12th day of May, 2015, by Councilmember Kenoyer, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

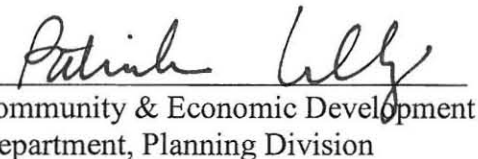
By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community & Economic Development
Department, Planning Division

Ord. No. 3621-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 26th day of May, 2015, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____


GARRAD MARSH, MAYOR

ATTEST: _____


STEPHANIE LOPEZ, City Clerk

Effective Date: June 25, 2015

URBAN GENERAL DOWNTOWN

R-3 to Urban General Downtown (UGD)

All that portion of the southwest quarter of Section 28, Township 3 South. Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Area No. 1:

Lots 12, 13, 14, 15, 16 and 25 in Block 131 of the City of Modesto, as per map recorded on July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southern 40 feet of Downey Avenue, the entire width of the alley, the northeasterly 40 feet of 17th Street and the northwesterly 50 feet of I Street, all being immediately adjacent to the property.

Containing .70 acres, more or less.

APNs 105-002-001 and 105-002-002.

Area No. 2:

Lots 5, 6 and 17 through 28 in Block 127 of the City of Modesto, as per map recorded on July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southwesterly half of 80-foot wide 17th Street, the northwesterly half of 80-foot wide G Street, the northeasterly half of 80-foot wide 16th Street, and the southwesterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 1.73 acres, more or less.

APNs 106-006-007, 106-006-011, and portions of 106-006-001 and 106-006-008.

Area No. 3:

Lots 6, 7 and 10 through 16 in Block 120 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the northeasterly half of the 80-foot wide 16th Street, the northwesterly half of the 80-foot wide G Street, and the northeasterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 1.16 acres, more or less.

APNs 106-007-003, 106-007-006 and 106-007-015.

C-1 to Urban General Downtown (UGD)

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

Area No. 1

Lots 17 through 28 and the southeasterly 2.75 feet of Lot 29 in Block 133 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the northeasterly half of the 80-foot wide 18th Street, all of 80-foot wide G Street, and the westerly half of 33-foot wide Burney Street, and all of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 1.7 acres, more or less.

APNs 106-001-006, 106-001-010, 106-001-011, and a portion of 106-001-008.

Area No. 2

Lots 6 through 9 in Block 129 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the southwesterly half of the 80-foot wide 18th Street and the northeasterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 0.44 acres, more or less.

APNs 106-002-002 and 106-002-003.

Area No. 3:

Lots 17 through 28 in Block 120 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the northeasterly half of the 80-foot wide 15th Street, the northwesterly half of the 80-foot wide G Street, and the southwesterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 1.5 acres, more or less.

APNs 106-007-009 through 106-007-012 and a portion of 106-007-013.

Area No. 4:

Lots 17, 18 and 19 in Block 114 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the northeasterly half of the 80-foot wide 14th Street, the northwesterly half of the 80-foot wide G Street, and the southwesterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 0.5 acres, more or less.

APNs 106-014-007, 106-014-008 and 106-014-009.

C-2 to Urban General Downtown (UGD)

All that portion of the Southwest Quarter of Section 28 and 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:

Area No. 1:

All of Blocks "K" and "L" in the City of Modesto, as per maps filed July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including all of 80-foot wide H Street, the northeasterly half of 80-foot wide 19th Street, the southerly 33.75 feet of Downey Avenue, and the western 16.5 feet of Burney Street, all being immediately adjacent to the above described property.

APNs 105-001-007 and 106-001-001

Containing 1.2 acres, more or less.

Area No. 2:

Lots 2 through 11, together with Lots 29 through 32 and that certain property marked as "City Property", in Block 133 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of 80-foot wide H Street, the southwesterly half of 80-foot wide 19th Street, the northeasterly half of 80-foot wide 18th Street, and the western 16.5 feet of Burney Street, all being immediately adjacent to the above described property.

APNs 106-001-002 through 106-001-005, 106-001-008 and 106-001-009.

Containing 1.85 acres, more or less.

Area No. 3:

Lots 1 through 4 and 29 through 32 in Block 127 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of 80-foot wide H Street, the southwesterly half of 80-foot wide 17th Street, the northeasterly half of 80-foot wide 16th Street, and all of the 20-foot wide alley, all being immediately adjacent to the above described properties.

APNs 106-006-01, 106-006-008 and 106-006-009.

Containing 1.2 acres, more or less.

Area No. 4:

All of Blocks 124, 125 and 126 of the City of Modesto, as per maps recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the northwesterly half of 80-foot wide H Street, all of 100-foot wide I Street, all of 80-foot wide J Street, the northeasterly half of 80-foot wide 16th Street, the southwesterly half of 80-foot wide 17th Street, the southerly half of 65-foot wide Needham Street, and all of the 20-foot wide alley within Blocks 124, 125 and 126, all being immediately adjacent to the above described properties.

APNs 105-003-001, 105-003-002, 105-003-007, 105-004-003, 105-004-006, 105-004-007, 105-004-008, and 105-005-002 through 105-005-010.

Containing 10.75 acres, more or less.

Area No. 5:

Lots 1 through 5 and 29 through 32 in Block 120 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of 80-foot wide H Street, the northeasterly half of 80-foot wide 16th Street, the northeasterly half of 80-foot wide 15th Street, and all of the 20-foot wide alley, all being immediately adjacent to the above described properties.

APNs 106-007-001, 106-007-002, 106-007-003, 106-007-014 and the northwesterly third of 106-007-013.

Containing 1.3 acres, more or less.

Area No. 6:

All of Blocks 121 and 122 of the City of Modesto, as per maps recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the northwesterly half of 80-foot wide H Street, all of 100-foot wide I Street, the southeasterly half of 80-foot wide J Street, the northeasterly half of 80-foot wide 16th Street, the northeasterly half of 80-foot wide 15th Street, and all of the 20-foot wide alley within Blocks 121 and 122, all being immediately adjacent to the above described properties.

APNs 105-006-011, 105-006-012, 105-007-001, 105-007-004 through 105-007-011, and 105-007-015.

Containing 8.65 acres, more or less.

Area No. 7:

Lots 1 through 23 in Block 123 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the southwesterly half of 80-foot wide 16th Street, the northwesterly half of 80-foot wide J Street, the northeasterly half of 80-foot wide 15th Street, the southeasterly half of 80-foot wide K Street, the entirety of the alley between Lots 10 through 23 in Block 123, and the northeasterly half of the 20-foot wide alley adjacent to Lots 1 through 9 in Block 123, all being immediately adjacent to the above described properties.

APNs 105-008-001 through 105-008-006, 105-008-010, 105-008-011, 105-008-012, and 105-008-017.

Containing 3 acres, more or less.

Area No. 8:

All of Block "J" of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the northeasterly half of 80-foot wide 15th Street, the northwesterly half of 80-foot wide K Street, and the southerly half of 65-foot wide Needham Street, all being immediately adjacent to the above described properties.

APN 105-009-001

Containing 1.4 acres, more or less.

Area No. 9:

Lots 1 through 4 and 29 through 32 in Block 114 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of 80-foot wide H Street, the northeasterly half of 80-foot wide 14th Street, the southwesterly half of 80-foot wide 15th Street, and all of the 20-foot wide alley, all being immediately adjacent to the above described properties.

APNs 106-014-001, 106-014-015 and 106-014-016.

Containing 1.2 acres, more or less.

Area No. 10:

All of Blocks 110, 111, 112, and 113 of the City of Modesto, as per maps recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the northwesterly half of 80-foot wide H Street, all of 100-foot wide I Street, all of 80-foot wide J Street, all of 80-foot wide K Street, the southeasterly half of 80-foot wide L Street, the northeasterly half of 80-foot wide 14th Street, the southwesterly half of 80-foot wide 15th Street, and all of the 20-foot wide alley within Blocks 110, 111, 112 and 113, all being immediately adjacent to the above described properties.

APNs 105-010-007, 105-010-011, 105-010-012, 105-010-013, 105-010-015, 105-010-016, 105-010-017, 105-011-001, 105-011-002, 105-011-005 through 105-011-009, 105-012-003 through 105-012-010, 105-013-001 through 105-013-009, 105-013-012 and 105-013-013.

Containing 16.6 acres, more or less.

Area No. 11:

All of Block "I" of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the northwesterly half of 80-foot wide L Street, the northeasterly half of 80-foot wide 14th Street, all of 75-foot wide Park Avenue, and the southerly half of 65-foot wide Needham Avenue, all being immediately adjacent to the above described property.

APN 105-010-001.

Containing 0.67 acres, more or less.

Area No. 12:

All of Block 108 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the northwesterly half of 80-foot wide K Street, the southeasterly half of 80-foot wide L Street, the southwesterly half of 80-foot wide 14th Street, the northeasterly half of 80-foot wide 13th Street, and all of the 20-foot wide alley, all being immediately adjacent to the above described properties.

APNs 105-017-001, 105-017-006 through 105-017-011, and 105-017-014.

Containing 4.2 acres, more or less.

Area No. 13:

The southeasterly 12.7 feet of Lot 7 and all of Lots 8 through 26, together with all of Lots 29 through 32 in Block 109 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of 80-foot wide M Street, the northeasterly half of 80-foot wide 13th Street, the northwesterly half of 80-foot wide L Street, the southwesterly half of 80-foot wide 14th Street, the southerly half of 65-foot wide Needham Street, all of the 20-foot wide alley adjacent to the above described Lots 7 through 25, and the northeasterly half of the 20-foot wide alley adjacent to the above described Lots 26, 29, 30, 31 and 32, all being immediately adjacent to the above described properties.

APNs 105-018-002 through 105-018-016, 105-018-009, 105-018-013, 105-018-014 and 105-018-017.

Containing 3.1 acres, more or less.

Area No. 14:

All of Blocks 90 and 91 of the City of Modesto, as per maps recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of 80-foot wide M Street, all of 80-foot wide L Street, the northwesterly half of 80-foot wide K Street, the northeasterly half of 80-foot wide 12th Street, the southwesterly half of 80-foot wide 13th Street, and all of the 20-foot wide alley within Blocks 90 and 91, all being immediately adjacent to the above described properties.

APNs 105-020-002 through 105-020-007, 105-021-001, 105-021-002, 105-021-005 through 105-021-009, 105-021-011 and 105-021-012.

Containing 8.5 acres, more or less.

Area No. 15:

Portions of Lots 9 through 16 in Block 89 of the City of Modesto as per map recorded on December 21, 1942 in Volume 15 of Maps, Stanislaus County Records, described as follows:

Beginning at a point being the southeast corner of Lot 16 of said Block 89, thence North $43^{\circ} 36' 4''$ West a distance of 232 feet, thence South $88^{\circ} 28' 53''$ East a distance of 114 feet, thence South $42^{\circ} 47' 49''$ East a distance of 56.75 feet, thence South $46^{\circ} 48' 31''$ West a distance of 44.7 feet, thence South $43^{\circ} 36' 4''$ East a distance of 95 feet, thence South $46^{\circ} 48' 30''$ West a distance of 35 feet to the point of beginning.

Also including the northeasterly half of 80-foot wide M Street and the southerly half of 65-foot wide Needham Street, being immediately adjacent to the above described properties.

Containing 0.37 acres, more or less.

APN 105-019-003 and the northwesterly portion of 105-019-009.

Area No. 16:

Lots 17 through 22 in Block 88 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the northeasterly half of 80-foot wide 11th Street, the northwesterly half of 80-foot wide M Street, and the southwesterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 0.82 acres, more or less.

APNs 105-030-007, 105-030-008 and 105-030-009.

Area No. 17:

All of Block 87 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the northwesterly half of 80-foot wide L Street, the southeasterly half of 80-foot wide M Street, the northeasterly half off 80-foot wide 11th Street, the southwesterly half of 80-foot wide 12th Street, and all of the 20-foot wide alley within said Block 87, all being immediately adjacent to the above described properties.

Containing 4.2 acres, more or less.

APNs 105-029-001 through 105-029-005 and 105-029-008 through 105-029-012.

Area No. 18:

All of Block 65 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the northwesterly half of 80-foot wide L Street, the southeasterly half of 80-foot wide M Street, the northeasterly half of 80-foot wide 10th Street, and the southwesterly half of 80-foot wide 11th Street, all being immediately adjacent to the above described property.

Containing 4.2 acres, more or less.

APN 105-035-012

Area No. 19:

Lots 15 through 30 of Block 64 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the northeasterly half of 80-foot wide 10th Street, the northwesterly half of 80-foot wide M Street, the southwesterly half of 80-foot wide 11th Street, and all of the 20-foot wide alley adjacent to Lots 15 and 16 in said Block 64, all being immediately adjacent to the above described properties.

Containing 2 acres, more or less.

APNs 105-034-007, 105-034-010, 105-0034-011, 105-034-016, and the southeasterly three-quarters of 105-034-017.

Area No. 20:

All of Block 63 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the northwesterly half of 80-foot wide N Street, the southeasterly half of 80-foot wide O Street, the northeasterly half of 80-foot wide 10th Street, the southwesterly half of 80-foot wide 11th Street, the southerly half of 65-foot wide Needham Street, and all of the 20-foot wide alley within said Block 63, all being immediately adjacent to the above described properties.

Containing 4.3 acres, more or less.

APNs 105-033-001, 105-033-007, 105-033-010, 105-033-015, 105-033-016, and 105-033-017.

Area No. 21:

All of Block "G" of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the northwesterly half of 80-foot wide O Street, the southerly half of 65-foot wide Needham Street, and the northeasterly half of 80-foot wide 10th Street, all being immediately adjacent to the above described properties.

Containing 1.1 acres, more or less.

APNs 105-032-001 and 105-032-002.

Area No. 22:

Lots 1 through 16 in Block 61 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of 80-foot wide O Street, the northwesterly half of 80-foot wide N Street, the southwesterly half of 80-foot wide 10th Street, and the northeasterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 2.1 acres, more or less.

APNs 105-046-001, 105-046-015, 105-046-017 and 105-046-018.

Area No. 23:

Lots 1 through 16 in Block 60 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of 80-foot wide N Street, the northwesterly half of 80-foot wide M Street, the southwesterly half of 80-foot wide 10th Street, and the northeasterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 2.1 acres, more or less.

APNs 105-045-001 and 105-045-002.

Area No. 24:

Lots 1 through 16 in Block 59 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of 80-foot wide M Street, the northwesterly half of 80-foot wide L Street, the southwesterly half of 80-foot wide 10th Street, and the northeasterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 2.1 acres, more or less.

APNs 105-044-001, 105-044-002, 105-044-011 and 105-044-012.

Area No. 25:

All those portions of Sections 32 and 33, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Lots 1 through 16 in Block 80 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the west 40 feet of E Street, the east 40 feet of F Street, the west 40 feet of D Street, the south 40 feet of 12th Street and the north 10 feet of the alley, all being immediately adjacent to the above described lots.

Containing 2.09 acres, more or less.

APNs: 106-030-001, 106-030-002, 106-030-003 and 106-030-004.

C-M to Urban General Downtown (UGD)

All that portion of the northeast 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:

Area No. 1:

All of Block 147 and Block 62 of the City of Modesto, as per maps recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the southerly half of Needham Street, the southwesterly half of 80-foot wide 10th Street, the northwesterly half of 80-foot wide O Street, the northeasterly half of 88-foot wide 9th Street, and all of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 4.3 acres, more or less.

APNs 105-047-005, 105-047-006, 105-047-007, 105-047-012, 105-047-013, and 105-047-014.

Area No. 2:

Lots 17 through 32 in Block 61 of City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of 80-foot wide O Street, the northeasterly half of 88-foot wide 9th Street, the northwesterly half of 80-foot wide N Street, and the southwesterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 2.1 acres, more or less.

APNs 105-046-007 through 105-046-011.

Area No. 3:

Lots 17 through 32 in Block 60 of City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of 80-foot wide N Street, the northeasterly half of 88-foot wide 9th Street, the northwesterly half of 80-foot wide M Street, and the southwesterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 2.1 acres, more or less.

APNs 105-045-005 through 105-045-007, and 105-045-009 through 105-045-011.

Area No. 4:

Lots 17 through 32 in Block 59 of City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of 80-foot wide M Street, the northeasterly half of 88-foot wide 9th Street, the northwesterly half of 80-foot wide L Street, and the southwesterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 2.1 acres, more or less.

APNs 105-044-006, 105-044-007, 105-044-010, and 105-044-013,

M-1 to Urban General Downtown (UGD)

All that portion of Section 32, 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:

The entirety of Blocks 51, 52 and 72 of the City of Modesto, as per maps recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the entire 80 feet of E Street, the east 40 feet of F Street, the west 40 feet of D Street, the entire 80 feet of 10th Street and the north 42 feet of 9th Street, all being immediately adjacent to the above described lots.

Containing 13.43 acres, more or less.

APNs: 106-045-001, 106-045-002, 106-045-003, 106-044-005, 106-039-001, 106-039-003, 106-039-004 and 106-039-007.

Also including:

All those portions of Sections 32 and 33, 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:

The portion of Block 80 comprising Lots 17 through 32 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

The entirety of Block 73 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the east 40 feet of F Street and the west 40 feet of E Street and the north 10 feet of the alley in addition to the west 40 feet of D Street and the entire 80 feet of 11th Street, all being immediately adjacent to the above described lots.

Containing 6.37 acres, more or less.

APNs: 106-038-004, 106-038-005 and 106-030-005.

Also including:

All that portion of Section 33, 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:

The entirety of Block 79 of the City of Modesto, as per map recorded on July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the east 40 feet of E Street, the west 40 feet of D Street and the north 40 feet of 12th Street, all being immediately adjacent to the above described lots.

Containing 3.75 acres, more or less.

APNs: 106-031-003, 106-031-004, 106-031-005 and 106-031-006.

P-D (83) to Urban General Downtown (UGD)

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

Lots 17 through 24 in Block 131 of the City of Modesto, as per map recorded December 21, 1942 in Volume 15 of Maps, page 131, Stanislaus County Records.

Also including the northwesterly 50 feet of I Street, the southerly half of 80-foot wide Downey Avenue, and the northeasterly 40 feet of 17th Street, all being immediately adjacent to the above described property.

Containing .64 acres, more or less.

APN: 105-002-003

P-D (139) to Urban General Downtown (UGD)

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

Lots 1 through 5 and Lots 10 through 32 in block 129 as per map filed Volume 15 of Maps, page 129, Stanislaus County Records.

Also including the northeasterly 40 feet of 18th Street, the northwesterly 40 feet of H Street, the southwesterly 40 feet of 17th Street, and the southeasterly 40 feet of G Street.

Containing 2.75 acres, more or less.

APNs 106-002-001, 106-002-004, 106-002-005, 106-002-010 and 106-002-011.

P-D (258) to Urban General Downtown (UGD)

All that portion of the southeast 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 Planned Development P-D (258) as described per description in City Council Ordinance No. 1930-C.S., approved September 8, 1981.

Area 1

All of Lots 1 through 16 and the Northeasterly 10 feet of the 20-foot alley in Block 88 in the City of Modesto and also Southwesterly 40 feet of 12th Street, the Northwesterly 40 feet of M Street, and the southeasterly 40 feet of N Street with all streets being immediately adjacent to certain described portions of said Block 88.

Area 2

All of Lots 17 through 30 and all of the 20-foot alley in Block 89 in the City of Modesto, and also including the Northeasterly 40 feet of 12th Street, the Northwesterly 40 feet of 12th Street, the Northwesterly 40 feet of M Street, and all that portion of Needham Street situated between the centerline of Needham Street and the North line of the above described property and with all streets being immediately adjacent to certain described portions of Block 89.

Area 3

All that portion of Lot 10 through 16 in Block 89 in the City of Modesto described as follows:

Beginning at the most Easterly corner of Lot 16 of said Block 89; running thence Southwesterly along the Southeasterly line of said Lot 16, a distance of 105 feet to the Southeasterly corner of property conveyed to Ardelia C. Turner by deed recorded March 3, 1945, as Instrument No. 3872; thence Northwesterly along the Northeasterly line of said Turner property a distance of 95 feet to the most Northerly corner of said Turner property being also a point on the Southeasterly line of property conveyed to J. W. Davison, Jr., by deed recorded October 23, 1944, as Instrument No. 15372; thence Northeasterly along the Southeasterly line of said Davison property, a distance of 35 feet to the Southeasterly corner thereof; thence at right angles Northwesterly to the South line of Needham Avenue as conveyed to the City of Modesto by deed recorded February 17, 1971, in Volume 2378, Page 149, Official Records, as Instrument No. 5782; thence East along the South line of Needham Avenue to the Southeasterly line of 13th Street; thence Southeasterly along said line of 13th Street to the point of beginning and including also the Southeasterly 40 feet of 13th Street, the Northwesterly 40 feet of M Street, and all that portion of Needham Avenue situated between the centerline of Needham Avenue and the North line of the above described property and with all streets being immediately adjacent to certain described portions of Block 89.

Area 4

All of Lots 13 through 16 and the Northeasterly 10 feet of the 20-foot alley in Block H in the City of Modesto and also including the Northwesterly 40 feet of N Street and all of that portion of Needham Avenue situated between property and wit all streets being immediately adjacent to certain described portions of Block H.

Area 5

All of 1 through 14, Lots 31, 32, and all of the 20-foot alley immediately adjacent to said lots in Block 64 in the City of Modesto and also including the Southeasterly 40 feet of N Street, and the Northeasterly 40 feet of 10th Street and the Southwesterly 40 feet of 11th Street with all streets being immediately adjacent to the above described portions of said Block 64.

Area 6

All of Lots 23 through 32 and the Southwesterly 10 feet of a 20-foot alley in Block 88 in the City of Modesto and also including the Southeasterly 40 feet of N Street and the Northeasterly 40 feet of 11th Street with all streets being immediately adjacent to the above certain described portions of said Block 88.

Area 7

All of Lots 17 through 26 and the Southwesterly 10 feet of the 20-foot alley in Block H in the City of Modesto, also including the Northwesterly 40 feet of N Street, the Northeasterly 40 feet of 11th Street, and all that portion of Needham Avenue situated between the centerline of Needham Avenue and the North line of the above described property, and all streets being immediately adjacent to the above certain described portions of Block H.

Containing 9.9 acres, more or less.

APNs: The northwesterly portion of 105-034-017, all of 105-034-018, 105-030-019, and 105-019-008, and the easterly portion of 105-019-009.

P-D (380) to Urban General Downtown (UGD)

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

Lots 8 and 9 in Block 120 as per map filed Volume 15 of Maps, page 120, Stanislaus County Records.

Also including the northeasterly 40 feet of 16th Street and the southwesterly half of the 20-foot wide alley, all being immediately adjacent to the above properties.

Containing .55 acres, more or less.

APN: 106-007-006, 106-007-015

P-D (389) to Urban General Downtown (UGD)

All that portion of the southwest and southeast quarter of Section 28, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Lots 5 through 16 and 20 through 28 in Block 114 as per map filed Volume 15 of Maps, page 114, Stanislaus County Records.

Also including the northeasterly 40 feet of 15th Street, and the southwesterly 40 feet of 14th Street, all being immediately adjacent to the property.

Containing .70 acres, more or less.

APN: 106-014-020, 106-014-021, 106-014-019

P-D (417) to UGD

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

All parcels ("1-5") in parcel map 40-PM-66, as per map filed February 29, 1988 in Book 40 of Parcel Maps, at Page 66, Stanislaus County Records.

Also including the northern 40 feet of Downey Avenue, the northwesterly 50 feet of I Street, the southwesterly 40 feet of 17th Street, the southeasterly 40 feet of H Street, and the northeasterly 34.64 feet of 19th Street, all being immediately adjacent to the property

Containing 5.86 acres, more or less.

APNs 105-001-010 through 105-001-014.

P-D (430) to Urban General Downtown (UGD)

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

Lots 24 through 32 in Block 123 as per map filed Volume 15 of Maps, page 123, Stanislaus County Records.

Also including the southwesterly 40 feet of 15th Street, the southeasterly 40 feet of K Street, and the northeasterly half of the 20-foot wide alley, all being immediately adjacent to the property.

APNs 105-008-020, 105-008-021, and 105-008-022

Containing 0.75 acres, more or less.

P-D (536) to Urban General Downtown (UGD)

All that portion of Lots 4, 5, 6, 7, 27, and 28 in Block 109, as shown on that certain map filed in the office of the Recorder of Stanislaus County, State of California, on December 21, 1942 in Volume 15 of Maps, lying within a portion of Section 29, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, being more particularly described as follows:

Beginning at the Northeastern corner of Lot 9 in Block 109 as shown on that certain map filed in the office of the Recorder of Stanislaus County, State of California, on December 21, 1942 in Volume 15 of Maps; thence along the Northern line of Lot 9, North 88° 47' 30" West, 61.46 feet; thence South 46° 30' 30" West, 7.11 feet, to a point on the Southerly line of Needham Street, being the True Point of Beginning; thence South 46° 11' 26" West, 89.56 feet, to a point on the Northeasterly line of the alley running through said Block 109, distant Northwesterly 237.52 feet from the point of intersection of said alley and the Northeasterly line of L Street; thence along said Northeasterly line of said alley, North 43° 29' 49" West, 64.70 feet; thence North 1° 11' 18" East, 17.33 feet, to a point on the Southerly line of Needham Street; thence along said Southerly line of Needham Street, South 88° 48' 42" East, 108.82, to the True Point of Beginning;

Including also Lots 27 and 28 in Block 109;

Including also the Southerly half of Needham Street and the Northeasterly half and Southwesterly half of the alley in Block 109 and the Northeasterly half of 13th Street, all being immediately adjacent to the above described properties.

APNs 105-018-012, 105-018-015 and 105-018-016.

Containing 0.44 acres, more or less.

P-D (594) to Urban General Downtown (UGD)

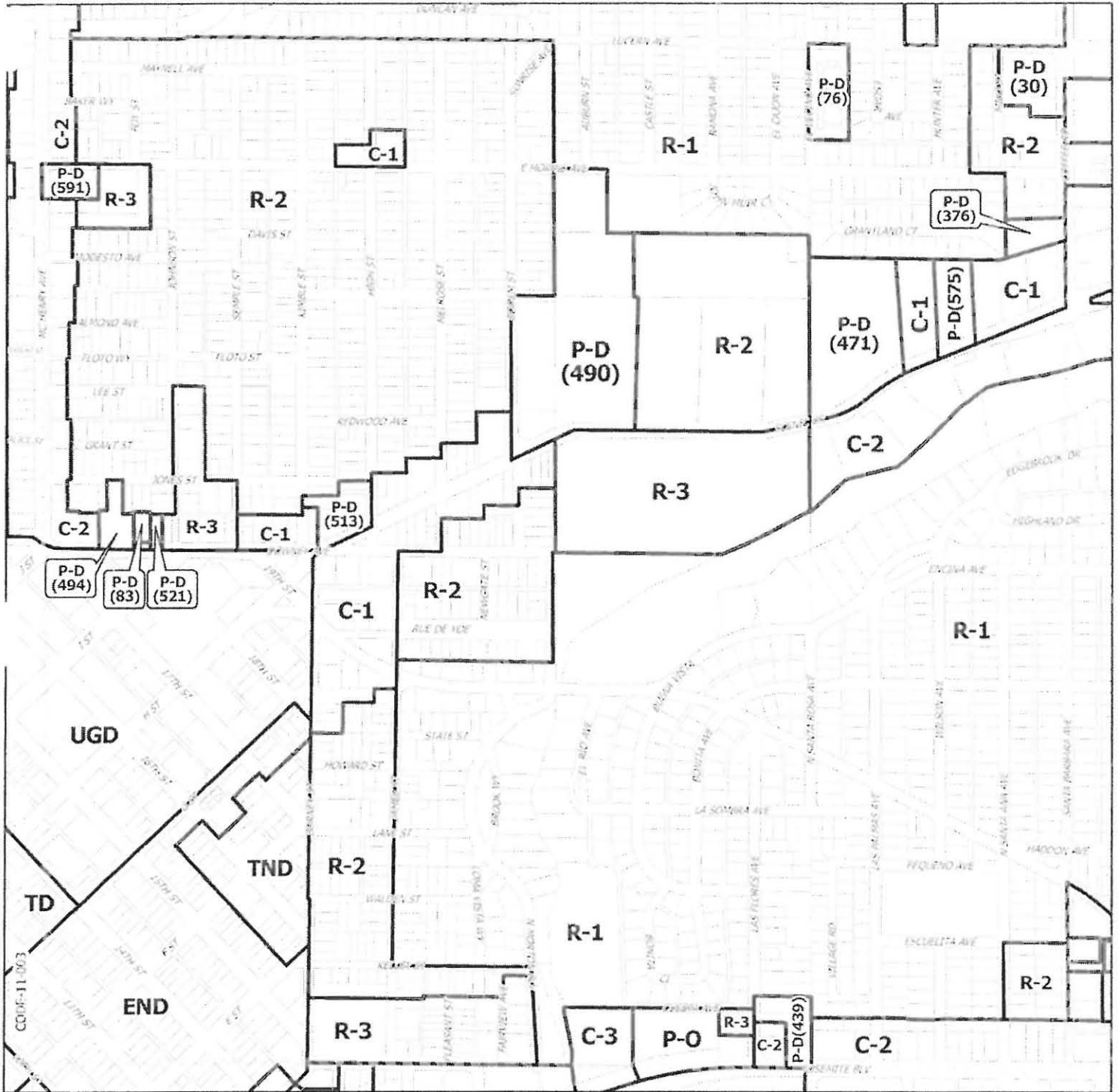
All that portion of the southwest quarter of Section 28, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Lots 7 through 16 in Block 127 as per map filed Volume 15 of Maps, page 127, Stanislaus County Records.

Also including the southwesterly 40 feet of 17th Street, the northwesterly 40 feet of G Street, and the northeasterly half of the 20-foot wide alley, all in immediately adjacent to the above described property.

Containing .80 acres, more or less.

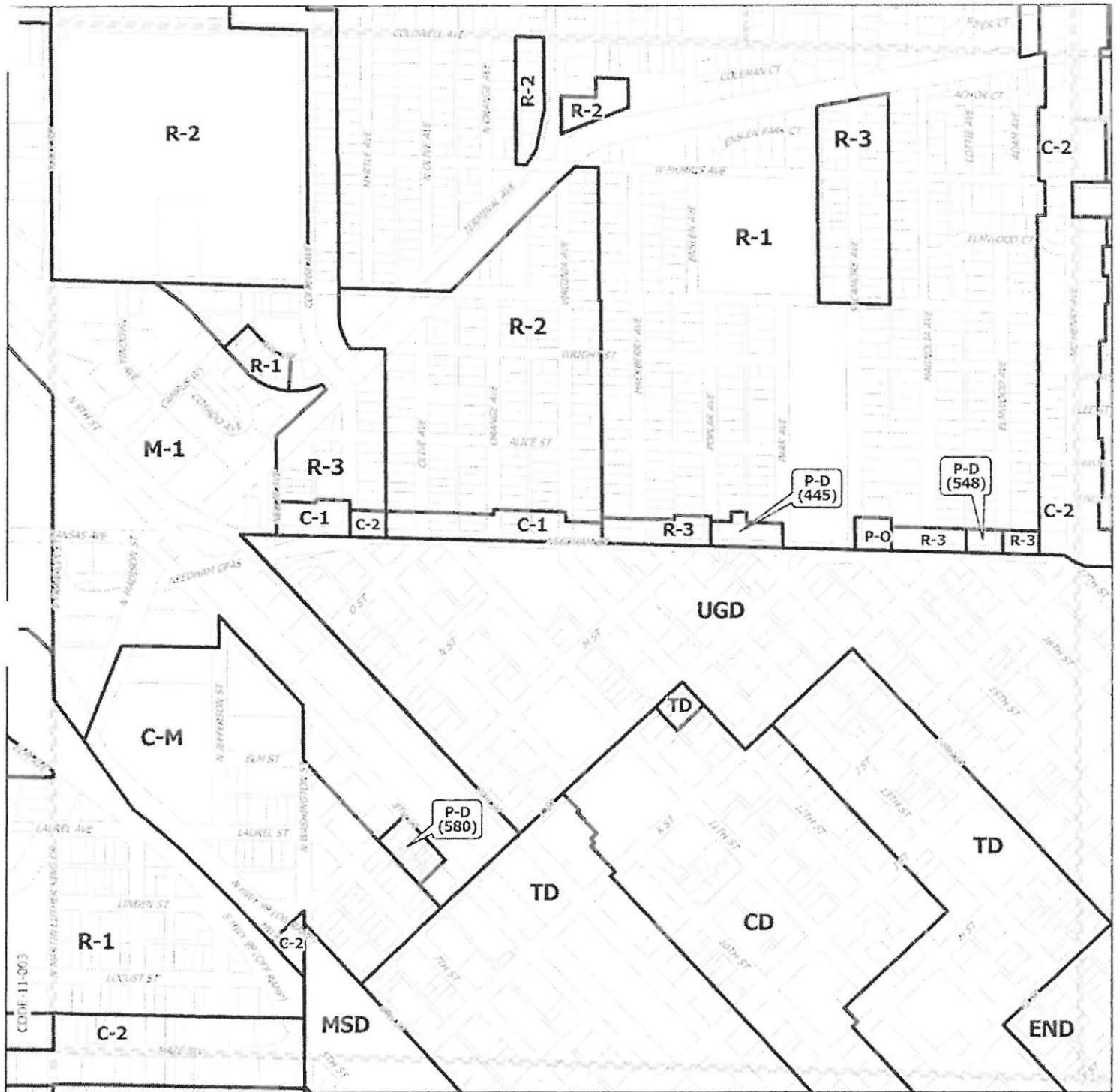
APNs 106-006-012 and 106-006-013.



ZONING MAP OF THE CITY OF MODESTO

28-3-9

Scale: 1" = 100 feet
 Ord. 3620-C.S.; Ord. 3621-C.S.;
 Ord. 3623-C.S.; Ord. 3624-C.S.



ZONING MAP OF THE CITY OF MODESTO

29-3-9

Ord. 3619-C.S.; Ord. 3620-C.S.;
 Ord. 3621-C.S.; Ord. 3622-C.S.;
 Ord. 3623-C.S.



ZONING MAP OF THE CITY OF MODESTO

32-3-9

Ord. 3619-C.S.; Ord. 3620-C.S.;
 Ord. 3621-C.S.; Ord. 3622-C.S.;
 Ord. 3623-C.S.; Ord. 3624-C.S.

ORDINANCE NO. 3622-C.S.

AN ORDINANCE AMENDING SECTIONS 29-3-9, 32-3-9 AND 33-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO TO REZONE FROM MEDIUM-HIGH DENSITY RESIDENTIAL (R-3), NEIGHBORHOOD COMMERCIAL (C-1), GENERAL COMMERCIAL (C-2), LIGHT INDUSTRIAL (M-1), AND PLANNED DEVELOPMENT (P-D (325)) ZONES TO THE PROPOSED MAIN STREET DOWNTOWN (MSD) ZONE, PROPERTY LOCATED IN BLOCKS 1, 2, 4-6, 8-10, 13-19, 98, 101, AND 117 OF DOWNTOWN MODESTO (INITIATED BY THE CITY OF MODESTO).

WHEREAS, the City Council has considered an amendment to Article 5 of Chapter 7 of Title 10 of the Municipal Code to create a new Main Street Downtown (MSD) Zone, and

WHEREAS, a verified application for an amendment to Sections 29-3-9, 32-3-9 and 33-3-9 of the Zoning Map of the City of Modesto was initiated by the City of Modesto to rezone from Medium-High Density Residential (R-3), Neighborhood Commercial (C-1), General Commercial (C-2), Light Industrial (M-1), and Planned Development (P-D (325)) Zones to the proposed Main Street Downtown (MSD) Zone, property located in Blocks 1, 2, 4-6, 8-10, 13-19, 98, 101, and 117 of downtown Modesto, and

WHEREAS, after a public hearing held on March 16, 2015, it was found and determined by the Planning Commission that the requested zone change will not be detrimental to the public health, safety or welfare because it is intended to improve the downtown area through facilitating increased densities and intensification of shared uses, providing additional housing choices and opportunities, ensuring development occurs at a human scale, promoting

store frontage and display on public streets, and improving pedestrian circulation; the requested zone change will result in an orderly planned use of land because it will help to ensure that new development in downtown is of a type, form and scale that is appropriate to the existing development in downtown; and the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan and any applicable specific plans(s) because the proposed rezone will promote higher density, mixed-use development in downtown, provide incentives such as reduced parking standards to encourage economic development in downtown, strengthen downtown as the focal point of community life and the social, cultural, business, governmental, and entertainment center of the City and by preserving and revitalizing the downtown and making it an identifiable center, and is consistent with the Redevelopment Planning District General Plan designation by assisting in implementing the vision and goals of the Redevelopment Master Plan for downtown, and

WHEREAS, by Resolution No. 2015-09, adopted on March 16, 2015, the Planning Commission recommended to the Council that the application initiated by the City of Modesto to amend Sections 29-3-9, 32-3-9 and 33-3-9 of the Zoning Map of the City of Modesto to rezone the hereinafter described property from Medium-High Density Residential (R-3), Neighborhood Commercial (C-1), General Commercial (C-2), Light Industrial (M-1), and Planned Development (P-D (325)) Zones to the proposed Main Street Downtown (MSD) Zone, property located in Blocks 1, 2, 4-6, 8-10, 13-19, 98, 101, and 117 of downtown Modesto, be approved,

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

SECTION 1. After a public hearing held on May 12, 2015, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety or welfare because it is intended to improve the downtown area through facilitating increased densities and intensification of shared uses; providing additional housing choices and opportunities; ensuring development occurs at a human scale; promoting store frontage and display on public streets; and improving pedestrian circulation.
2. The requested change will result in an orderly planned use of land because it will help to ensure that new development in downtown is of a type, form and scale that is appropriate to the existing development in downtown.
3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plan(s) because it will implement the following General Plan goals and policies:
 - a. General Plan Overall Goal I.C.6 (preserving agricultural land by having new development be relatively compact and of reasonably high density) by promoting higher density, mixed-use development in downtown.
 - b. General Plan Economic Development Goal I.D.1. (striving for a jobs/housing balance by encouraging the economic revitalization of downtown) by allowing higher density development and providing incentives such as reduced parking standards to encourage economic development in downtown.
 - c. General Plan Economic Development Goal I.D.2 by strengthening downtown as the focal point of community life and the social, cultural, business, governmental, and entertainment center of the City and by preserving and revitalizing the downtown and making it an identifiable center.
 - d. The rezoning is consistent with the Redevelopment Planning District General Plan designation by assisting in implementing the vision and goals of the Redevelopment Master Plan for downtown.

SECTION 2. ZONING CHANGE. Sections 29-3-9, 32-3-9 and 33-3-9 of the Zoning Map of the City of Modesto are hereby amended to rezone the following described property from Medium-High Density Residential (R-3), Neighborhood Commercial (C-1), General Commercial (C-2), Light Industrial (M-1), and Planned Development (P-D (325)) Zones to the proposed Main Street Downtown (MSD) Zone, property located in Blocks 1, 2, 4-6, 8-10, 13-19, 98, 101, and 117 of downtown Modesto, described as follows:

Legal Description as shown in Exhibit "A"

SECTION 3. ZONING MAP. Sections 29-3-9, 32-3-9 and 33-3-9 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 12th day of May, 2015, by Councilmember Kenoyer, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and ordered printed and published by the following vote:


AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

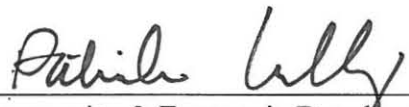
By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community & Economic Development
Department, Planning Division

Ord. No. 3622-C.S.

FINAL ADOPTION CLAUSE


The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 26th day of May, 2015, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki,
Mayor Marsh

NOES: Councilmembers: None

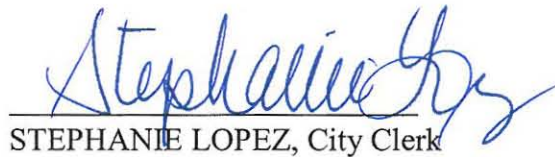
ABSENT: Councilmembers: None

APPROVED:



GARRAD MARSH, MAYOR

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: June 25, 2015

MAIN STREET DOWNTOWN

R-3 to Main Street Downtown

All that certain real property situate in a portion of the Northwest Quarter of Section 33, 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:

Area No. 1:

Lot 21 in Block 17 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the northeasterly half of the 80-foot wide 4th Street and the southwesterly half of the 20-foot wide alley, all being immediately adjacent to the above property.

Containing 0.12 acres, more or less.

APN 104-019-010

Area No. 2:

Lot 12 in Block 8 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southwesterly half of the 80-foot wide 4th Street and the northeasterly half of the 20-foot wide alley, all being immediately adjacent to the above property.

Containing 0.12 acres, more or less.

APN 104-023-006 (portion)

Area No 3:

Lot 5 in Block 10 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southwesterly half of the 80-foot wide 4th Street and the northeasterly half of the 20-foot wide alley, all being immediately adjacent to the above property.

Containing 0.12 acres, more or less.

APN 103-019-001 (portion)

Area No. 4:

Lots 17, 18 and 19 in Block 5 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the northeasterly half of the 80-foot wide 2nd Street, the northwesterly half of 80-foot wide H Street, and the southwesterly half of the 20-foot alley, all being immediately adjacent to the above described properties.

Containing 0.5 acres, more or less.

APNs 104-025-008 and 104-025-009.

Area No. 5:

Lots 29 through 32 in Block 4 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 80-foot wide H Street, the northeasterly half of the 80-foot wide 2nd Street and the southwesterly half of the 20 foot wide alley, all being immediately adjacent to the above property.

Containing 0.6 acres, more or less.

APN 103-020-014.

Area No. 6:

Lots 1, 2 and 27 through 32 in Block 2 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 80-foot wide H Street, the southwesterly half of the 80-foot wide 2nd Street, the northeasterly half of the 80-foot wide 1st Street and the southwesterly half of the 20 foot wide alley, all being immediately adjacent to the above properties.

Containing 1.2 acres, more or less.

APNs 103-023-001, 103-023-018, 103-023-019 and 103-023-020.

Area No. 7:

Lots 15 through 20 in Block 1 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the northeasterly half of the 80-foot wide 1st Street, the northwesterly half of the 80-foot wide H Street, the southwesterly half of the 80-foot wide 2nd Street and the southeasterly half of the 20-foot wide alley, all being immediately adjacent to the above properties.

Containing 1 acre, more or less.

APNs 104-028-008 through 104-028-011.

C-1 to Main Street Downtown

All that certain real property situate in a portion of the Northwest Quarter of Section 33, 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:

Area No. 1:

Lots 17 through 20 in Block 17 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the northeasterly half of the 80-foot wide 4th Street, the northwesterly half of the 100-foot wide I Street and the southwesterly half of the 20-foot wide alley, all being immediately adjacent to the above property.

Containing 0.7 acres, more or less.

APN 104-019-009.

Area No. 2:

Lots 17 through 32 in Block 16 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 100-foot wide I Street, the northwesterly half of the 80-foot wide H Street, the northeasterly half of the 80-foot wide 4th Street, and the southwesterly half of the 20-foot wide alley, all being immediately adjacent to the above properties.

Containing 2.1 acres, more or less.

APNs 104-018-006, 104-018-007, 104-018-010, 104-018-011 and 104-018-012.

Area No. 3:

Lots 29 through 32 in Block 15 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeast half of the 80-foot wide H Street, the northeast half of the 80-foot wide 4th Street and the southwest half of the 20-foot wide alley, all being immediately adjacent to the above properties.

Containing 0.6 acres, more or less.

APN 103-014-014.

Area No. 4:

Lots 1 through 4 and 29 through 32 in Block 10 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 80-foot wide H Street, the southwesterly half of the 80-foot wide 4th Street, the northeasterly half of the 80-foot wide 3rd Street and all of the 20-foot wide alley, all being immediately adjacent to the above properties.

Containing 1 acre, more or less.

APNs 103-019-001 (portion) and 103-019-013.

Area No. 5:

All of Block 9 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 100-foot wide I Street, the northeasterly half of the 80-foot wide 3rd Street, the southwesterly half of 80-foot wide 4th Street, the northwesterly half of the 80-foot wide H Street and all of the 20-foot alley, all being immediately adjacent to the above described properties.

APNs 104-024-001 through 104-024-015.

Area No. 6:

Lots 13 through 18 in Block 8 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the northwesterly half of the 100-foot wide I Street, the northeasterly half of the 80-foot wide 3rd Street, the southwesterly half of the 80-foot wide 4th Street and the northeasterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

APNs 104-023-006 (portion), 104-023-007 and 104-023-008.

Area No. 7:

Lots 15 and 16, together with the southerly 55 feet of Lot 14 in Block 6 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southwesterly half of the 80-foot wide 3rd Street, the northwesterly half of the 100-foot wide I Street and the southwesterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 0.5 acres, more or less.

APNs 104-026-009 through 104-026-013.

Area No. 8:

Lots 1 through 16 in Block 5 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southwesterly half of the 80-foot wide 3rd Street, the northwesterly half of the 80-foot wide H Street, the southeasterly half of the 100-foot wide I Street and the northeasterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 2.1 acres, more or less.

APNs 104-025-001 through 104-025-007.

Area No. 9:

Lots 1 through 4 in Block 4 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 80-foot wide H Street, the southwesterly half of the 80-foot wide 3rd Street and the northeasterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 0.6 acres, more or less.

APN 103-020-001

C-2 to Main Street Downtown

All that certain real property situate in a portion of the Southwest Quarter of the Southwest Quarter of Section 29 and the northwest quarter of the Northwest Quarter of Section 32, 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:

Area No. 1:

All of Block "D" and all of Blocks 20 through 26 of the City of Modesto as Maps recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southwesterly half of 80-foot 6th Street, the northwesterly half of 80-foot wide E Street, the northeasterly half of 80-foot wide 5th Street, and all of the following 80-foot wide streets: G Street, H Street, I Street, K Street, and L Street, all being immediately adjacent to the above described Blocks.

Containing 31 acres, more or less, comprised of right-of-way of streets and State Highway 99.

Area No. 2:

Lots 5 through 16 in Block 19 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the northwesterly half of the 80-foot wide K Street, all of the 90-foot wide Maze Boulevard, the southeasterly half of the 80-foot wide L Street, the east half of 80-foot wide South Washington Street, and the northeasterly half of the 20-foot alley, all being immediately adjacent to the above described properties.

Containing 1.8 acres, more or less.

APNs 104-021-001, 104-021-002, 104-021-003, 104-021-004, 104-021-005 and 104-021-006.

Area No. 3:

Lots 1 through 16 in Block 18 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 80-foot wide K Street, the northwesterly half of the 80-foot wide J Street, the southwesterly half of 80-foot wide 5th Street and the northeasterly half of the 20-foot alley, all being immediately adjacent to the above described properties.

Containing 2.1 acres, more or less.

APNs 104-020-019, 104-020-020, 104-020-023 and 104-020-024.

Area No. 4:

Lots 1 through 16 in Block 17 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 80-foot wide J Street, the northwesterly half of the 100-foot wide I Street, the southwesterly half of 80-foot wide 5th Street and the northeasterly half of the 20-foot alley, all being immediately adjacent to the above described properties.

Containing 2.1 acres, more or less.

APNs 104-019-001, 104-019-002, 104-019-003, 104-019-004 and 104-019-020.

Area No. 5:

Lots 1 through 16 in Block 16 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 100-foot wide I Street, the northwesterly half of the 80-foot wide H Street, the southwesterly half of 80-foot wide 5th Street and the northeasterly half of the 20-foot alley, all being immediately adjacent to the above described properties.

Containing 2.1 acres, more or less.

APNs 104-018-001, 104-018-002, 104-018-003, 104-018-004 and 104-018-005.

Area No. 6:

Lots 1 through 16 in Block 15 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 80-foot wide H Street, the northwesterly half of the 80-foot wide G Street, the southwesterly half of 80-foot wide 5th Street and the northeasterly half of the 20-foot alley, all being immediately adjacent to the above described properties.

Containing 2.1 acres, more or less.

APNs 103-014-003, 103-014-004, 103-014-005, 103-014-006, 103-014-007, 104-014-014 and 103-014-015.

Area No. 7:

Lots 1 through 16 in Block 14 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 80-foot wide G Street, the northwesterly half of the 80-foot wide F Street, the southwesterly half of 80-foot wide 5th Street and the northeasterly half of the 20-foot alley, all being immediately adjacent to the above described properties.

Containing 2.1 acres, more or less.

APNs 103-015-001, 103-015-002, 103-015-003, 103-015-004, 103-015-005 and 103-015-006.

Area No. 8:

Lots 1 through 16 in Block 13 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 80-foot wide F Street, the northwesterly half of the 80-foot wide E Street, the southwesterly half of 80-foot wide 5th Street and the northeasterly half of the 20-foot alley, all being immediately adjacent to the above described properties.

Containing 2.1 acres, more or less.

APNs 103-016-001, 103-016-002, 103-016-003, 103-016-004, 103-016-005, 103-016-006, 103-016-007 and 103-016-008.

C-M to Main Street Downtown

All that certain real property situate in a portion of the Northwest Quarter of the Northwest Quarter of Section 33, 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 Lot 11 and the southeasterly 12.5 feet of Lot 10 in Block 98 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southwesterly half of the 80-foot wide 13th Street and the northeasterly half of the 20-foot wide alley, all being immediately adjacent to the above-described property.

M-1 to Main Street Downtown

All that certain real property situate in a portion of the Northwest Quarter of the Northwest Quarter of Section 33, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Lots 12 through 16 of Block 98 in the City of Modesto, together with Lots 14 through 20 of Block 101 in the City of Modesto, and Lots 17 through 20 in Block 117 of the City of Modesto, as per Maps recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the northwesterly 40 feet of the 80-foot wide D Street, the southwesterly 40 feet of the 80-foot wide 14th Street and the northeasterly 10 feet of the alley adjacent to the abovementioned Lots in Block 117, the southwesterly 40 feet of the 80-foot wide 14th Street and the northeasterly 40 feet of the 80-foot wide 13th Street adjacent to the abovementioned Lots in Block 101, and the southwesterly 40 feet of the 80-foot wide 13th Street and northeasterly ten feet of the alley adjacent to the abovementioned Lots in Block 98, all being immediately adjacent to the above described properties.

Containing 2.4 acres, more or less.

APNs 106-011-009, 106-018-006, 106-018-008 and 106-024-006.

P-D(325) to Main Street Downtown

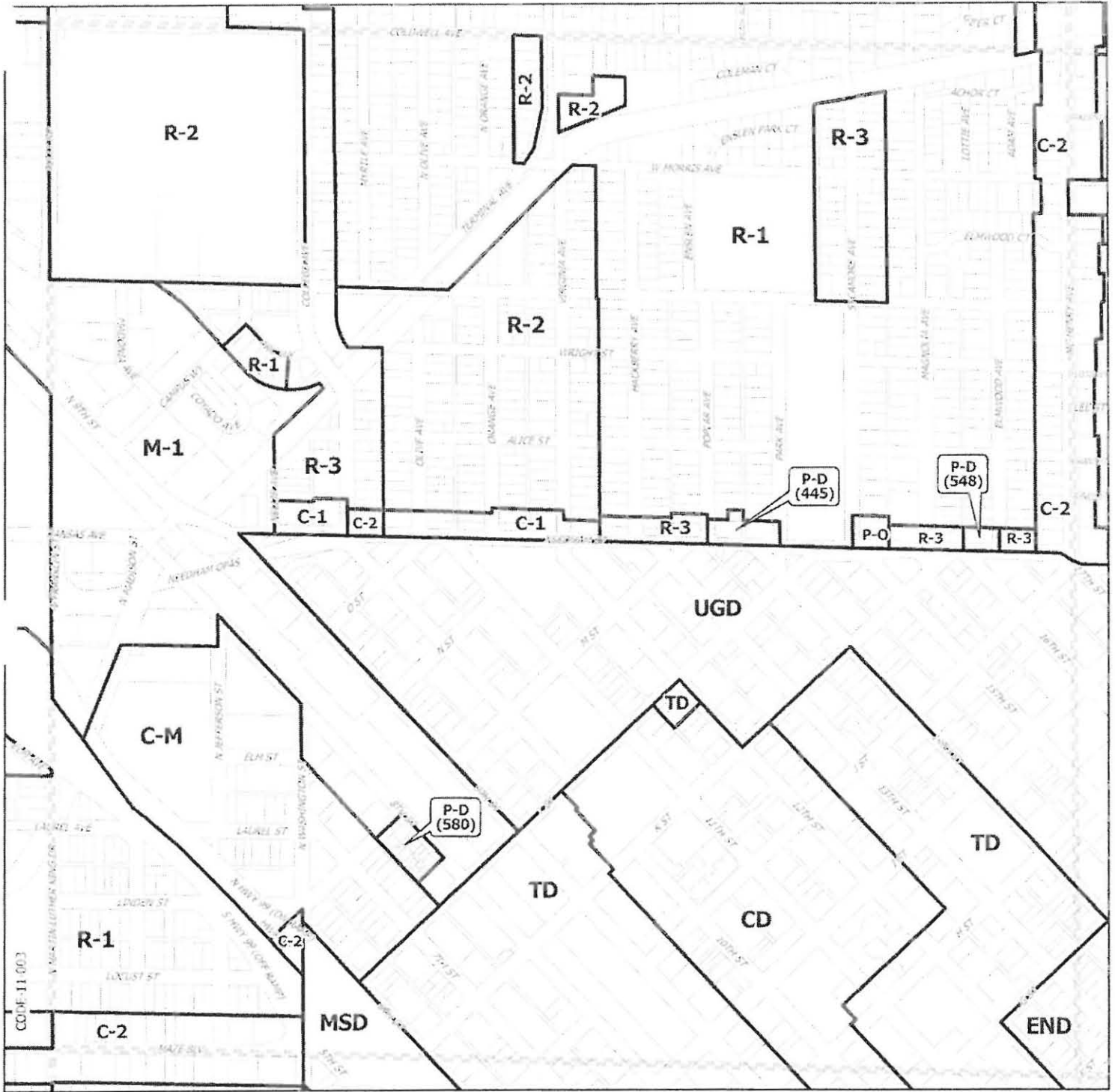
All that certain real property situate in the northwest quarter of Section 33, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Lot 33 in Block 98 as per map recorded on August 17, 1983 in Volume 30 of Maps at Page 10, Stanislaus County Records.

Also including the northwesterly 40 feet of the 80-foot wide D Street, the northeasterly 40 feet of the 80-foot wide 12 Street and the southwesterly ten feet of the alley, all being immediately adjacent to the above described property.

Containing 1.48 acres, more or less.

APNs 106-049-001 through 106-049-012.

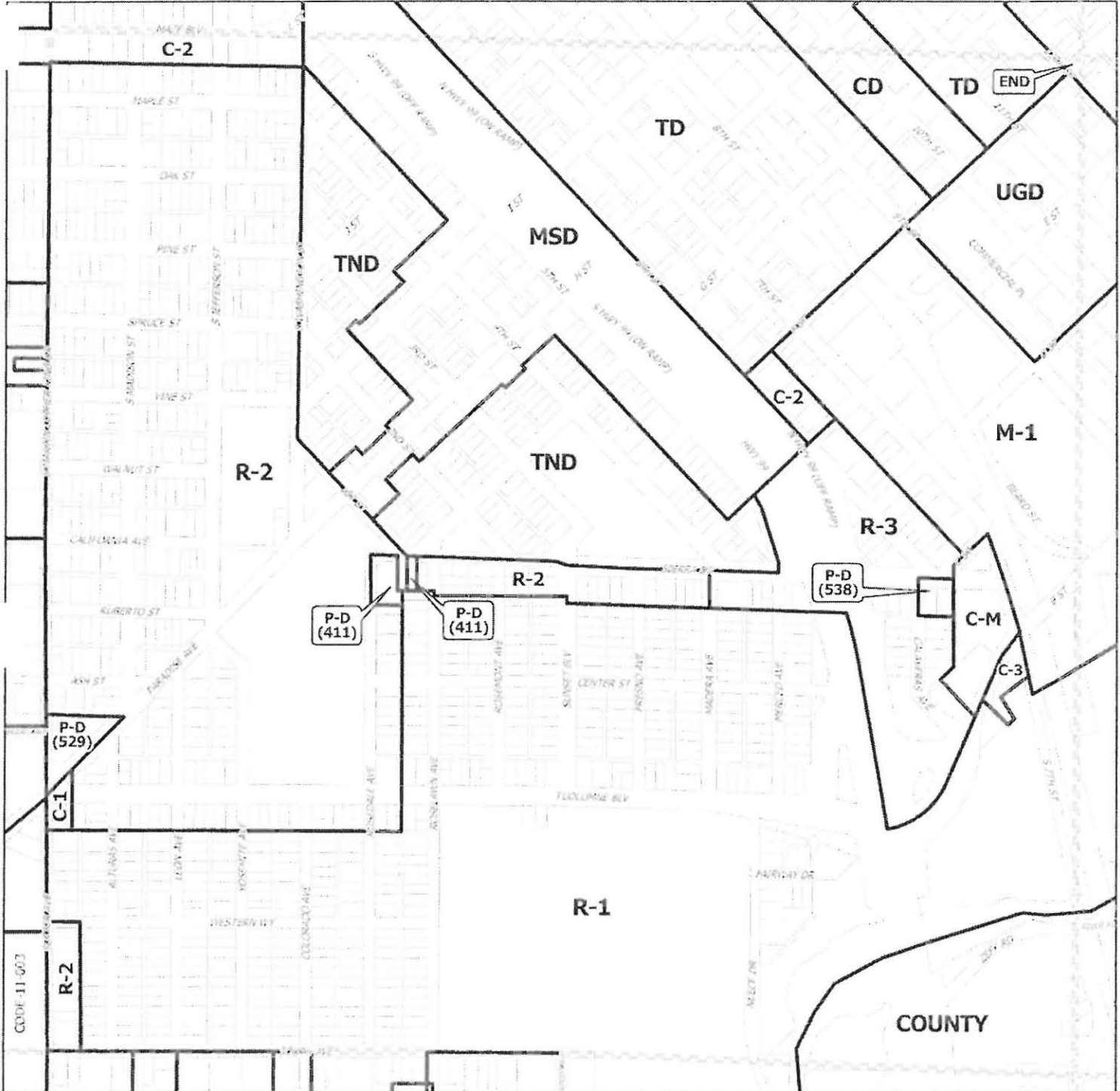


ZONING MAP OF THE CITY OF MODESTO

29-3-9



1 inch = 400 feet
 Ord. 3619-C.S.; Ord. 3620-C.S.;
 Ord. 3621-C.S.; Ord. 3622-C.S.;
 Ord. 3623-C.S.



ZONING MAP OF THE CITY OF MODESTO

32-3-9



Ord. 3619-C.S.; Ord. 3620-C.S.;
 Ord. 3621-C.S.; Ord. 3622-C.S.;
 Ord. 3623-C.S.; Ord. 3624-C.S.

ORDINANCE NO. 3623-C.S.

AN ORDINANCE AMENDING SECTIONS 28-3-9, 29-3-9, 32-3-9 AND 33-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO TO REZONE FROM MEDIUM-HIGH DENSITY RESIDENTIAL (R-3), PROFESSIONAL OFFICE (P-O), NEIGHBORHOOD COMMERCIAL (C-1), GENERAL COMMERCIAL (C-2), COMMERCIAL-INDUSTRIAL (C-M), AND PLANNED DEVELOPMENT (P-D (95), (101), (119), (143), (370), (443), (492), (563)) ZONES TO THE PROPOSED EAST NEIGHBORHOOD DOWNTOWN (END) ZONE, PROPERTY LOCATED IN BLOCKS 96-98, 101-103, 115-119, 128, M AND Q OF DOWNTOWN MODESTO (INITIATED BY THE CITY OF MODESTO).

WHEREAS, the City Council has considered an amendment to Article 5 of Chapter 7 of Title 10 of the Municipal Code to create a new East Neighborhood Downtown (END) Zone, and

WHEREAS, a verified application for an amendment to Sections 28-3-9, 29-3-9, 32-3-9 and 33-3-9 of the Zoning Map of the City of Modesto was initiated by the City of Modesto to rezone from Medium-High Density Residential (R-3), Professional Office (P-O), Neighborhood Commercial (C-1), General Commercial (C-2), Commercial-Industrial (C-M), and Planned Development (P-D (95), (101), (119), (143), (370), (443), (492), (563)) Zones to the proposed East Neighborhood Downtown (END) Zone, property located in Blocks 96-98, 101-103, 115-119, 128, M and Q of downtown Modesto, and

WHEREAS, after a public hearing held on March 16, 2015, it was found and determined by the Planning Commission that the requested zone change will not be detrimental to the public health, safety or welfare because it is intended to improve the downtown area

through facilitating increased densities and intensification of shared uses, providing additional housing choices and opportunities, ensuring development occurs at a human scale, promoting store frontage and display on public streets, and improving pedestrian circulation; the requested zone change will result in an orderly planned use of land because it will help to ensure that new development in downtown is of a type, form and scale that is appropriate to the existing development in downtown; and the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan and any applicable specific plans(s) because the proposed rezone will promote higher density, mixed-use development in downtown, provide incentives such as reduced parking standards to encourage economic development in downtown, strengthen downtown as the focal point of community life and the social, cultural, business, governmental, and entertainment center of the City and by preserving and revitalizing the downtown and making it an identifiable center, and is consistent with the Redevelopment Planning District General Plan designation by assisting in implementing the vision and goals of the Redevelopment Master Plan for downtown, and

WHEREAS, by Resolution No. 2015-10, adopted on March 16, 2015, the Planning Commission recommended to the Council that the application initiated by the City of Modesto to amend Sections 28-3-9, 29-3-9, 32-3-9 and 33-3-9 of the Zoning Map of the City of Modesto to rezone the hereinafter described property from Medium-High Density Residential (R-3), Professional Office (P-O), Neighborhood Commercial (C-1), General Commercial (C-2), Commercial-Industrial (C-M), and Planned Development (P-D (95), (101), (119), (143), (370),

(443), (492), (563)) Zones to the proposed East Neighborhood Downtown (END) Zone, property located in Blocks 96-98, 101-103, 115-119, 128, M and Q of downtown Modesto, be approved,

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

SECTION 1. After a public hearing held on May 12, 2015, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety or welfare because it is intended to improve the downtown area through facilitating increased densities and intensification of shared uses; providing additional housing choices and opportunities; ensuring development occurs at a human scale; promoting store frontage and display on public streets; and improving pedestrian circulation.
2. The requested change will result in an orderly planned use of land because it will help to ensure that new development in downtown is of a type, form and scale that is appropriate to the existing development in downtown.
3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plan(s) because it will implement the following General Plan goals and policies:
 - a. General Plan Overall Goal I.C.6 (preserving agricultural land by having new development be relatively compact and of reasonably high density) by promoting higher density, mixed-use development in downtown.
 - b. General Plan Economic Development Goal I.D.1. (striving for a jobs/housing balance by encouraging the economic revitalization of downtown) by allowing higher density development and providing incentives such as reduced parking standards to encourage economic development in downtown.
 - c. General Plan Economic Development Goal I.D.2 by strengthening downtown as the focal point of community life and the social, cultural, business, governmental, and entertainment center of the City and by preserving and revitalizing the downtown and making it an identifiable center.

- d. The rezoning is consistent with the Redevelopment Planning District General Plan designation by assisting in implementing the vision and goals of the Redevelopment Master Plan for downtown.

SECTION 2. ZONING CHANGE. Sections 28-3-9, 29-3-9, 32-3-9 and 33-3-9 of the Zoning Map of the City of Modesto are hereby amended to rezone the following described property from Medium-High Density Residential (R-3), Professional Office (P-O), Neighborhood Commercial (C-1), General Commercial (C-2), Commercial-Industrial (C-M), and Planned Development (P-D (95), (101), (119), (143), (370), (443), (492), (563)) Zones to the proposed East Neighborhood Downtown (END) Zone, property located in Blocks 96-98, 101-103, 115-119, 128, M and Q of downtown Modesto, described as follows:

Legal Description as shown in Exhibit "A"

SECTION 3. ZONING MAP. Sections 28-3-9, 29-3-9, 32-3-9 and 33-3-9 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 12th day of May, 2015, by Councilmember Kenoyer, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community & Economic Development
Department, Planning Division

Ord. No. 3623-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 26th day of May, 2015, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


GARRAD MARSH, MAYOR

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: June 25, 2015

EAST NEIGHBORHOOD DOWNTOWN

R-3 to East Neighborhood Downtown

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

Area No. 1:

Lots 1 through 3 in Block 119 of the City of Modesto, according to the Official Map thereof, recorded July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Including also the southwest half of 80.00-foot-wide 16th Street, the southeast half of 80.00-foot-wide G Street, and the northeast half of the adjacent 20.00-foot-wide alley, all immediately adjacent to the above-described property in said Block 119.

Containing 0.5 acres, more or less.

APNs 106-008-001 and 106-008-002.

Area No. 2:

Lot 9 in Block "O" of the City of Modesto, according to the Official Map thereof, recorded July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the southeast half of E Street and the west half of 52-foot wide Burney Street, all immediately adjacent to the above-described property in said Block "O".

Containing 0.3 acres, more or less.

APNs 106-008-001, 106-008-002, portion of 106-010-002.

P-O to East Neighborhood Downtown

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

The northeasterly 93.3 feet of Lots 1 through 4 in Block "M" of the City of Modesto, according to the Official Map thereof, recorded July 15, 1938 in Volume 13 of Maps, Stanislaus County Records.

Also including the southwestern half of the 80-foot wide 18th Street and the southeasterly half of the 80-foot wide G Street, all being immediately adjacent to the above-described property.

Containing 0.43 acres, more or less.

APNs 106-003-002 and 106-003-003.

C-1 to East Neighborhood Downtown

All that certain real property situate in a portion of the southwest Quarter of Section 28, the Southeast quarter of Section 29, and the Northwest quarter of Section 33, all in Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Lots 1 through 16 in Block 96 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records; and

Lots 1 through 16 in Block 97 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records; and

Lots 1 through 4 in Block 98 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records; and

Lots 1 through 4 and Lots 29 through 32 in Block 101 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records; and

Lots 1 through 4, together with Lots 9 through 20 and Lots 23 through 32 in Block 102 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records; and

The entirety of Block 103 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records; and

Lots 1 through 4 and Lots 7 through 32 in Block 115 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records; and

The entirety of Block 116 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records; and

Lots 1 through 16, 29 and 30 in Block 117 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records; and

Lots 17 through 32 in Block 118 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records; and

Lots 17 through 28 and the southeasterly 6.25 feet of Lot 29 in Block 119 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records; and

Lots 1 through 5 and the northwesterly 1.15 feet of Lot 6 in Block "O" of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County.

Also including the northeasterly half of 80-foot wide 12 Street, the southeasterly half of 80-foot wide G Street, all of the 80-foot wide E and F Streets, all of the 80-foot wide 13th, 14th and 15th Streets, the westerly half of 52-foot wide Burney Street, the southwesterly half of the alleys through Blocks 96, 97, 98, 118 and 119, the northeasterly half of the 20-foot wide alleys through Blocks 96, 97, 98, 118 and 119, and all of the alleys in Blocks 101, 102, 103, 115, 116 and 117, all being immediately adjacent to the above-described properties.

Containing 28.8 acres, more or less.

APNs 106-008-010 through 106-008-016, 106-009-011 through 106-009-018, 106-009-020, portion of 106-010-002, 106-011-008, 106-011-014, 106-011-019, 106-011-002, 106-011-003, 106-011-016, 106-011-017, 106-012-001 through 106-012-018, 106-013-005 through 106-013-018, 106-016-001 through 106-016-015, 106-017-001, 106-017-002, 106-017-005 through 106-017-012, 106-017-014 through 106-017-018, 106-018-001, 106-018-013, 106-018-015, 106-018-016, 106-018-020, 106-024-001, 106-024-002, 106-025-001 through 106-025-009, 106-026-001, 106-026-005 through 106-026-008, 106-026-018, and 106-026-019.

C-2 to East Neighborhood Downtown

All that certain real property situate in a portion of the Southwest Quarter of the Southwest Quarter of Section 28, a portion of the Southeast Quarter of the Southeast Quarter of Section 29, the Northeast Quarter of the Northeast Quarter of Section 32, and the Northwest Quarter of the Northwest Quarter of Section 33, all in 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:

Area No. 1:

The northwesterly 15 feet of Lot 22 and all of Lots 23 through 28 in Block 117 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records; and

All of Lots 5 through 10 and the northwesterly 19 feet of Lot 11, together with the northeasterly 22 feet of Lot 22 and all of Lots 23 through 28, in Block 101 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records; and

All of Lots 5 through 9 and the northwesterly 12.6 feet of Lot 10 in Block 98 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County.

Also including all of 80-foot wide 14th Street, all of the 20-foot wide alley in Block 101, all of the 80-foot wide 13th Street, the southwesterly half of the alley in Block 117, and the northeasterly half of the 20-foot wide alley in Block 98, all being immediately adjacent to the above-described properties.

Containing 2.8 acres, more or less.

APNs 106-011-011 through 106-011-013, portion of 106-011-010, portion of 106-018-019, 106-018-003, 106-018-021, portion of 106-018-020, 106-018-010 through 106-018-012, portion of 106-018-009, and 106-024-003 through 106-024-005.

Area No. 2:

Lots 17 through 32 of Block 96 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records; and

Lots 17 through 29, the northwesterly 12.5 feet of Lot 31, and all of Lot 32 in Block 97 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records; and

Lots 29 through 32 of Block 98 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of 80-foot wide G Street, all of 80-foot wide F Street, all of 80-foot wide E Street, the northeasterly half of 80-foot wide 12th Street, and the southwesterly half of the 20-foot wide alley in Blocks 96, 97 and 98, all being immediately adjacent to the above-described properties.

Containing 4.64 acres, more or less.

APNs 106-024-012, 106-024-016, 106-025-010 through 106-025-014, 106-025-016, 106-026-009 through 106-026-011, and 106-026-014 through 106-025-016.

M-1 to East Neighborhood Downtown

All that certain real property situate in a portion of the Northwest Quarter of the Northwest Quarter of Section 33, all in 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:

Lot 21 and the southeasterly 10 feet of Lot 22 in Block 117 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records; and

The southeasterly six feet of Lot 11 and all of Lots 12 and 13, together with all of Lot 21 and the southeasterly three feet of Lot 22, in Block 101 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including all of 80-foot wide 14th Street, the northeasterly half of 80-foot wide 13th Street, the southwesterly half of the 20-foot wide alley in Block 117, and all of the 20-foot wide alley in Block 101, all being immediately adjacent to the above-described properties.

Containing 0.5 acres, more or less.

Portions of APNs 106-011-010, 106-018-009 and 106-018-019.

P-D(95) to East Neighborhood Downtown

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

Lots 31 and 32 in Block 117 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps Stanislaus County.

Also including the northwesterly half of the 80-foot wide E Street and the southwesterly half of the 80-foot wide 14th Street, all being immediately adjacent to the above-described property.

Containing 0.4 acres, more or less.

APN 106-011-015

P-D(101) to East Neighborhood Downtown

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

Lots 5, 6, 7 and 8 in Block 102 of the City of Modesto, as per Map recorded December 21, 1942 in Volume 15 of Maps, Stanislaus County.

Also including the southwesterly half of the 80-foot wide 14th Street and the northeasterly half of the 20-foot wide alley, all directly adjacent to the above described property.

Containing 0.43 acres, more or less.

APN 106-017-019

P-D(119) to East Neighborhood Downtown

All that certain real property situate in a portion of the southwest quarter of Section 28, and the northwest quarter of Section 33, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Lots 21 and 22 in Block 102 of the City of Modesto, and Lots 5 and 6 in Block 115 of the City of Modesto, as per Maps recorded December 21, 1942 in Volume 15 of Maps, Stanislaus County.

Also including the southwesterly half of the 80-foot wide 13th Street, the northeasterly half of the 80-foot wide 15th Street, the northeasterly half of the 20-foot wide alley in Block 102 and the southwesterly half of the 20-foot wide alley in Block 115, all directly adjacent to the above described property.

Containing 0.44 acres, more or less.

APNs 106-013-004 and 106-017-013

P-D(139) to East Neighborhood Downtown

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

Lots 1, 2, 3 and 4 in Block 128 of the City of Modesto, as per Map recorded December 21, 1942, in Volume 15 of Maps, Stanislaus County Records; and

The westerly 46.66 feet of Lots 1 through 4, and all of Lots 27 through 32 in Block "M" of the City of Modesto, as per Map recorded December 21, 1942, in Volume 15 of Maps, Stanislaus County.

Including also all of the westerly one-half of the eight-foot wide G Street in said Blocks 128 and "M", all of the eight-foot wide 17th Street in said Lot 128, and the 20-foot wide alley in said Block "M", all directly adjacent to the above described property.

Containing 1.63 acres, more or less.

APNs 106-003-001, 106-003-018, 106-003-019, and 106-005-017.

P-D(143) to East Neighborhood Downtown

All that certain real property situate in a portion of the northwest quarter of the northwest quarter of Section 33, 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:

The southeasterly 12.5 feet of Lot 31 and all of Lot 32 in Block 97 of the City of Modesto, as per Map recorded December 21, 1942, in Volume 15 of Maps, Stanislaus County.

Also including the northeasterly half of the 80-foot wide 12th Street and the southwesterly half of the 20-foot wide alley in said Block 97, all directly adjacent to the above described property.

Containing 0.16 acres, more or less.

APN 106-025-015

P-D(370) to East Neighborhood Downtown

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

Parcel B as shown upon that certain Parcel Map filed January 22, 1979 in Volume 28 of Parcel Maps, Page 56, Stanislaus County Records, being a portion of Lots 1 through 9 in Block "O" of the City of Modesto, as per Map filed December 21, 1942, in Volume 15 of Maps, Stanislaus County.

Including also all of the west 25 feet of Burney Street and the northeastern 40 feet of 15th Street immediately adjacent to the above described property.

Containing 0.43 acres, more or less.

APN 106-010-003

P-D(443) to East Neighborhood Downtown

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

All of Lots 30, 31 32 and the northwest 18.75 feet of Lot 29 in Block 119 of the City of Modesto, as per Map filed December 21, 1942, in Volume 15 of Maps, Stanislaus County.

Also including the southwest half of the 80-foot wide G Street, the northeast half of the 80-foot wide 15th Street, and the northeast half of the 20-foot wide alley in Block 119, all being immediately adjacent to the above described property.

Containing 0.6 acres, more or less.

APNs 106-008-017 through 106-008-019.

P-D(492) to East Neighborhood Downtown

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

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

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

Containing 0.16 acres, more or less.

APN 106-003-004

P-D(563) to East Neighborhood Downtown

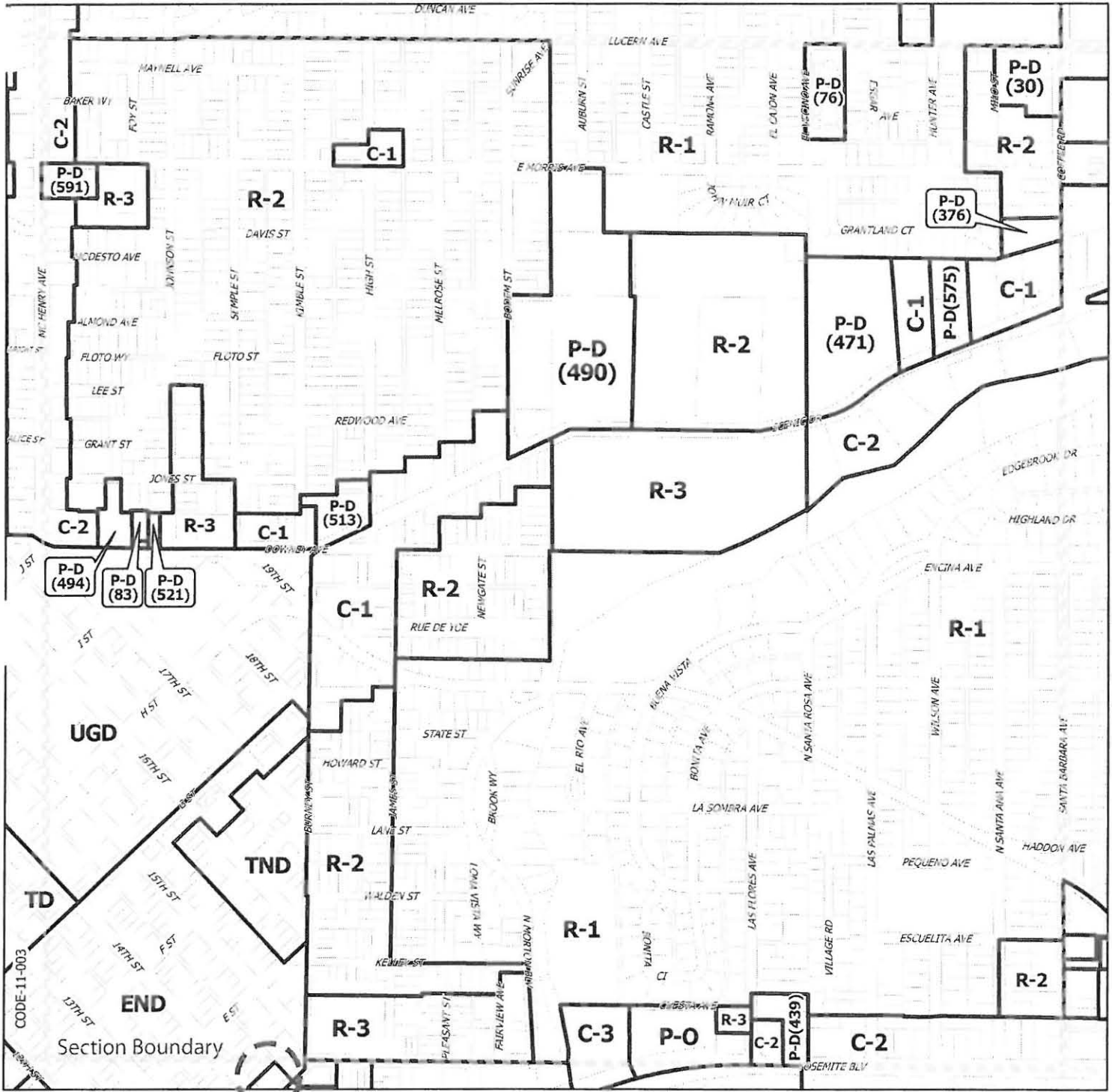
All that certain real property situate in a portion of the southwest Quarter of Section 28, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Lots 25, 26, 27, 28, 29, 30, 31, and 32, in Block 128 of the City of Modesto, according to the Official Map thereof, filed in the Office of the Recorder of Stanislaus County, California, on April 18, 1903, in Volume 1 of Maps, at Page 82.

Including also all of the Northeast one half of 80.00-foot-wide 16th Street, the Southeast one half of 80.00-foot-wide G Street and the Southwest one half of the adjacent 20.00-foot-wide alley and all immediately adjacent to the above-described property.

Containing 1 acres, more or less.

APNs 106-005-019 through 106-005-026.

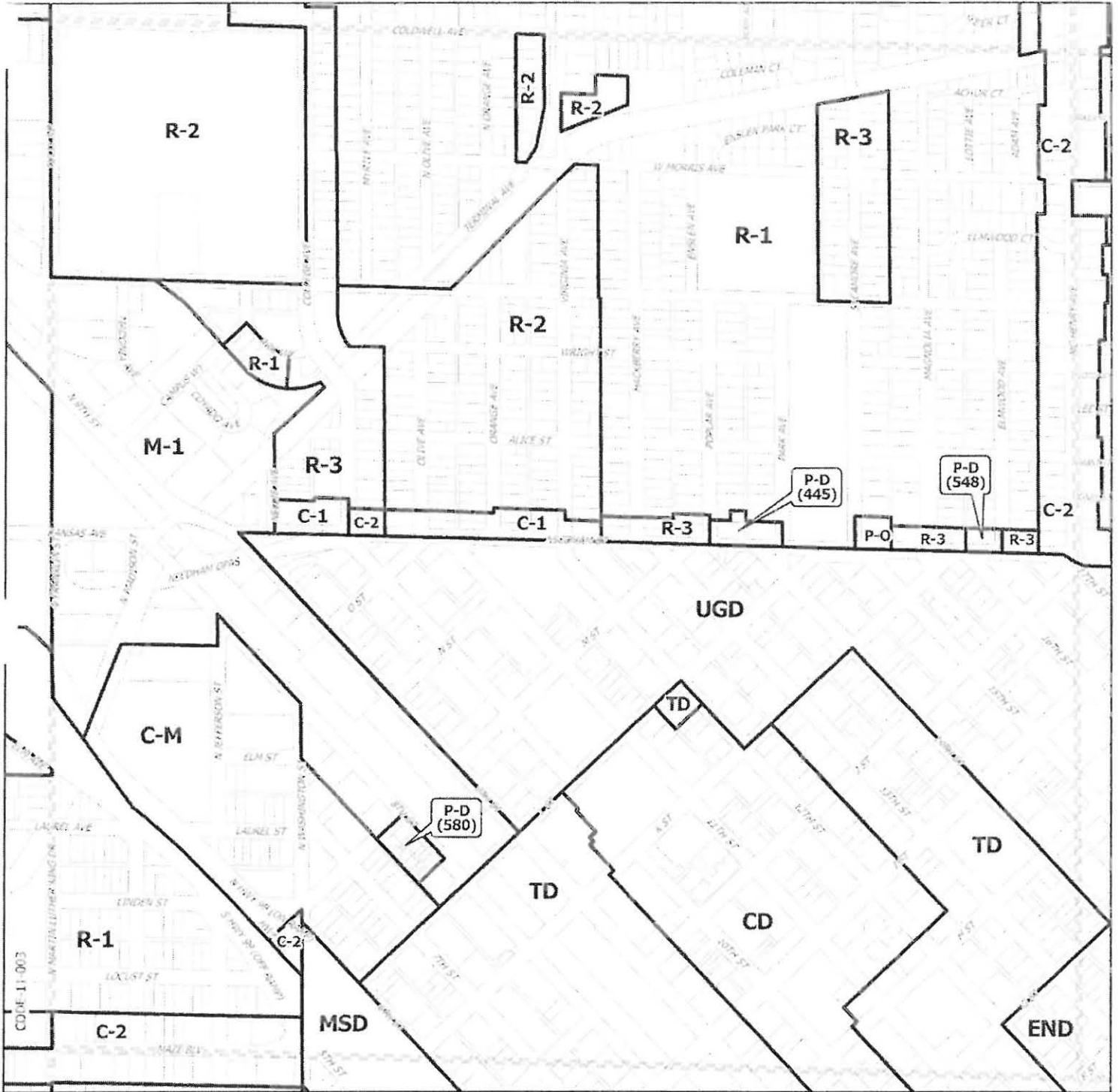


ZONING MAP OF THE CITY OF MODESTO

28-3-9



1 inch = 700 feet
 Ord. 3620-C.S.; Ord. 3621-C.S.;
 Ord. 3622-C.S.; Ord. 3623-C.S.
 Ord. 3624-C.S.

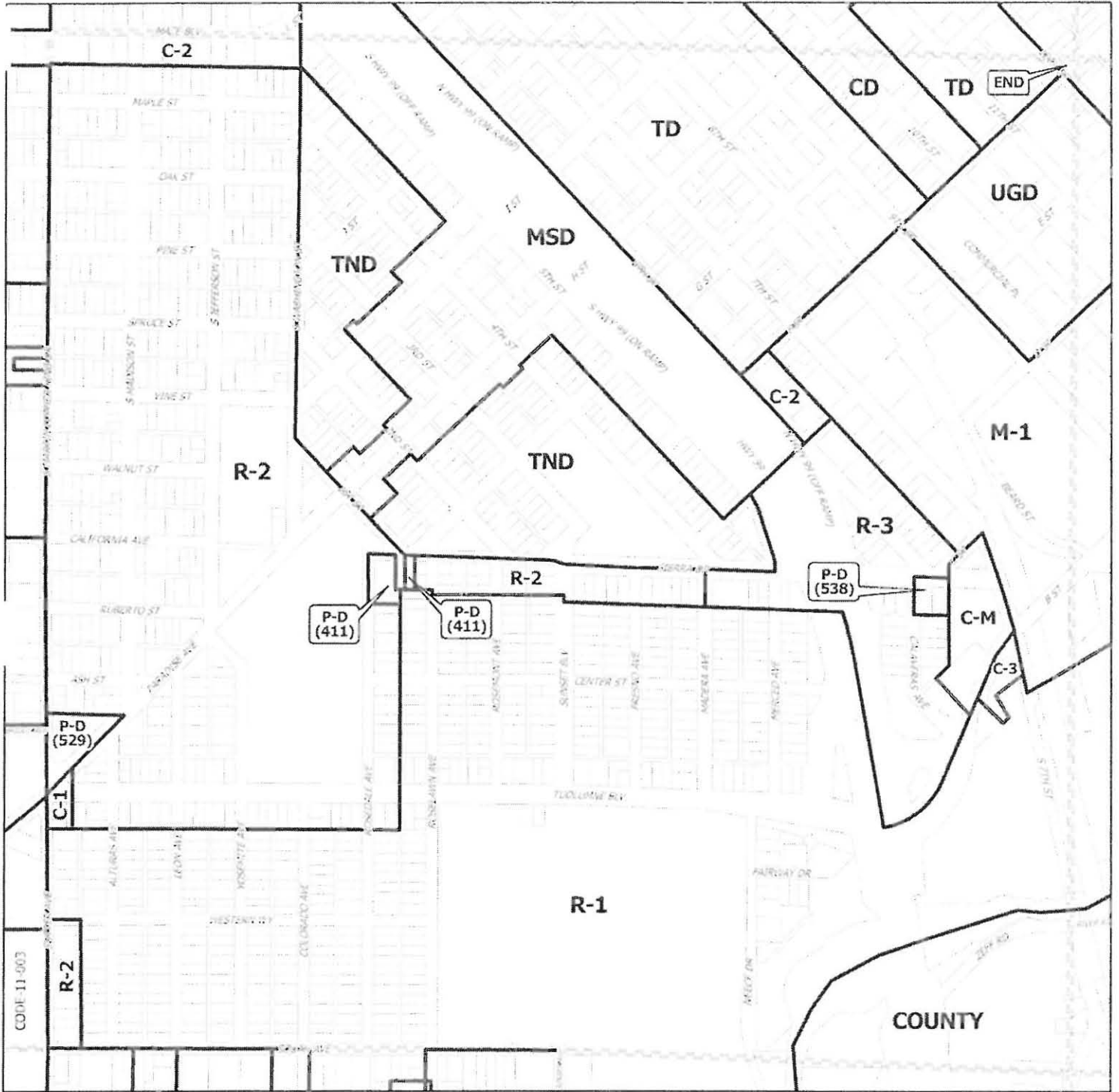


ZONING MAP OF THE CITY OF MODESTO

29-3-9



1 inch = 500 feet
 Ord. 3619-C.S.; Ord. 3620-C.S.;
 Ord. 3621-C.S.; Ord. 3622-C.S.;
 Ord. 3623-C.S.

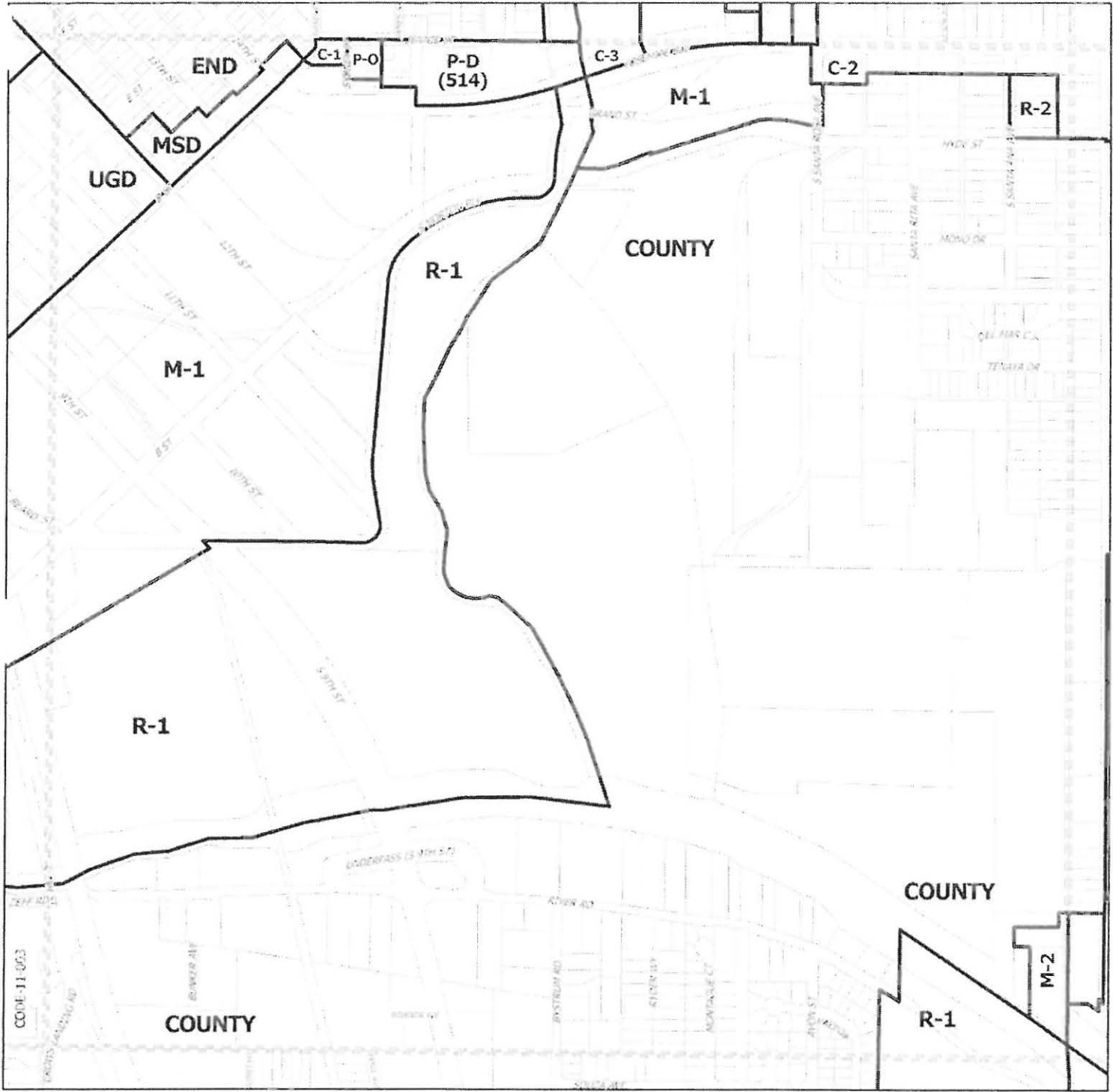


ZONING MAP OF THE CITY OF MODESTO

32-3-9



Ord. 3619-C.S.; Ord. 3620-C.S.;
 Ord. 3621-C.S.; Ord. 3622-C.S.;
 Ord. 3623-C.S.; Ord. 3624-C.S.



ZONING MAP OF THE CITY OF MODESTO

33-3-9

1 inch = 100 feet
 Ord. 3621-C.S.; Ord. 3622-C.S.;
 Ord. 3623-C.S.

ORDINANCE NO. 3624-C.S.

AN ORDINANCE AMENDING SECTION SECTIONS 28-3-9 AND 32-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO TO REZONE FROM MEDIUM DENSITY RESIDENTIAL (R-2), MEDIUM-HIGH DENSITY RESIDENTIAL (R-3), PROFESSIONAL OFFICE (P-O), NEIGHBORHOOD COMMERCIAL (C-1), AND PLANNED DEVELOPMENT (P-D (523)) ZONES TO THE PROPOSED TRADITIONAL NEIGHBORHOOD DOWNTOWN (TND) ZONE, PROPERTY LOCATED IN BLOCKS 1-8, 10-15, 17-19, 118, 119, 128, B, C, M, N, X, Y, AND Z OF DOWNTOWN MODESTO (INITIATED BY THE CITY OF MODESTO).

WHEREAS, the City Council has considered an amendment to Article 5 of Chapter 7 of Title 10 of the Municipal Code to create a new Traditional Neighborhood Downtown (TND) Zone; and

WHEREAS, a verified application for an amendment to Sections 28-3-9 and 32-3-9 of the Zoning Map of the City of Modesto was initiated by the City of Modesto to rezone from Medium Density Residential (R-2), Medium-High Density Residential (R-3), Professional Office (P-O), Neighborhood Commercial (C-1), and Planned Development (P-D (523)) Zones to the proposed Traditional Neighborhood Downtown (TND) Zone, property located in Blocks 1-8, 10-15, 17-19, 118, 119, 128, B, C, M, N, X, Y, and Z of downtown Modesto, and

WHEREAS, after a public hearing held on March 16, 2015, it was found and determined by the Planning Commission that the requested zone change will not be detrimental to the public health, safety or welfare because it is intended to improve the downtown area through facilitating increased densities and intensification of shared uses, providing additional housing choices and opportunities, ensuring development occurs at a human scale, promoting store frontage and display on public streets, and improving pedestrian circulation; the requested

zone change will result in an orderly planned use of land because it will help to ensure that new development in downtown is of a type, form and scale that is appropriate to the existing development in downtown; and the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan and any applicable specific plans(s) because the proposed rezone will promote higher density, mixed-use development in downtown, provide incentives such as reduced parking standards to encourage economic development in downtown, strengthen downtown as the focal point of community life and the social, cultural, business, governmental, and entertainment center of the City and by preserving and revitalizing the downtown and making it an identifiable center, and is consistent with the Redevelopment Planning District General Plan designation by assisting in implementing the vision and goals of the Redevelopment Master Plan for downtown, and

WHEREAS, by Resolution No. 2014-11, adopted on March 16, 2015, the Planning Commission recommended to the Council that the application initiated by the City of Modesto to amend Sections 28-3-9 and 32-3-9 of the Zoning Map of the City of Modesto to rezone the hereinafter described property from Medium Density Residential (R-2), Medium-High Density Residential (R-3), Professional Office (P-O), Neighborhood Commercial (C-1), and Planned Development (P-D (523)) Zones to the proposed Traditional Neighborhood Downtown (TND) Zone, property located in Blocks 1-8, 10-15, 17-19, 118, 119, 128, B, C, M, N, X, Y, and Z of downtown Modesto, be approved,

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

SECTION 1. After a public hearing held on May 12, 2015, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety or welfare because it is intended to improve the downtown area through facilitating increased densities and intensification of shared uses; providing additional housing choices and opportunities; ensuring development occurs at a human scale; promoting store frontage and display on public streets; and improving pedestrian circulation.
2. The requested change will result in an orderly planned use of land because it will help to ensure that new development in downtown is of a type, form and scale that is appropriate to the existing development in downtown.
3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plan(s) because it will implement the following General Plan goals and policies:
 - a. General Plan Overall Goal I.C.6 (preserving agricultural land by having new development be relatively compact and of reasonably high density) by promoting higher density, mixed-use development in downtown.
 - b. General Plan Economic Development Goal I.D.1 (striving for a jobs/housing balance by encouraging the economic revitalization of downtown) by allowing higher density development and providing incentives such as reduced parking standards to encourage economic development in downtown.
 - c. General Plan Economic Development Goal I.D.2 by strengthening downtown as the focal point of community life and the social, cultural, business, governmental, and entertainment center of the City and by preserving and revitalizing the downtown and making it an identifiable center.
 - d. The rezoning is consistent with the Redevelopment Planning District General Plan designation by assisting in implementing the vision and goals of the Redevelopment Master Plan for downtown.

SECTION 2. ZONING CHANGE. Sections 28-3-9 and 32-3-9 of the Zoning Map of the City of Modesto is hereby amended to rezone the following described property from Medium Density Residential (R-2), Medium-High Density Residential (R-3), Professional Office (P-O), Neighborhood Commercial (C-1), and Planned Development (P-D (523)) Zones to the proposed Traditional Neighborhood Downtown (TND) Zone, property located in Blocks 1-8, 10-15, 17-19, 118, 119, 128, B, C, M, N, X, Y, and Z of downtown Modesto, described as follows:

Legal Description as shown in Exhibit "A"

SECTION 3. ZONING MAP. Sections 28-3-9 and 32-3-9 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 12th day of May, 2015, by Councilmember Kenoyer, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and ordered printed and published by the following vote:

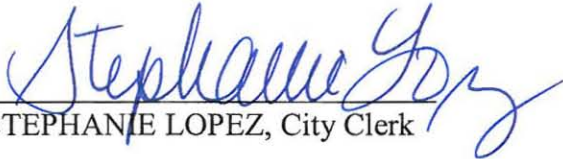
AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

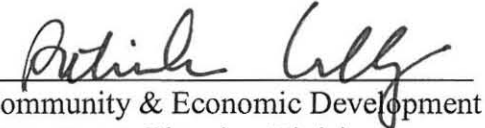
By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community & Economic Development
Department, Planning Division

Ord. No. 3624-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 26th day of May, 2015, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


GARRAD MARSH, MAYOR

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: June 25, 2015

TRADITIONAL NEIGHBORHOOD DOWNTOWN

R-2 to Traditional Neighborhood Downtown

All that portion of the Northeast Quarter of Section 32, 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:

The southeasterly 350 feet of Block 11 of the City of Modesto, together with the entirety of Block 12, Block "Y" and Block "Z", Lots 5 through 28 of Block 3, Lots 17 through 32 of Block 13, and Lots 17 through 28 of Block 14 of the City of Modesto, as per Maps recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the north 50 feet of Sierra Drive, the east 40 feet of G Street, the west 40 feet of E Street, the entire width of the alley on Block 3 and the south 10 feet of the alley adjacent to Lots 13 and 14, the entire width of F, 2nd, 3rd and 4th Streets, all being immediately adjacent to the above described lots.

Containing 16 acres, more or less.

APNs: 103-018-001, 103-021-003, 103-021-004, 103-021-005, 103-021-006, 103-021-007, 103-021-008, 103-021-009, 103-021-010, 103-021-011, 103-021-012, 103-021-013, and a portion of 103-021-002, 103-022-001, 103-016-009, 103-016-010, 103-016-011, 103-016-012, 103-016-013, 103-016-017, 103-015-007, 103-015-008, 103-015-009, 103-015-010 and a portion of 103-015-011.

R-3 to Traditional Neighborhood Downtown

All that portion of the Northeast Quarter of Section 32, 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:

Area No. 1:

The entirety of Block "X" of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the westerly half of the 80-foot wide 5th Street, the southeasterly half of the 80-foot wide E Street, the northeasterly half of the 80-foot wide 4th Street, the northern half of 80-foot wide Sierra Street, and all of the 20-foot wide alley, all being immediately adjacent to the above described property.

Containing 2.3 acres, more or less.

APNs 103-017-001, 103-017-002, 103-017-003, 103-017-004, 103-017-005 and 103-017-006.

Area No. 2:

Lots 3 through 26 in Block 2 of the City of Modesto, together with Lots 1 through 4 and 29 through 32 in Block 3, Lots 5 through 28 in Block 4, Lots 6 through 28 in Block 10, the northwesterly 100 feet of Block 11, Lots 29 through 32 in Block 14, and Lots 17 through 28 in Block 15 of the City of Modesto as per Maps recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the entire width of 2nd, 3rd and 4th Streets, the entire width of G Street, the northeasterly half of 80-foot wide 1st Street, the entire width of the alleys in Blocks 2, 3, 4 and 10, and the southwestern half of the 20-foot wide alleys in Blocks 14 and 15, all being immediately adjacent to the above described properties.

Containing 13.2 acres, more or less.

APNs 103-014-008 through 103-014-013, 103-015-011 (portion), 103-015-012 through 103-015-014, 103-018-001 (portion), 103-019-002 through 103-019-011, 103-019-014, 103-019-015, 103-020-002 through 103-020-007, 103-020-009 through 103-020-013, 103-021-001, 103-021-002 (portion), 103-021-014 through 103-021-016, and 103-023-004 through 103-023-015.

Area No. 3:

All of Block 7, Block "B", and Block "C" of the City of Modesto, together with Lots 1 through 14 and 21 through 32 of Block 1 of the City of Modesto, Lots 21 through 32 in Block 5 of the City of Modesto, Lots 1 through 12 and 17 through 28 in Block 6 of the City of Modesto, Lots 1 through 11 and 21 through 32 in Block 8 of the City of Modesto, Lots 22 through 32 in Block 17 of the City of Modesto, Lots 17 through 32 in Block 18 of the City of Modesto, and Lots 17 through 21 of Block 19 of the City of Modesto, as per Maps recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the east half of 80-foot wide S. Washington Street, the northeasterly half of 80-foot wide 1st Street, the entire width of 2nd, 3rd and 4th Streets, the entire width of I, J and K Streets, the entire width of the alleys in Blocks 1, 6, 7, and 8, and the southwesterly half of the 20-foot wide alleys in Blocks 17, 18 and 19, all being immediately adjacent to the above described properties.

Containing 19.6 acres, more or less.

APNs: 104-019-011 through 104-019-017, 104-020-009 through 104-020-014, 104-020-017, 104-020-018, 104-022-001 through 104-022-014, 104-023-001 through 104-023-005, 104-023-010 (portion) through 104-023-015, 104-025-010 through 104-025-013, 104-025-016, 104-026-001 through 104-026-007, 104-026-014 through 104-026-018, 104-027-001, 104-027-003, 104-027-004, 104-028-001 through 104-028-007, and 104-028-012 through 104-028-017.

R-3 to Traditional Neighborhood Downtown

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

Lots 7 through 9 and 19 through 26 in Block "M" of the City of Modesto, together with Lots 1 through 6 and 21 through 30 in Block "N" of the City of Modesto, Lots 1 through 16 in Block 118 of the City of Modesto, all of Lots 4 through 11 and the southerly 65 feet of Lots 14 through 16 in Block 119 of the City of Modesto, and Lots 5 through 24 in Block 128 of the City of Modesto, as per Maps recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Including also the western half of 33-foot Burney Street, the entire width of 80-foot wide 16th and 17th Streets, the entire width of 80-foot wide F Street, the northeasterly half of the 20-foot wide alleys in Blocks 118 and 119, and the entire width of the alleys in Blocks 128, "M" and "N", all being immediately adjacent to the above described properties.

Containing 8.6 acres, more or less.

APNs 106-003-005, 106-003-008, 106-003-015, 106-003-016, 106-005-003 through 106-005-012, 106-008-003 through 106-008-006, 106-008-009, 106-004-001 through 106-004-007, and 106-009-001 through 106-009-008.

P-O to Traditional Neighborhood Downtown

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

Lots 31 and 32 in Block "N" of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of 80-foot wide F Street and the northeasterly half of 80-foot wide 16th Street, all being immediately adjacent to the above described properties.

Containing 0.4 acres, more or less.

APN 106-004-008.

C-1 to Traditional Neighborhood Downtown

All that portion of the Northeast Quarter of Section 32, 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 Lot 13 and the northeasterly 85 feet of Lot 14 in Block 6 of the City of Modesto, together with Lots 19 and 20 in Block 8 of the City of Modesto, as per Maps recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the entire width of 80-foot 3rd Street, the southwest half of the 20-foot wide alley in Block 8 and the northeast half of the 20-foot alley in Block 6, all being immediately adjacent to the above described properties.

Containing 0.4 acres, more or less.

APNs 104-023-009, 104-023-010 (portion), and 104-026-008.

P-D(523) to Traditional Neighborhood Downtown

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

All of Lots 12 and 13 and the northerly 75 feet of Lots 14, 15 and 16 in Block 119 the City of Modesto, as per maps recorded on December 21, 1942 in Volume 15 of Maps, Stanislaus County Records.

Also including the southwesterly half of 80-foot wide 16th Street, the northwesterly half of 80-foot wide F Street, and the northeasterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 0.5 acres, more or less.

APNs 106-008-007 and 106-008-008.

MAIN STREET DOWNTOWN

R-3 to Main Street Downtown

All that certain real property situate in a portion of the Northwest Quarter of Section 33, 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:

Area No. 1:

Lot 21 in Block 17 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the northeasterly half of the 80-foot wide 4th Street and the southwesterly half of the 20-foot wide alley, all being immediately adjacent to the above property.

Containing 0.12 acres, more or less.

APN 104-019-010

Area No. 2:

Lot 12 in Block 8 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southwesterly half of the 80-foot wide 4th Street and the northeasterly half of the 20-foot wide alley, all being immediately adjacent to the above property.

Containing 0.12 acres, more or less.

APN 104-023-006 (portion)

Area No 3:

Lot 5 in Block 10 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southwesterly half of the 80-foot wide 4th Street and the northeasterly half of the 20-foot wide alley, all being immediately adjacent to the above property.

Containing 0.12 acres, more or less.

APN 103-019-001 (portion)

Area No. 4:

Lots 17, 18 and 19 in Block 5 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the northeasterly half of the 80-foot wide 2nd Street, the northwesterly half of 80-foot wide H Street, and the southwesterly half of the 20-foot alley, all being immediately adjacent to the above described properties.

Containing 0.5 acres, more or less.

APNs 104-025-008 and 104-025-009.

Area No. 5:

Lots 29 through 32 in Block 4 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 80-foot wide H Street, the northeasterly half of the 80-foot wide 2nd Street and the southwesterly half of the 20 foot wide alley, all being immediately adjacent to the above property.

Containing 0.6 acres, more or less.

APN 103-020-014.

Area No. 6:

Lots 1, 2 and 27 through 32 in Block 2 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 80-foot wide H Street, the southwesterly half of the 80-foot wide 2nd Street, the northeasterly half of the 80-foot wide 1st Street and the southwesterly half of the 20 foot wide alley, all being immediately adjacent to the above properties.

Containing 1.2 acres, more or less.

APNs 103-023-001, 103-023-018, 103-023-019 and 103-023-020.

Area No. 7:

Lots 15 through 20 in Block 1 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the northeasterly half of the 80-foot wide 1st Street, the northwesterly half of the 80-foot wide H Street, the southwesterly half of the 80-foot wide 2nd Street and the southeasterly half of the 20-foot wide alley, all being immediately adjacent to the above properties.

Containing 1 acre, more or less.

APNs 104-028-008 through 104-028-011.

C-1 to Main Street Downtown

All that certain real property situate in a portion of the Northwest Quarter of Section 33, 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:

Area No. 1:

Lots 17 through 20 in Block 17 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the northeasterly half of the 80-foot wide 4th Street, the northwesterly half of the 100-foot wide I Street and the southwesterly half of the 20-foot wide alley, all being immediately adjacent to the above property.

Containing 0.7 acres, more or less.

APN 104-019-009.

Area No. 2:

Lots 17 through 32 in Block 16 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 100-foot wide I Street, the northwesterly half of the 80-foot wide H Street, the northeasterly half of the 80-foot wide 4th Street, and the southwesterly half of the 20-foot wide alley, all being immediately adjacent to the above properties.

Containing 2.1 acres, more or less.

APNs 104-018-006, 104-018-007, 104-018-010, 104-018-011 and 104-018-012.

Area No. 3:

Lots 29 through 32 in Block 15 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeast half of the 80-foot wide H Street, the northeast half of the 80-foot wide 4th Street and the southwest half of the 20-foot wide alley, all being immediately adjacent to the above properties.

Containing 0.6 acres, more or less.

APN 103-014-014.

Area No. 4:

Lots 1 through 4 and 29 through 32 in Block 10 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 80-foot wide H Street, the southwesterly half of the 80-foot wide 4th Street, the northeasterly half of the 80-foot wide 3rd Street and all of the 20-foot wide alley, all being immediately adjacent to the above properties.

Containing 1 acre, more or less.

APNs 103-019-001 (portion) and 103-019-013.

Area No. 5:

All of Block 9 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 100-foot wide I Street, the northeasterly half of the 80-foot wide 3rd Street, the southwesterly half of 80-foot wide 4th Street, the northwesterly half of the 80-foot wide H Street and all of the 20-foot alley, all being immediately adjacent to the above described properties.

APNs 104-024-001 through 104-024-015.

Area No. 6:

Lots 13 through 18 in Block 8 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the northwesterly half of the 100-foot wide I Street, the northeasterly half of the 80-foot wide 3rd Street, the southwesterly half of the 80-foot wide 4th Street and the northeasterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

APNs 104-023-006 (portion), 104-023-007 and 104-023-008.

Area No. 7:

Lots 15 and 16, together with the southerly 55 feet of Lot 14 in Block 6 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southwesterly half of the 80-foot wide 3rd Street, the northwesterly half of the 100-foot wide I Street and the southwesterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 0.5 acres, more or less.

APNs 104-026-009 through 104-026-013.

Area No. 8:

Lots 1 through 16 in Block 5 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southwesterly half of the 80-foot wide 3rd Street, the northwesterly half of the 80-foot wide H Street, the southeasterly half of the 100-foot wide I Street and the northeasterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 2.1 acres, more or less.

APNs 104-025-001 through 104-025-007.

Area No. 9:

Lots 1 through 4 in Block 4 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 80-foot wide H Street, the southwesterly half of the 80-foot wide 3rd Street and the northeasterly half of the 20-foot wide alley, all being immediately adjacent to the above described properties.

Containing 0.6 acres, more or less.

APN 103-020-001

C-2 to Main Street Downtown

All that certain real property situate in a portion of the Southwest Quarter of the Southwest Quarter of Section 29 and the northwest quarter of the Northwest Quarter of Section 32, 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:

Area No. 1:

All of Block "D" and all of Blocks 20 through 26 of the City of Modesto as Maps recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southwesterly half of 80-foot 6th Street, the northwesterly half of 80-foot wide E Street, the northeasterly half of 80-foot wide 5th Street, and all of the following 80-foot wide streets: G Street, H Street, I Street, K Street, and L Street, all being immediately adjacent to the above described Blocks.

Containing 31 acres, more or less, comprised of right-of-way of streets and State Highway 99.

Area No. 2:

Lots 5 through 16 in Block 19 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the northwesterly half of the 80-foot wide K Street, all of the 90-foot wide Maze Boulevard, the southeasterly half of the 80-foot wide L Street, the east half of 80-foot wide South Washington Street, and the northeasterly half of the 20-foot alley, all being immediately adjacent to the above described properties.

Containing 1.8 acres, more or less.

APNs 104-021-001, 104-021-002, 104-021-003, 104-021-004, 104-021-005 and 104-021-006.

Area No. 3:

Lots 1 through 16 in Block 18 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 80-foot wide K Street, the northwesterly half of the 80-foot wide J Street, the southwesterly half of 80-foot wide 5th Street and the northeasterly half of the 20-foot alley, all being immediately adjacent to the above described properties.

Containing 2.1 acres, more or less.

APNs 104-020-019, 104-020-020, 104-020-023 and 104-020-024.

Area No. 4:

Lots 1 through 16 in Block 17 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 80-foot wide J Street, the northwesterly half of the 100-foot wide I Street, the southwesterly half of 80-foot wide 5th Street and the northeasterly half of the 20-foot alley, all being immediately adjacent to the above described properties.

Containing 2.1 acres, more or less.

APNs 104-019-001, 104-019-002, 104-019-003, 104-019-004 and 104-019-020.

Area No. 5:

Lots 1 through 16 in Block 16 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 100-foot wide I Street, the northwesterly half of the 80-foot wide H Street, the southwesterly half of 80-foot wide 5th Street and the northeasterly half of the 20-foot alley, all being immediately adjacent to the above described properties.

Containing 2.1 acres, more or less.

APNs 104-018-001, 104-018-002, 104-018-003, 104-018-004 and 104-018-005.

Area No. 6:

Lots 1 through 16 in Block 15 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 80-foot wide H Street, the northwesterly half of the 80-foot wide G Street, the southwesterly half of 80-foot wide 5th Street and the northeasterly half of the 20-foot alley, all being immediately adjacent to the above described properties.

Containing 2.1 acres, more or less.

APNs 103-014-003, 103-014-004, 103-014-005, 103-014-006, 103-014-007, 104-014-014 and 103-014-015.

Area No. 7:

Lots 1 through 16 in Block 14 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 80-foot wide G Street, the northwesterly half of the 80-foot wide F Street, the southwesterly half of 80-foot wide 5th Street and the northeasterly half of the 20-foot alley, all being immediately adjacent to the above described properties.

Containing 2.1 acres, more or less.

APNs 103-015-001, 103-015-002, 103-015-003, 103-015-004, 103-015-005 and 103-015-006.

Area No. 8:

Lots 1 through 16 in Block 13 of the City of Modesto as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southeasterly half of the 80-foot wide F Street, the northwesterly half of the 80-foot wide E Street, the southwesterly half of 80-foot wide 5th Street and the northeasterly half of the 20-foot alley, all being immediately adjacent to the above described properties.

Containing 2.1 acres, more or less.

APNs 103-016-001, 103-016-002, 103-016-003, 103-016-004, 103-016-005, 103-016-006, 103-016-007 and 103-016-008.

C-M to Main Street Downtown

All that certain real property situate in a portion of the Northwest Quarter of the Northwest Quarter of Section 33, 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 Lot 11 and the southeasterly 12.5 feet of Lot 10 in Block 98 of the City of Modesto, as per Map recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the southwesterly half of the 80-foot wide 13th Street and the northeasterly half of the 20-foot wide alley, all being immediately adjacent to the above-described property.

M-1 to Main Street Downtown

All that certain real property situate in a portion of the Northwest Quarter of the Northwest Quarter of Section 33, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Lots 12 through 16 of Block 98 in the City of Modesto, together with Lots 14 through 20 of Block 101 in the City of Modesto, and Lots 17 through 20 in Block 117 of the City of Modesto, as per Maps recorded July 15, 1938, in Volume 13 of Maps, Stanislaus County Records.

Also including the northwesterly 40 feet of the 80-foot wide D Street, the southwesterly 40 feet of the 80-foot wide 14th Street and the northeasterly 10 feet of the alley adjacent to the abovementioned Lots in Block 117, the southwesterly 40 feet of the 80-foot wide 14th Street and the northeasterly 40 feet of the 80-foot wide 13th Street adjacent to the abovementioned Lots in Block 101, and the southwesterly 40 feet of the 80-foot wide 13th Street and northeasterly ten feet of the alley adjacent to the abovementioned Lots in Block 98, all being immediately adjacent to the above described properties.

Containing 2.4 acres, more or less.

APNs 106-011-009, 106-018-006, 106-018-008 and 106-024-006.

P-D(325) to Main Street Downtown

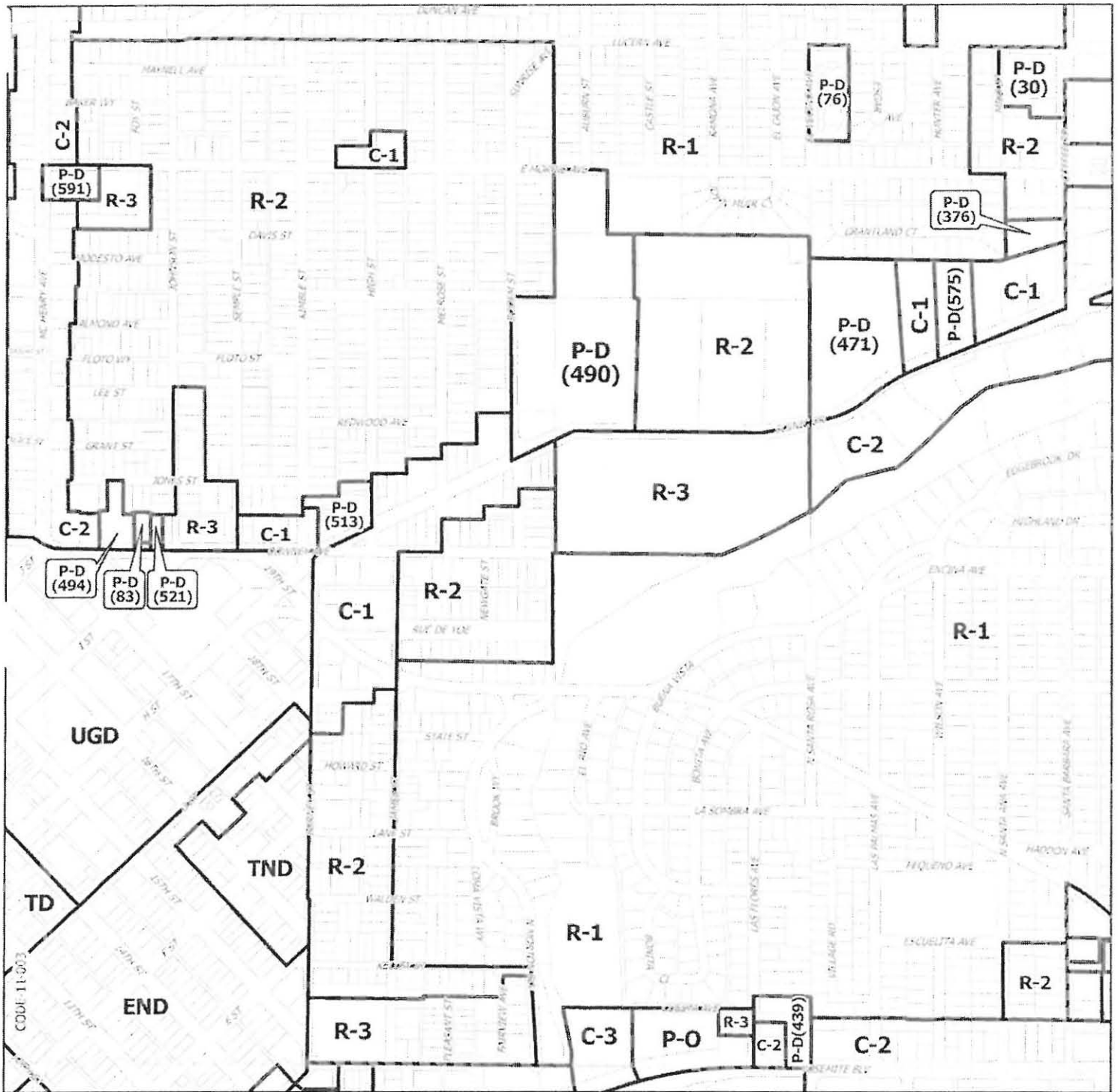
All that certain real property situate in the northwest quarter of Section 33, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Lot 33 in Block 98 as per map recorded on August 17, 1983 in Volume 30 of Maps at Page 10, Stanislaus County Records.

Also including the northwesterly 40 feet of the 80-foot wide D Street, the northeasterly 40 feet of the 80-foot wide 12 Street and the southwesterly ten feet of the alley, all being immediately adjacent to the above described property.

Containing 1.48 acres, more or less.

APNs 106-049-001 through 106-049-012.



1 inch = 400 feet

Ord. 3620-C.S.; Ord. 3621-C.S.;
Ord. 3623-C.S.; Ord. 3624-C.S.

ZONING MAP OF THE CITY OF MODESTO

28-3-9

ORDINANCE NO. 3625-C.S.

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 4, “DEFAACEMENT OF PROPERTY” OF TITLE 4, ENTITLED “PUBLIC WELFARE, SAFETY AND HEALTH” OF THE MODESTO MUNICIPAL CODE AMENDING REGULATIONS RELATING TO GRAFFITI OR TAGGING ABATEMENT

WHEREAS, Chapter 4-12.400 of the Modesto Municipal Code prohibits the defacement of public and private property with graffiti or tagging in the City of Modesto; and

WHEREAS, the City is taking a comprehensive approach to reducing graffiti or tagging in the City; and

WHEREAS, the amendments and revisions to Chapter 4-12.400 of the Municipal Code will allow private property owners to consent to the City’s removal of graffiti on their properties, increase administrative fines for violations of the City’s graffiti regulations, authorize the summary abatement of gang-related graffiti, and allow the City to impose conditions to prevent or mitigate tagging as a condition of approving various land use entitlements.

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

Section 1. Amendment of Code. Article 4 “Defacement of Property” of Chapter 12, “Community Preservation” of Title 4, is hereby amended to read as follows:

Chapter 12 - COMMUNITY PRESERVATION*

Article 4. - Defacement of Property

4-12.400 - Purpose.

4-12.401 - Definitions.

4-12.402 - Graffiti Declared a Public Nuisance.

4-12.403 - Graffiti Prohibited.

4-12.404 - Assisting in or Encouraging Violations.

- 4-12.405 - Punishment Provisions.
- 4-12.406 - Removal of Graffiti.
- 4-12.407 - Consent to Remove Graffiti from Private Property
- 4-12.408 - Abatement of Graffiti Nuisance and Recovery of Expense of Abatement.
- 4-12.409 – Summary Abatement of Gang-Related Graffiti
- 4-12.410 - Accessibility to Graffiti Implements.
- 4-12.411 - Reward.
- 4-12.412 - Cumulative remedies.
- 4-12.413 - Prevention of Graffiti through land use entitlements.

Article 4. - Defacement of Property

4-12.400 - Purpose.

The purpose of this legislation is to provide programs for removal of graffiti from public and private property within the City and to establish regulations designed to prevent and control the spread of graffiti in Modesto.

The City Council finds and determines that the increase of graffiti on both public and private buildings, structures, and in other places, creates a condition of blight within the City which can result in the deterioration of property values, business opportunities, and enjoyment of life for persons using adjacent and surrounding properties. The Council further finds and determines that graffiti is inconsistent with the City's property maintenance goals, crime prevention programs, and aesthetic standards, and, unless graffiti is quickly removed from public and private properties, other properties soon become the targets of graffiti.

(Amended by Ord. 3514-C.S., § 1, effective 6-12-09)

4-12.401 - Definitions.

As used in this article:

- (a) "Graffiti" or "tagging" means any inscription, word, figure, or design that is marked, etched, scratched, drawn, sprayed, painted, pasted or otherwise affixed to, or on, any surface to the extent that same was unauthorized by the owner thereof, or, despite authorization, is otherwise deemed by the City Council to be a public nuisance.
- (b) "Property" means real or personal property, whether publicly or privately owned, within the City.
- (c) "Pressurized container" means any can, bottle, spray device or other mechanism designed to propel liquid which contains ink, paint, dye or other similar substance which is expelled under pressure, either through the use of aerosol devices, pumps or similar propulsion devices.
- (d) "Ink marker" means any broad-tipped marker pen with a tip of one-quarter (¼) inch or greater in width.
- (e) "Paint stick" means any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface and upon application leaving a mark upon property of at least one-quarter (¼) inch or greater in width.
- (f) "Graffiti implement" means a pressurized container, ink marker, or a paint stick.

(g) "Responsible party" means any occupant, lessor, lessee, manager, licensee, or other person having control over a structure or parcel of land. A responsible party may be a property owner.

(i) "Property owner" means the record owner of real property as listed in the most current equalized assessment role as maintained by the Stanislaus County Assessor.

(h) "Abatement" means any action the City may take to remove or alleviate a nuisance including, but not limited to, demolition, removal, repair, cleaning, boarding and securing or replacement of property.

(Amended by Ord. 3514-C.S., § 1, effective 6-12-09)

4-12.402 - Graffiti Declared a Public Nuisance.

The City Council hereby declares that graffiti is a public nuisance and is subject to punishment and abatement as prescribed in this Code.

(Amended by Ord. 3514-C.S., § 1, effective 6-12-09)

4-12.403 - Graffiti Prohibited.

(a) It is unlawful for any person to apply graffiti upon any property within the City.

(b) It is unlawful for any person owning or otherwise being in control of any property within the City to maintain, permit or allow any graffiti to remain upon such property when the graffiti is visible from the street or other public or private property.

(Amended by Ord. 3514-C.S., § 1, effective 6-12-09)

4-12.404 - Assisting in or Encouraging Violations.

It shall be unlawful for any person to assist, aid, abet or encourage another to violate the provisions of this article by words or overt act.

(Amended by Ord. 3514-C.S., § 1, effective 6-12-09)

4-12.405 - Punishment Provisions.

Violations of this article may, at the discretion of the City Attorney, be prosecuted either criminally or administratively.

(a) Administrative Citation Penalties. Each penalty imposed for an administrative violation of this article shall be (1) a penalty of two hundred dollars (\$200.00) for first violation; (2) a penalty of five hundred dollars (\$500.00) for a second violation within one (1) year; (3) a penalty of one thousand dollars (\$1,000.00) for each additional violation within one (1) year.

(1) Unpaid penalties relating to administrative citations under this article may be subject to the collection procedures contained in Section 1-6.406 and Section 1-6.701.

(b) Criminal penalties. Any violation of this article shall constitute a misdemeanor and upon, conviction thereof, shall be punishable by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment in the county jail for not more than six (6) months, or by both fine and imprisonment.

(1) Whenever deemed appropriate, the City will petition a sentencing court to impose additional penalties or conditions, including community service and suspension or delay of issuance of a driver's license pursuant to California Vehicle Code Section 13202.6 upon conviction.

(c) Parental Responsibility. If a minor is personally unable to pay any penalty or restitution levied for violating any provision of this article, the parent or legal guardian of the minor shall be liable for payment of the penalty and restitution. *(Amended by Ord. 3514-C.S., § 1, effective 6-12-09, and Ord. 3525-C.S., § 1, effective 6-24-10)*

4-12.406 - Removal of Graffiti.

(a) Right of City to Require Removal by Responsible Party.

(1) It is unlawful for any responsible party to permit property that has been defaced with graffiti to remain so defaced for a period of three (3) calendar days after having been given notice of the violation of this section.

(2) The City shall provide written notice of the graffiti to the responsible party pursuant to Section 1-6.205.

(b) Consent to Enter; Abatement Upon Failure to Obtain Consent.

(1) Securing Responsible Party's Consent. Prior to entering upon private property or property owned by a public entity other than the City for the purpose of removal of graffiti, the City shall attempt to secure the consent of the responsible party.

(2) Failure to Obtain Responsible Party's Consent. If a responsible party fails to remove the offending graffiti within the time herein specified or if the responsible party has refused to give consent to the City for entry on terms acceptable to the City consistent with the provisions of this section, the City may commence abatement of graffiti nuisance and recovery of expense of abatement proceedings for the removal of the graffiti according to the procedures herein.

(Amended by Ord. 3514-C.S., § 1, effective 6-12-09)

4-12.407- Consent to Remove Graffiti from Private Property. Private property owners may consent in writing to allow the City to enter onto their property for graffiti removal purposes. The City may assess the costs of abatement and related administrative costs to property owners if the City removes the graffiti.

(a) Consent Forms. Consent forms may be obtained from the City of Modesto's Neighborhood Preservation Unit located at 1010 Tenth Street, Suite 3100 Modesto, California 95353.

4-12.408 - Abatement of Graffiti Nuisance and Recovery of Expense of Abatement.

(a) Abatement of graffiti nuisance and recovery of expense of abatement proceedings commenced against a responsible party shall be according to the following procedure:

(1) Request for Hearing. Responsible party may request a hearing with a hearing officer for the purpose of showing cause why the public nuisance should not be abated by the City within three (3) calendar days of receiving notice by the City pursuant to Section 4-12.406.

(i) If a hearing is requested by the responsible party, the City Manager, or his or her designee ("hearing officer"), shall give the responsible party not less than forty-eight (48) hours' notice of a hearing to be held by the hearing officer for the purpose of showing cause why the public nuisance should not be abated by the City. Following notice, the hearing shall be held by the hearing officer at the time, date, and place designated and at such hearing the

responsible party may be heard and provided with the opportunity to show cause why the nuisance should not be abated. Following the hearing, the hearing officer shall determine whether abatement of the nuisance shall be commenced.

(ii) If the hearing officer determines that abatement of the nuisance shall be commenced and the responsible party refuses to abate the graffiti on their own within three (3) calendar days of the hearing, the City may enter upon the property and cause such nuisance to be removed in the manner determined most appropriate by the City.

(2) Abatement by City. If the responsible party does not request a hearing and fails to abate the graffiti within three (3) calendar days of receiving notice, the City may enter upon the property and cause such nuisance to be removed in the manner determined most appropriate by the City.

(3) Demand for Payment for Abatement and Related Expenses. Upon removal of the public nuisance, the City may provide an accounting of the expense of abatement and a demand for payment to the responsible party.

(i) The demand for payment shall state that if payment is not made within twenty-five (25) days of the date of the demand, the payment shall be deemed delinquent and may become a lien or special assessment against the subject property or a personal obligation against the responsible party.

(4) Recordation of Lien. Delinquent payments shall constitute a lien pursuant to Government Code Sections 38773 and 38773.1 against the responsible party. Prior to recording a notice of lien, the City shall provide notice pursuant to Government Code Section 38773.1 and a confirmation of costs hearing relating to the abatement expenses or costs shall be held. The liened property shall be subject to the penalties, procedures, and sale in case of delinquency as provided in the Civil Code of California.

(5) Special Assessment. In addition to a lien and pursuant to Government Code Section 38773.5, the expense of abatement may constitute a special assessment against a parcel of land owned by the responsible party. The assessment shall be collected as provided for in Government Code Section 38773.5.

(6) Personal Obligation. In addition to any other remedy provided herein or available at law, expense of abatement pursuant to Government Code Sections 38773, 38773.1 and 38773.5 shall constitute a personal obligation against the responsible party.

(b) Recovery of Abatement Expenses from Minor. The recovery of expense of abatement of any nuisance resulting from the defacement of property by graffiti or any other inscribed material by a minor who has created, caused, or committed the nuisance shall be according to the following procedure:

(1) The City Manager, or his or her designee ("hearing officer"), shall give the minor and the parent or guardian having custody and control of the minor not less than forty-eight (48) hours' notice of a hearing to be held by the hearing officer for the purpose of showing cause why the City should not recover the expense of abatement from the minor and the parent or guardian having custody and control of the minor. Following notice, the hearing shall be held by the hearing officer at the time, date, and place designated and at such hearing the minor and the parent or guardian having custody and control of the minor may each be heard and provided with the opportunity to show cause why the City should not recover the expense of abatement from the minor and the parent or guardian having custody and control of the

minor. Following the hearing, the hearing officer shall determine whether the City should recover expense of abatement from the minor and the parent or guardian having custody and control of the minor.

(2) If the hearing officer determines that the City should recover the expense of abatement from the minor and the parent or guardian having custody and control of the minor, the City may provide an accounting of the expense of abatement along with a demand for payment to the minor and the parent or guardian having custody and control of the minor.

(3) The parent or guardian having custody and control of the minor shall be jointly and severally liable with the minor for the expense of abatement pursuant to Government Code Sections 38772, 38773.2, and 38773.6. If payment is not made within twenty-five (25) days from the date of the accounting and demand for payment, the payment shall be deemed delinquent.

(4) Recordation of Lien. In the event the expense of abatement has not been paid within twenty-five (25) days from the date of issuing an accounting and demand for payment, the amount unpaid, shall constitute a lien pursuant to Government Code Sections 38772 and 38773.2 against the property of the minor and against the property of the parent or guardian having custody and control of the minor. Prior to recording a notice of lien, the City shall provide notice pursuant to Government Code Section 38773.1 and a confirmation of costs hearing relating to the abatement costs shall be held. The lien property shall be subject to the penalties, procedures, and sale in case of delinquency as provided in the Civil Code of California.

(5) Special Assessment. In addition to a lien and pursuant to Government Code Section 38773.6, the expense of abatement shall constitute a special assessment against a parcel of land owned by the minor or by the parent or guardian having custody and control of the minor. The assessment shall be collected as provided for in Government Code Section 38773.6.

(6) Personal Obligation. In addition to any other remedy provided herein or available at law, the expense of abatement pursuant to Government Code Section 38772 shall constitute a personal obligation against the minor and a personal obligation against the parent or guardian having custody and control of the minor.

(Amended by Ord. 3514-C.S., § 1, effective 6-12-09)

4-12.409 – Summary Abatement of Gang-Related Graffiti.

The proliferation of gang-related graffiti presents an imminent danger to the public safety and welfare of the community and constitutes a public nuisance. Law enforcement officials and other experts agree that the immediate removal of gang-related graffiti is necessary to reduce the risk of violent and other criminal activities associated with gangs. The presence of gang-related graffiti that is not immediately abated encourages the creation of additional graffiti, increases the risk of violence or retaliatory actions, and leads to increased abatement costs.

(a) Notwithstanding any other provision of this chapter, the City is hereby authorized to summarily abate gang-related graffiti. The abatement may be undertaken by staff or outside contractors. For purposes of this section, “gang-related graffiti” shall be defined as graffiti that is placed on private or public property by person(s) reasonably believed by the Modesto Police department or the Neighborhood Preservation Unit to be a member of, or affiliated with, a criminal street gang, as that term is defined in subsection (f) of Penal Code Section 186.22.

(b) The costs of summary abatement of gang-related graffiti and related administrative costs and expenses, including attorneys' fees, incurred by the City may be recovered as provided in MMC 4-12.408.

4-12.410 - Accessibility to Graffiti Implements.

Every person, firm or entity who owns, conducts, operates, or manages a retail commercial establishment selling graffiti implements within the City shall store, stock, keep or display for sale or transfer graffiti implements in a secure area and not accessible to the public in the regular course of business and accessible only to employees of such retail commercial establishments.

(Amended by Ord. 3514-C.S., § 1, effective 6-12-09)

4-12.411 - Reward.

The City hereby offers a reward of one hundred dollars (\$100.00) or such other sum as Council may direct for information leading to the arrest and conviction of any person injuring, defacing, or destroying property by the application of graffiti.

(Amended by Ord. 3514-C.S., § 1, effective 6-12-09)

4-12.412 - Cumulative remedies.

The procedures set forth in this article are not exclusive and nothing contained herein shall be deemed to preclude the City Attorney from initiation of any civil or criminal action or from the pursuit of any available remedy.

(Amended by Ord. 3514-C.S., § 1, effective 6-12-09)

4-12.413- Prevention of Graffiti through land use entitlements.

(a) In approving subdivision maps, conditional use permits, variances, or other land use entitlements, the city shall consider imposing conditions reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such conditions may include, without limitation, any or all of the following:

- (1) Installation and use of anti-graffiti materials, as approved by the planning director or his/her designee, on surfaces which are likely to be graffiti-attracting surfaces;
- (2) Installation and use of landscaping to screen or provide a barrier to surfaces prone to graffiti or likely to be a graffiti-attracting surface;
- (3) Installation and use of additional lighting in areas that are likely to be graffiti-attracting surfaces and areas adjacent thereto;
- (4) Immediate removal of any graffiti at the property;
- (5) Authorizing right of access by city forces to remove graffiti; and
- (6) Supplying the city with sufficient matching paint and/or anti-graffiti material on demand for use in the abatement of graffiti by city forces or agents.

(b) The city may require applicants for any subdivision maps, conditional use permits, variances, or other land use entitlements to record against the property any conditions of approval contained in subsection (a) of this section or any other conditions of approval relating to graffiti control or prevention. If required, the applicant shall record those conditions of approval in a form satisfactory to the city with the Stanislaus County recorder's office, and such conditions of

approval shall run with the land and bind all future owners of the property and any and all successors in interest of the property.

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

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

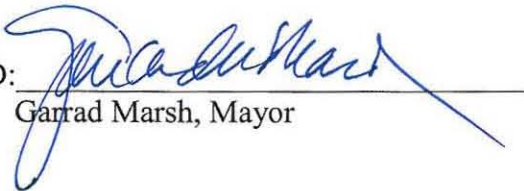
Section 4. Publication. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Kenoyer, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
Garrad Marsh, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney

2425083.4

FINAL ADOPTION CLAUSE

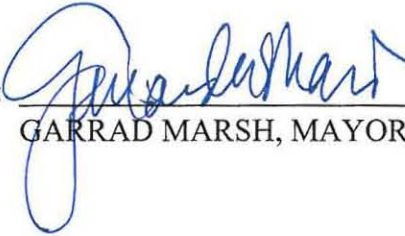
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 26th day of May, 2015, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



GARRAD MARSH, MAYOR

ATTEST:



STEPHANIE LOPEZ, City Clerk

Effective Date: June 25, 2015

ORDINANCE NO. 3625-C.S.

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 4, “DEFAACEMENT OF PROPERTY” OF TITLE 4, ENTITLED “PUBLIC WELFARE, SAFETY AND HEALTH” OF THE MODESTO MUNICIPAL CODE AMENDING REGULATIONS RELATING TO GRAFFITI OR TAGGING ABATEMENT

WHEREAS, Chapter 4-12.400 of the Modesto Municipal Code prohibits the defacement of public and private property with graffiti or tagging in the City of Modesto; and

WHEREAS, the City is taking a comprehensive approach to reducing graffiti or tagging in the City; and

WHEREAS, the amendments and revisions to Chapter 4-12.400 of the Municipal Code will allow private property owners to consent to the City’s removal of graffiti on their properties, increase administrative fines for violations of the City’s graffiti regulations, authorize the summary abatement of gang-related graffiti, and allow the City to impose conditions to prevent or mitigate tagging as a condition of approving various land use entitlements.

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

Section 1. Amendment of Code. Article 4 “Defacement of Property” of Chapter 12, “Community Preservation” of Title 4, is hereby amended to read as follows:

Chapter 12 - COMMUNITY PRESERVATION*

Article 4. - Defacement of Property

4-12.400 - Purpose.

4-12.401 - Definitions.

4-12.402 - Graffiti Declared a Public Nuisance.

4-12.403 - Graffiti Prohibited.

4-12.404 - Assisting in or Encouraging Violations.

- 4-12.405 - Punishment Provisions.
- 4-12.406 - Removal of Graffiti.
- 4-12.407 - Consent to Remove Graffiti from Private Property
- 4-12.408 - Abatement of Graffiti Nuisance and Recovery of Expense of Abatement.
- 4-12.409 – Summary Abatement of Gang-Related Graffiti
- 4-12.410 - Accessibility to Graffiti Implements.
- 4-12.411 - Reward.
- 4-12.412 - Cumulative remedies.
- 4-12.413 - Prevention of Graffiti through land use entitlements.

Article 4. - Defacement of Property

4-12.400 - Purpose.

The purpose of this legislation is to provide programs for removal of graffiti from public and private property within the City and to establish regulations designed to prevent and control the spread of graffiti in Modesto.

The City Council finds and determines that the increase of graffiti on both public and private buildings, structures, and in other places, creates a condition of blight within the City which can result in the deterioration of property values, business opportunities, and enjoyment of life for persons using adjacent and surrounding properties. The Council further finds and determines that graffiti is inconsistent with the City's property maintenance goals, crime prevention programs, and aesthetic standards, and, unless graffiti is quickly removed from public and private properties, other properties soon become the targets of graffiti.

(Amended by Ord. 3514-C.S., § 1, effective 6-12-09)

4-12.401 - Definitions.

As used in this article:

- (a) "Graffiti" or "tagging" means any inscription, word, figure, or design that is marked, etched, scratched, drawn, sprayed, painted, pasted or otherwise affixed to, or on, any surface to the extent that same was unauthorized by the owner thereof, or, despite authorization, is otherwise deemed by the City Council to be a public nuisance.
- (b) "Property" means real or personal property, whether publicly or privately owned, within the City.
- (c) "Pressurized container" means any can, bottle, spray device or other mechanism designed to propel liquid which contains ink, paint, dye or other similar substance which is expelled under pressure, either through the use of aerosol devices, pumps or similar propulsion devices.
- (d) "Ink marker" means any broad-tipped marker pen with a tip of one-quarter (¼) inch or greater in width.
- (e) "Paint stick" means any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface and upon application leaving a mark upon property of at least one-quarter (¼) inch or greater in width.
- (f) "Graffiti implement" means a pressurized container, ink marker, or a paint stick.

(g) "Responsible party" means any occupant, lessor, lessee, manager, licensee, or other person having control over a structure or parcel of land. A responsible party may be a property owner.

(i) "Property owner" means the record owner of real property as listed in the most current equalized assessment role as maintained by the Stanislaus County Assessor.

(h) "Abatement" means any action the City may take to remove or alleviate a nuisance including, but not limited to, demolition, removal, repair, cleaning, boarding and securing or replacement of property.

(Amended by Ord. 3514-C.S., § 1, effective 6-12-09)

4-12.402 - Graffiti Declared a Public Nuisance.

The City Council hereby declares that graffiti is a public nuisance and is subject to punishment and abatement as prescribed in this Code.

(Amended by Ord. 3514-C.S., § 1, effective 6-12-09)

4-12.403 - Graffiti Prohibited.

(a) It is unlawful for any person to apply graffiti upon any property within the City.

(b) It is unlawful for any person owning or otherwise being in control of any property within the City to maintain, permit or allow any graffiti to remain upon such property when the graffiti is visible from the street or other public or private property.

(Amended by Ord. 3514-C.S., § 1, effective 6-12-09)

4-12.404 - Assisting in or Encouraging Violations.

It shall be unlawful for any person to assist, aid, abet or encourage another to violate the provisions of this article by words or overt act.

(Amended by Ord. 3514-C.S., § 1, effective 6-12-09)

4-12.405 - Punishment Provisions.

Violations of this article may, at the discretion of the City Attorney, be prosecuted either criminally or administratively.

(a) Administrative Citation Penalties. Each penalty imposed for an administrative violation of this article shall be (1) a penalty of two hundred dollars (\$200.00) for first violation; (2) a penalty of five hundred dollars (\$500.00) for a second violation within one (1) year; (3) a penalty of one thousand dollars (\$1,000.00) for each additional violation within one (1) year.

(1) Unpaid penalties relating to administrative citations under this article may be subject to the collection procedures contained in Section 1-6.406 and Section 1-6.701.

(b) Criminal penalties. Any violation of this article shall constitute a misdemeanor and upon, conviction thereof, shall be punishable by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment in the county jail for not more than six (6) months, or by both fine and imprisonment.

(1) Whenever deemed appropriate, the City will petition a sentencing court to impose additional penalties or conditions, including community service and suspension or delay of issuance of a driver's license pursuant to California Vehicle Code Section 13202.6 upon conviction.

(c) Parental Responsibility. If a minor is personally unable to pay any penalty or restitution levied for violating any provision of this article, the parent or legal guardian of the minor shall be liable for payment of the penalty and restitution. *(Amended by Ord. 3514-C.S., § 1, effective 6-12-09, and Ord. 3525-C.S., § 1, effective 6-24-10)*

4-12.406 - Removal of Graffiti.

(a) Right of City to Require Removal by Responsible Party.

(1) It is unlawful for any responsible party to permit property that has been defaced with graffiti to remain so defaced for a period of three (3) calendar days after having been given notice of the violation of this section.

(2) The City shall provide written notice of the graffiti to the responsible party pursuant to Section 1-6.205.

(b) Consent to Enter; Abatement Upon Failure to Obtain Consent.

(1) Securing Responsible Party's Consent. Prior to entering upon private property or property owned by a public entity other than the City for the purpose of removal of graffiti, the City shall attempt to secure the consent of the responsible party.

(2) Failure to Obtain Responsible Party's Consent. If a responsible party fails to remove the offending graffiti within the time herein specified or if the responsible party has refused to give consent to the City for entry on terms acceptable to the City consistent with the provisions of this section, the City may commence abatement of graffiti nuisance and recovery of expense of abatement proceedings for the removal of the graffiti according to the procedures herein.

(Amended by Ord. 3514-C.S., § 1, effective 6-12-09)

4-12.407- Consent to Remove Graffiti from Private Property. Private property owners may consent in writing to allow the City to enter onto their property for graffiti removal purposes. The City may assess the costs of abatement and related administrative costs to property owners if the City removes the graffiti.

(a) Consent Forms. Consent forms may be obtained from the City of Modesto's Neighborhood Preservation Unit located at 1010 Tenth Street, Suite 3100 Modesto, California 95353.

4-12.408 - Abatement of Graffiti Nuisance and Recovery of Expense of Abatement.

(a) Abatement of graffiti nuisance and recovery of expense of abatement proceedings commenced against a responsible party shall be according to the following procedure:

(1) Request for Hearing. Responsible party may request a hearing with a hearing officer for the purpose of showing cause why the public nuisance should not be abated by the City within three (3) calendar days of receiving notice by the City pursuant to Section 4-12.406.

(i) If a hearing is requested by the responsible party, the City Manager, or his or her designee ("hearing officer"), shall give the responsible party not less than forty-eight (48) hours' notice of a hearing to be held by the hearing officer for the purpose of showing cause why the public nuisance should not be abated by the City. Following notice, the hearing shall be held by the hearing officer at the time, date, and place designated and at such hearing the

responsible party may be heard and provided with the opportunity to show cause why the nuisance should not be abated. Following the hearing, the hearing officer shall determine whether abatement of the nuisance shall be commenced.

(ii) If the hearing officer determines that abatement of the nuisance shall be commenced and the responsible party refuses to abate the graffiti on their own within three (3) calendar days of the hearing, the City may enter upon the property and cause such nuisance to be removed in the manner determined most appropriate by the City.

(2) Abatement by City. If the responsible party does not request a hearing and fails to abate the graffiti within three (3) calendar days of receiving notice, the City may enter upon the property and cause such nuisance to be removed in the manner determined most appropriate by the City.

(3) Demand for Payment for Abatement and Related Expenses. Upon removal of the public nuisance, the City may provide an accounting of the expense of abatement and a demand for payment to the responsible party.

(i) The demand for payment shall state that if payment is not made within twenty-five (25) days of the date of the demand, the payment shall be deemed delinquent and may become a lien or special assessment against the subject property or a personal obligation against the responsible party.

(4) Recordation of Lien. Delinquent payments shall constitute a lien pursuant to Government Code Sections 38773 and 38773.1 against the responsible party. Prior to recording a notice of lien, the City shall provide notice pursuant to Government Code Section 38773.1 and a confirmation of costs hearing relating to the abatement expenses or costs shall be held. The liened property shall be subject to the penalties, procedures, and sale in case of delinquency as provided in the Civil Code of California.

(5) Special Assessment. In addition to a lien and pursuant to Government Code Section 38773.5, the expense of abatement may constitute a special assessment against a parcel of land owned by the responsible party. The assessment shall be collected as provided for in Government Code Section 38773.5.

(6) Personal Obligation. In addition to any other remedy provided herein or available at law, expense of abatement pursuant to Government Code Sections 38773, 38773.1 and 38773.5 shall constitute a personal obligation against the responsible party.

(b) Recovery of Abatement Expenses from Minor. The recovery of expense of abatement of any nuisance resulting from the defacement of property by graffiti or any other inscribed material by a minor who has created, caused, or committed the nuisance shall be according to the following procedure:

(1) The City Manager, or his or her designee ("hearing officer"), shall give the minor and the parent or guardian having custody and control of the minor not less than forty-eight (48) hours' notice of a hearing to be held by the hearing officer for the purpose of showing cause why the City should not recover the expense of abatement from the minor and the parent or guardian having custody and control of the minor. Following notice, the hearing shall be held by the hearing officer at the time, date, and place designated and at such hearing the minor and the parent or guardian having custody and control of the minor may each be heard and provided with the opportunity to show cause why the City should not recover the expense of abatement from the minor and the parent or guardian having custody and control of the

minor. Following the hearing, the hearing officer shall determine whether the City should recover expense of abatement from the minor and the parent or guardian having custody and control of the minor.

(2) If the hearing officer determines that the City should recover the expense of abatement from the minor and the parent or guardian having custody and control of the minor, the City may provide an accounting of the expense of abatement along with a demand for payment to the minor and the parent or guardian having custody and control of the minor.

(3) The parent or guardian having custody and control of the minor shall be jointly and severally liable with the minor for the expense of abatement pursuant to Government Code Sections 38772, 38773.2, and 38773.6. If payment is not made within twenty-five (25) days from the date of the accounting and demand for payment, the payment shall be deemed delinquent.

(4) Recordation of Lien. In the event the expense of abatement has not been paid within twenty-five (25) days from the date of issuing an accounting and demand for payment, the amount unpaid, shall constitute a lien pursuant to Government Code Sections 38772 and 38773.2 against the property of the minor and against the property of the parent or guardian having custody and control of the minor. Prior to recording a notice of lien, the City shall provide notice pursuant to Government Code Section 38773.1 and a confirmation of costs hearing relating to the abatement costs shall be held. The lien property shall be subject to the penalties, procedures, and sale in case of delinquency as provided in the Civil Code of California.

(5) Special Assessment. In addition to a lien and pursuant to Government Code Section 38773.6, the expense of abatement shall constitute a special assessment against a parcel of land owned by the minor or by the parent or guardian having custody and control of the minor. The assessment shall be collected as provided for in Government Code Section 38773.6.

(6) Personal Obligation. In addition to any other remedy provided herein or available at law, the expense of abatement pursuant to Government Code Section 38772 shall constitute a personal obligation against the minor and a personal obligation against the parent or guardian having custody and control of the minor.

(Amended by Ord. 3514-C.S., § 1, effective 6-12-09)

4-12.409 – Summary Abatement of Gang-Related Graffiti.

The proliferation of gang-related graffiti presents an imminent danger to the public safety and welfare of the community and constitutes a public nuisance. Law enforcement officials and other experts agree that the immediate removal of gang-related graffiti is necessary to reduce the risk of violent and other criminal activities associated with gangs. The presence of gang-related graffiti that is not immediately abated encourages the creation of additional graffiti, increases the risk of violence or retaliatory actions, and leads to increased abatement costs.

(a) Notwithstanding any other provision of this chapter, the City is hereby authorized to summarily abate gang-related graffiti. The abatement may be undertaken by staff or outside contractors. For purposes of this section, “gang-related graffiti” shall be defined as graffiti that is placed on private or public property by person(s) reasonably believed by the Modesto Police department or the Neighborhood Preservation Unit to be a member of, or affiliated with, a criminal street gang, as that term is defined in subsection (f) of Penal Code Section 186.22.

(b) The costs of summary abatement of gang-related graffiti and related administrative costs and expenses, including attorneys' fees, incurred by the City may be recovered as provided in MMC 4-12.408.

4-12.410 - Accessibility to Graffiti Implements.

Every person, firm or entity who owns, conducts, operates, or manages a retail commercial establishment selling graffiti implements within the City shall store, stock, keep or display for sale or transfer graffiti implements in a secure area and not accessible to the public in the regular course of business and accessible only to employees of such retail commercial establishments.

(Amended by Ord. 3514-C.S., § 1, effective 6-12-09)

4-12.411 - Reward.

The City hereby offers a reward of one hundred dollars (\$100.00) or such other sum as Council may direct for information leading to the arrest and conviction of any person injuring, defacing, or destroying property by the application of graffiti.

(Amended by Ord. 3514-C.S., § 1, effective 6-12-09)

4-12.412 - Cumulative remedies.

The procedures set forth in this article are not exclusive and nothing contained herein shall be deemed to preclude the City Attorney from initiation of any civil or criminal action or from the pursuit of any available remedy.

(Amended by Ord. 3514-C.S., § 1, effective 6-12-09)

4-12.413- Prevention of Graffiti through land use entitlements.

(a) In approving subdivision maps, conditional use permits, variances, or other land use entitlements, the city shall consider imposing conditions reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such conditions may include, without limitation, any or all of the following:

- (1) Installation and use of anti-graffiti materials, as approved by the planning director or his/her designee, on surfaces which are likely to be graffiti-attracting surfaces;
- (2) Installation and use of landscaping to screen or provide a barrier to surfaces prone to graffiti or likely to be a graffiti-attracting surface;
- (3) Installation and use of additional lighting in areas that are likely to be graffiti-attracting surfaces and areas adjacent thereto;
- (4) Immediate removal of any graffiti at the property;
- (5) Authorizing right of access by city forces to remove graffiti; and
- (6) Supplying the city with sufficient matching paint and/or anti-graffiti material on demand for use in the abatement of graffiti by city forces or agents.

(b) The city may require applicants for any subdivision maps, conditional use permits, variances, or other land use entitlements to record against the property any conditions of approval contained in subsection (a) of this section or any other conditions of approval relating to graffiti control or prevention. If required, the applicant shall record those conditions of approval in a form satisfactory to the city with the Stanislaus County recorder's office, and such conditions of

approval shall run with the land and bind all future owners of the property and any and all successors in interest of the property.

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

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

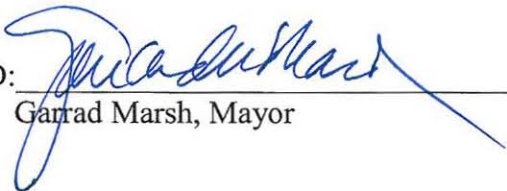
Section 4. Publication. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Kenoyer, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
Garrad Marsh, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney

2425083.4

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 May, 2015, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



GARRAD MARSH, MAYOR

ATTEST:



STEPHANIE LOPEZ, City Clerk

Effective Date: June 25, 2015

ORDINANCE NO. 3626-C.S.

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MODESTO MAKING FINDINGS AND ESTABLISHING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT OF NEW AND THE RELOCATION OR EXPANSION OF EXISTING MASSAGE AND BODYWORK ESTABLISHMENTS WITHIN THE CITY OF MODESTO TO BECOME EFFECTIVE IMMEDIATELY

WHEREAS, the City Council has broad discretion pursuant to Article II, Sections 200 and 201 of the City Charter; California Constitution Article XI, Section 5; and the general law of the state, including, but not limited to, the California Planning and Zoning Law (Gov. Code Section 65000 et seq.), to legislate for public purposes and for the general welfare, including, but not limited to, matters of public health and safety; and

WHEREAS, in 2008 the California Legislature adopted Senate Bill 731, repealing and replacing Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business Professions Code, relating to massage therapy (“Massage Therapy Act of 2008” or “Act”); and

WHEREAS, the Massage Therapy Act of 2008 placed certain limitations on the ability of cities to regulate massage establishments concerning business licenses, zoning, and health, safety and welfare regulations; and

WHEREAS, on July 9, 2010, the City enacted Ordinance No. 3529 amending Chapter 2 of Title 5 of the Modesto Municipal Code relating to and regulating massage establishments and other bodywork establishments in accordance with the Massage Therapy Act; and

WHEREAS, since 2010, the City has actively regulated massage and bodywork practitioners and massage and bodywork establishments in accordance with Chapter 2 of Title 5 of the Modesto Municipal Code and the Massage Therapy Act; and

WHEREAS, the State Legislature recently adopted Assembly Bill 1147, which became

effective on January 1, 2015, amending the Massage Therapy Act, repealing and replacing Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business and Professions Code and amending Section 51034 of the Government Code; and

WHEREAS, under the Massage Therapy Act of 2008, the City has had no ability to implement zoning regulations that address the location of massage bodywork establishments certified by the California Massage Therapy Council (“CMTC”) (CMTC is California’s massage therapy organization or “MTO,” and may be referred to as “CMTC” or “MTO” in this Ordinance); and

WHEREAS, Assembly Bill 1147 returns most land use authority over massage establishments to cities and counties; and

WHEREAS, Assembly Bill 1147 allows cities and counties to adopt local ordinances that govern zoning, business licensing, or reasonable health and safety requirements for establishments or businesses of a licensed or certified healing arts professional, including a certified massage therapist; and

WHEREAS, Article XI, Section 7 of the California Constitution provides that a city may make and enforce within its limits all local police, sanitary and other ordinances and regulations not in conflict with general laws; and

WHEREAS, California Government Code section 65858, subdivision (a) provides, in part, that the legislative body of a charter city, to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time. That urgency measure shall require a four-fifths vote of the

legislative body for adoption. The interim ordinance shall be of no further force and effect forty-five (45) days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may extend the interim ordinance a maximum of two (2) times for a total duration of two (2) years; and

WHEREAS, California Government Code Section 65858(c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, and welfare, and that the approval of additional entitlements would result in that threat to the public health, safety, and welfare; and

WHEREAS, the City of Modesto is facing a current and immediate threat to the public health, safety, and welfare of its citizens as the City has received numerous complaints from the public and local law enforcement officials regarding the increasing number of massage and bodywork establishments within the City and the negative impact that illegitimate massage and bodywork establishments are having on the City. The City received eight (8) applications for massage and bodywork-related businesses from January 1, 2015 through March 31, 2015, a fifty percent (50%) increase compared to the same time period in 2014; and

WHEREAS, the City values local business and recognizes that many massage and bodywork establishments throughout the City are operated lawfully and professionally, and staffed by massage therapists who uphold professional and community standards, and provide important health benefits to City residents; and

WHEREAS, due to the significant changes to the law as a result of Assembly Bill 1147 and the restored powers of the City to adopt land use regulations applicable to massage and bodywork establishments, the City Council desires to address community concerns regarding the establishment and operation of massage and bodywork establishments within the City and

intends to: (1) study the potential impacts massage and bodywork establishments may have on the public health, safety and welfare; (2) determine what local regulations, including, but not limited to, zoning regulations, may be appropriate to limit the negative impacts of massage and bodywork establishments; and (3) determine appropriate controls for the protection of public health, safety and welfare; and

WHEREAS, the continued creation and operation of new massage and bodywork establishments within the City prior to completion of such a study and possible adoption of new or amended regulations creates a current and immediate threat to the public safety, health and welfare in that such operations threaten to cause adverse impacts to surrounding residents and businesses, including impacts on or related to over-concentration of massage and bodywork establishments in one area, violence against women, human trafficking, noise, outdoor lighting, sanitation, vehicle and pedestrian traffic, and property values; and

WHEREAS, for the reasons set forth above, the City has determined that a forty-five (45) day moratorium on the establishment of new, and the relocation or expansion of existing massage and bodywork establishments within the City is necessary. The moratorium should remain in effect pending completion of the City's study of the potential impacts of massage and bodywork establishments and its potential adoption of amendments to the Zoning Code and other appropriate regulations for the protection of the public health, safety and welfare; and

WHEREAS, pursuant to Section 15001 of the California Environmental Quality Act ("CEQA") Guidelines, this Ordinance is exempt from CEQA based on the following:

(1) This Ordinance is not a project within the meaning of Section 15378 of the State CEQA Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately.

(2) This Ordinance is categorically exempt from CEQA under Section 15308 of the CEQA Guidelines as a regulatory action taken by the City pursuant to its police power and in accordance with Government Code Section 65858 to assure maintenance and protection of the environment pending the evaluation and adoption of contemplated local legislation, regulation and policies.

(3) This Ordinance is not subject to CEQA under the general rule in CEQA Guidelines Section 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. For the reasons set forth in subparagraphs (1) and (2), above, it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

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

SECTION 1. FINDINGS The above recitals are true and correct, and are adopted as findings of the City Council of the City of Modesto.

SECTION 2. PURPOSE. The purpose of this Ordinance is to protect the public safety, health and welfare from the immediate threat posed by the establishment of new and the relocation of existing massage and bodywork establishments by temporarily prohibiting the establishment of new and the relocation or expansion of existing massage and bodywork establishments with the City of Modesto until such time as a detailed study of the possible adverse impacts such establishments might have on commercial uses and the general health, safety and welfare may be made, and appropriate regulations enacted. This Ordinance is an interim Ordinance pursuant to Government Code section 65858 and adopted based on the recitals above, staff report and public testimony received on the City Council of May 12, 2015.

SECTION 3. MORATORIUM IMPOSED.

A. Scope. In accordance with the authority granted the City of Modesto under Article XI, Section 7 of the California Constitution and California Government Code Section 65858, from and after the effective date of this Ordinance, no license, permit or other entitlement for use, including, but not limited to, the issuance of a business license, building permit, conditional use permit, or other land use approval, shall be approved or issued by the City for the establishment, relocation or expansion of a massage and bodywork establishment. Additionally, the establishment, relocation or expansion of massage and bodywork establishments is hereby expressly prohibited in all areas and zoning districts of the City.

B. Exceptions. This Ordinance shall not prohibit the renewal of a business license for an existing massage and bodywork establishment, provided that the renewal seeks to maintain the business without expansion and in its current location, and the massage and bodywork establishment is operating in a manner, and housed within a building, which complies with all City, State, Federal or otherwise applicable, codes, rules, regulations or laws or a recognized school of massage which: (1) teaches the theory, ethics, practice, profession and work of massage; (2) requires a residence course of study to be given before the student is furnished with a diploma or certificate of learning or completion; and (3) has been approved pursuant to Education Code section 94915, or, if said school is not located in California, has complied with the standards commensurate with those specified in Education Code section 94915.

C. This Ordinance shall not apply to the following classes of individuals while engaged in the performance of their duties:

1. Physicians, surgeons, nurses, chiropractors, osteopaths, acupuncturists, podiatrists, physical therapists, or any other persons licensed to practice any hearing art under the

provisions of Division 2 (commencing with Section 500) of the Business and Professions Code. Persons operating or employed at hospitals, nursing homes, sanitariums, or any other health facility duly licensed by the state.

2. Trainers of any amateur, semi-professional or professional athlete or athletic team, so long as such persons' practice of massage is limited to such athletes and athletic teams.

3. Barbers, cosmetologists, or estheticians who are duly licensed under the laws of the State of California, while engaging in practices within the scope of their licenses. Persons operating or employed at athletic clubs or fitness facilities, where such facility is designed and equipped for indoor sports, exercise, or physical education, and where massage services are provided to members of such facilities.

4. Enrolled students of a school of massage when they are performing massage within the City as part of a formal supervised internship or training operated by the school, without compensation other than school credit, on the premises of a massage establishment duly authorized to operate in the City.

SECTION 4. VIOLATION. Except as otherwise permitted under this Ordinance, the establishment, relocation or expansion of a massage and bodywork establishment within the limits of the City of Modesto is declared to be a public nuisance. Violations of this Ordinance may be enforced by any applicable laws or ordinances, including, but not limited to, injunctions or administrative or criminal penalties under Modesto Municipal Code.

SECTION 5. SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected

thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council of the City of Modesto hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 6. EFFECTIVE DATE AND DURATION. This Ordinance is an interim Ordinance pursuant to Government Code section 65858. It shall become effective immediately upon passage and adoption if passed and adopted by at least six-sevenths vote of the City Council and shall be in effect for forty-five (45) days therefrom unless extended by the City Council in accordance with Government Code section 65858.

INTRODUCTION AND FINAL ADOPTION CLAUSE

The foregoing Ordinance was introduced and adopted at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2015, by Councilmember Cogdill, who moved its introduction and adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney

Effective Date: May 12, 2015

2426066.3

ORDINANCE NO. 3627-C.S

AN ORDINANCE ADOPTING THE 2015-2016 ANNUAL AND MULTI-YEAR OPERATING BUDGETS AND THE 2015-2016 CAPITAL IMPROVEMENT PROGRAM FOR THE CITY OF MODESTO AND THE RELATED INTER-FUND TRANSFERS

WHEREAS, pursuant to the Charter of the City of Modesto, the Mayor presented the Proposed Operating Budget and Capital Improvement Program for the 2015-2016 Fiscal Year to the Finance Committee at workshops held on May 6, May 7, and May 18, 2015, and

WHEREAS, the Finance Committee reviewed the Proposed Annual and Multi-year Operating Budgets and the Capital Improvement Program in a series of televised public workshops on May 6, May 7, and May 18, 2015 and

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

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

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

WHEREAS, in accordance with the City Charter, a duly noticed public hearing was scheduled on June 2, 2015 during which the City Council considered the recommendations of the Finance Committee relating to the Proposed Operating and Multi-year budgets and the Capital Improvement Program, and

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

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

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

SECTION 1. ADOPTION OF BUDGET. That the Proposed Operating and Multi-year Budgets, a copy of which is on file in the City Clerk's Office and as shown in Exhibit 4, 5, 6, 7, 8, and 10 (Exhibit 4-Mayor's Recommended Enhancements, Exhibit 5-Proposed Position Allocation Addendum, Exhibit 6-Proposed Operating and Multi-Year Budget Addendum, Exhibit 7-Fund Summary, Exhibit 8-Transfer In/Out List, Exhibit 10-Multi-Year Operating Budget List) are hereby adopted as the Fiscal Year 2015-2016 Operating and Multi-year Budgets for the City of Modesto.

SECTION 2. ADOPTION OF BUDGET CONTROLS/FINANCIAL POLICIES. That the Financial Policies for budgetary control and authority as shown in Exhibit 9 and incorporated herein by reference is hereby adopted for the Fiscal Year 2015-2016.

SECTION 3. ADOPTION OF CAPITAL IMPROVEMENT PROGRAM. That the Capital Improvement Program, a copy of which is on file in the City Clerk's office and shown in the proposed CIP budget document and in Exhibit 1 and 2 (Exhibit 1-CIP List, Exhibit 2-CIP Addendum List) and other amounts previously approved for spending on Capital Improvement Projects are hereby adopted as the 2015-2016 Capital Improvement Program for the City of Modesto.

SECTION 4. MULTI-YEAR OPERATING PROGRAMS. That unexpended funds previously approved and appropriated in Multi-Year Programs are hereby re-appropriated for the programs for which they were originally authorized (Exhibit 10-Multi-Year Operating Budget List).

SECTION 6. COUNCIL POLICIES. That the Policy Issues outlined in the 2015-2016 Proposed Operating and Multi-year Budgets have been reviewed and are adopted hereby (Exhibit 3 - Proposed Policies).

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

SECTION 8. PUBLICATION. Copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2015, by Councilmember Kenoyer, who moved its adoption, and passage to print, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki,
Mayor Marsh

NOES: Councilmembers: None

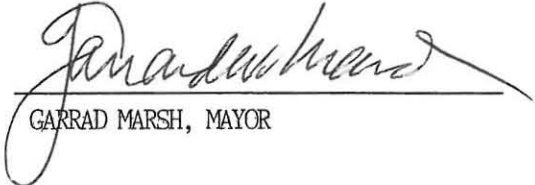
ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(seal)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney

APPROVED: 
GARRAD MARSH, MAYOR

FINAL ADOPTION CLAUSE

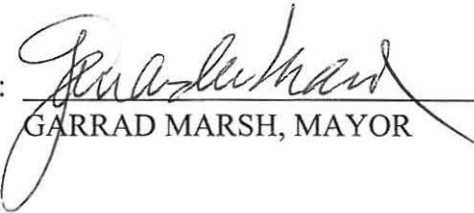
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 9th day of June, 2015, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


GARRAD MARSH, MAYOR

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: June 9, 2015

ORDINANCE NO. 3628-C.S.

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

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

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

8-3.102. CONTRACTING AUTHORITY.

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

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

expenditure of City funds in the amount of three hundred thousand dollars (\$300,000.00) or less.

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

contracts for such projects involving an expenditure of City funds in the amount of four million two hundred thousand dollars (\$4,200,000.00) or less.

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

- (o) Contracts for work done by City forces to repair, replace and improve water lines and associated appurtenances for the 9th Street Water Main Replacement Project in the amount of five hundred eighty-five thousand dollars (\$585,000) or less.
- (p) Contracts for Public Works projects consisting of bus stop improvements at various locations on the Modesto Area Express route system. The City Manager may approve all contracts for such projects in the amount of six hundred seventy-five thousand dollars (\$675,000) or less annually.
- (q) Contracts for work done by City forces consisting of roadway and intersection improvements on Oakdale Road between Claratina Avenue and Mable Avenue in the amount of one hundred forty thousand dollars (\$140,000.00) or less.
- (r) Contracts for work done by City forces to repair, replace and improve water lines and associated appurtenances for the Del Rio Water Main Replacement Project in the amount of three hundred ninety thousand dollars (\$390,000.00) or less.
- (s) Contracts for public works projects consisting of energy efficient improvements to City facilities that are funded through the American Recovery and Reinvestment Act (ARRA) of 2009, Energy Efficiency and Conservation Block Grant (EECBG) Program. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of six hundred thousand dollars (\$600,000.00) or less.
- (t) Contracts for public works to purchase and construct a Police Officer Memorial and associated appurtenances at the Modesto Police Headquarters in the amount of one hundred twenty-five thousand dollars (\$125,000.00) or less.
- (u) Contracts for public works projects consisting of the design, purchase and installation of water mains and associated appurtenances used to upgrade the water system in the Airport Neighborhood service area in the amount of one million four hundred five thousand one hundred sixty-six dollars (\$1,405,166.00) or less.
- (v) Contracts for public works projects consisting of the design, purchase and installation of street lights and associated appurtenances used to upgrade

the street lighting throughout the City in the amount of four million dollars (\$4,000,000) or less.

- (w) Contracts for work done by City forces in the design, purchase and installation of Tenth Street Improvements between I and J Streets consisting of irrigation, storm drain, stamped concrete, street trees, planters, and electrical improvements and associated appurtenances. Improvements shall be consistent in concept with Resolution 2014-172 and the Staff Report presented to the City Council at its regular Council Meeting of June 9, 2015.

Any contract for a public works project which may be approved as set forth in subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), and (w) above of this section and authorized by the City Manager, District Administrator, or other authorized person, is not subject to the public bidding requirements of articles 2 and 4 of this chapter or of Section 1307 of the Modesto City Charter. This section is adopted pursuant to Sections 801(1c) and 1307 of the Modesto City Charter. The City Manager may delegate his or her authority in a manner consistent with the procedures established by this chapter. As set forth in Section 2-2.03 of this Code, all contract documents that require City Council approval shall be approved as to form by the City Attorney or the City Attorney's authorized representative before presentation to the City Council.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of June, 2015, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney

Ord. No. 3628-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Zoslocki,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

APPROVED:


GARRAD MARSH, MAYOR

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: July 23, 2015

ORDINANCE NO. 3629-C.S.

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MODESTO
MAKING FINDINGS AND EXTENDING THE TEMPORARY MORATORIUM ON
THE ESTABLISHMENT OF NEW AND THE RELOCATION OR PHYSICAL
EXPANSION OF EXISTING MASSAGE AND BODYWORK ESTABLISHMENTS
WITHIN THE CITY OF MODESTO TO BECOME EFFECTIVE IMMEDIATELY**

WHEREAS, Government Code section 65858, subdivision (a) provides that the legislative body of a city may, to protect the public safety, health and welfare, adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal the City Council is considering or studying or intends to study within a reasonable time; and

WHEREAS, that adoption of such urgency measures requires a four-fifths vote of the legislative body; that such measures shall be of no effect forty-five (45) days from the date of adoption, and may be extended a maximum of two (2) times for a total duration of two (2) years; and

WHEREAS, on May 12, 2015, the City Council of the City of Modesto adopted Urgency Ordinance No. 3626 C.S., imposing a forty-five (45) day moratorium on the establishment of new and the relocation or physical expansion of existing massage establishments; and

WHEREAS, Urgency Ordinance No. 3626 C.S. will, unless extended, expire by its own terms on June 25, 2015; and

WHEREAS, Government Code section 65858, subdivision (a) authorizes the extension of an urgency ordinance, for ten (10) months and fifteen (15) days, after a noticed public hearing, to prohibit uses of land which may conflict with a contemplated general plan, specific plan or

zoning proposal which the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable period of time; and

WHEREAS, the City of Modesto has an overriding interest in planning and regulating the use of property within the City. Implicit in any plan or regulation is the City's interest in maintaining the quality of urban life and the character of the City's neighborhoods. Without stable, well-planned neighborhoods, sections of the City can quickly deteriorate, with dramatic consequences on social, environmental, and economic health and welfare; and

WHEREAS, the City has complied with California Government Code section 65858 (d) which requires the City's legislative body to issue a written report describing the measures taken to alleviate the conditions which led to the adoption of Ordinance 3626 C.S. ten (10) days prior to the expiration of the interim ordinance; and

WHEREAS, the City Council has broad discretion pursuant to Article II, Sections 200 and 201 of the City Charter; California Constitution Article XI, Section 5; and the general law of the state, including, but not limited to, the California Planning and Zoning Law (Gov. Code Section 65000 et seq.), to legislate for public purposes and for the general welfare, including, but not limited to, matters of public health and safety; and

WHEREAS, in 2008 the California Legislature adopted Senate Bill 731, repealing and replacing Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business Professions Code, relating to massage therapy ("Massage Therapy Act of 2008" or "Act"); and

WHEREAS, the Massage Therapy Act of 2008 placed certain limitations on the ability of cities to regulate massage establishments concerning business licenses, zoning, and health, safety and welfare regulations; and

WHEREAS, on July 9, 2010, the City enacted Ordinance No. 3529 amending Chapter 2 of Title 5 of the Modesto Municipal Code relating to and regulating massage establishments and other bodywork establishments in accordance with the Massage Therapy Act; and

WHEREAS, since 2010, the City has actively regulated massage and bodywork practitioners and massage and bodywork establishments in accordance with Chapter 2 of Title 5 of the Modesto Municipal Code and the Massage Therapy Act; and

WHEREAS, the State Legislature recently adopted Assembly Bill 1147, which became effective on January 1, 2015, amending the Massage Therapy Act, repealing and replacing Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business and Professions Code and amending Section 51034 of the Government Code; and

WHEREAS, under the Massage Therapy Act of 2008, the City has had no ability to implement zoning regulations that address the location of massage bodywork establishments certified by the California Massage Therapy Council (“CMTC”) (CMTC is California’s massage therapy organization or “MTO,” and may be referred to as “CMTC” or “MTO” in this Ordinance); and

WHEREAS, Assembly Bill 1147 returns most land use authority over massage establishments to cities and counties; and

WHEREAS, Assembly Bill 1147 allows cities and counties to adopt local ordinances that govern zoning, business licensing, or reasonable health and safety requirements for establishments or businesses of a licensed or certified healing arts professional, including a certified massage therapist; and

WHEREAS, Article XI, Section 7 of the California Constitution provides that a city may make and enforce within its limits all local police, sanitary and other ordinances and regulations not in conflict with general laws; and

WHEREAS, California Government Code Section 65858(c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, and welfare, and that the approval of additional entitlements would result in that threat to the public health, safety, and welfare; and

WHEREAS, the City of Modesto continues to face a current and immediate threat to the public health, safety, and welfare of its citizens as the City has received numerous complaints from the public and local law enforcement officials regarding the increasing number of massage and bodywork establishments within the City and the negative impact that illegitimate massage and bodywork establishments are having on the City. The City received eight (8) applications for massage and bodywork-related businesses from January 1, 2015 through March 31, 2015, a one-hundred percent (100%) increase compared to the same time period in 2014; and

WHEREAS, the City values local business and recognizes that many massage and bodywork establishments throughout the City are operated lawfully and professionally, and staffed by massage therapists who uphold professional and community standards, and provide important health benefits to City residents; and

WHEREAS, due to the significant changes to the law as a result of Assembly Bill 1147 and the restored powers of the City to adopt land use regulations applicable to massage and bodywork establishments, the City Council desires to address community concerns regarding the establishment and operation of massage and bodywork establishments within the City and intends to: (1) study the potential impacts massage and bodywork establishments may have on

the public health, safety and welfare; (2) determine what local regulations, including, but not limited to, zoning regulations, may be appropriate to limit the negative impacts of massage and bodywork establishments; and (3) determine appropriate controls for the protection of public health, safety and welfare; and

WHEREAS, the continued creation and operation of new massage and bodywork establishments within the City prior to completion of such a study and possible adoption of new or amended regulations creates a current and immediate threat to the public safety, health and welfare in that such operations threaten to cause adverse impacts to surrounding residents and businesses, including impacts on or related to over-concentration of massage and bodywork establishments in one area, violence against women, human trafficking, noise, outdoor lighting, sanitation, vehicle and pedestrian traffic, and property values; and

WHEREAS, the initial forty-five (45) day moratorium period established by Ordinance 3626 C.S. was insufficient to complete the aforementioned study and adoption of new or amended regulations; and

WHEREAS, for the reasons set forth above, the City has determined that a ten (10) month and fifteen (15) day extension of the moratorium on the establishment of new, and the relocation or physical expansion of existing massage and bodywork establishments within the City is necessary. The moratorium should continue in effect pending completion of the City's study of the potential impacts of massage and bodywork establishments and its potential adoption of amendments to the Zoning Code and other appropriate regulations for the protection of the public health, safety and welfare; and

WHEREAS, pursuant to Section 15001 of the California Environmental Quality Act ("CEQA") Guidelines, this Ordinance is exempt from CEQA based on the following:

(1) This Ordinance is not a project within the meaning of Section 15378 of the State CEQA Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately.

(2) This Ordinance is categorically exempt from CEQA under Section 15308 of the CEQA Guidelines as a regulatory action taken by the City pursuant to its police power and in accordance with Government Code Section 65858 to assure maintenance and protection of the environment pending the evaluation and adoption of contemplated local legislation, regulation and policies.

(3) This Ordinance is not subject to CEQA under the general rule in CEQA Guidelines Section 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. For the reasons set forth in subparagraphs (1) and (2), above, it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

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

SECTION 1. FINDINGS The above recitals are true and correct, and are adopted as findings of the City Council of the City of Modesto.

SECTION 2. PURPOSE. The purpose of this Ordinance is to protect the public safety, health and welfare from the immediate threat posed by the establishment of new and the relocation of existing massage and bodywork establishments by temporarily prohibiting the establishment of new and the relocation or physical expansion of existing massage and bodywork establishments within the City of Modesto until such time as a detailed study of the

possible adverse impacts such establishments might have on commercial uses and the general health, safety and welfare may be made, and appropriate regulations enacted.

SECTION 3. MORATORIUM IMPOSED.

A. Scope. In accordance with the authority granted the City of Modesto under Article XI, Section 7 of the California Constitution and California Government Code Section 65858, from and after the effective date of this Ordinance, no license, permit or other entitlement for use, including, but not limited to, the issuance of a business license, building permit, conditional use permit, or other land use approval, shall be approved or issued by the City for the establishment, relocation or physical expansion of a massage and bodywork establishment. Additionally, the establishment, relocation or physical expansion of massage and bodywork establishments is hereby expressly prohibited in all areas and zoning districts of the City.

B. Exceptions. This Ordinance shall not prohibit the renewal of a business license for an existing massage and bodywork establishment, provided that the renewal seeks to maintain the business without physical expansion and in its current location, and the massage and bodywork establishment is operating in a manner, and housed within a building, which complies with all City, State, Federal or otherwise applicable, codes, rules, regulations or laws or a recognized school of massage which: (1) teaches the theory, ethics, practice, profession and work of massage; (2) requires a residence course of study to be given before the student is furnished with a diploma or certificate of learning or completion; and (3) has been approved pursuant to Education Code section 94915, or, if said school is not located in California, has complied with the standards commensurate with those specified in Education Code section 94915.

C. Exceptions. This Ordinance shall not apply to a business that operates as a Spa, pursuant to Personal Services Businesses identified in Modesto Municipal Code section 10-2.179, where massage and bodywork constitute less than fifty percent (50%) of the overall square footage of the establishment premises and where the massage and bodywork portion of the business is operating in a manner, and housed within a building, which complies with all City, State, Federal or otherwise applicable, codes, rules, regulations or laws.

D. Exceptions. This Ordinance shall not apply to the issuance of an initial business license for a person who wishes to operate, engage in, carry on, work in, a currently licensed and operating establishment, provided that the applicant seeks to maintain the business without physical expansion and in its current location, and the City shall inspect the premises to confirm that the existing establishment is operating in a manner, and housed within a building which complies with all City, State, Federal or otherwise applicable, codes, rules, regulations or laws prior to the issuance of said license.

E. This Ordinance shall not apply to the following classes of individuals while engaged in the performance of their duties:

1. Physicians, surgeons, nurses, chiropractors, osteopaths, acupuncturists, podiatrists, physical therapists, or any other persons licensed to practice any healing art under the provisions of Division 2 (commencing with Section 500) of the Business and Professions Code. Persons operating or employed at hospitals, nursing homes, sanitariums, or any other health facility duly licensed by the state.

2. Trainers of any amateur, semi-professional or professional athlete or athletic team, so long as such persons' practice of massage is limited to such athletes and athletic teams.

3. Barbers, cosmetologists, or estheticians who are duly licensed under the laws of the State of California, while engaging in practices within the scope of their licenses. Persons operating or employed at athletic clubs or fitness facilities, where such facility is designed and equipped for indoor sports, exercise, or physical education, and where massage services are provided to members of such facilities.

4. Enrolled students of a school of massage when they are performing massage within the City as part of a formal supervised internship or training operated by the school, without compensation other than school credit, on the premises of a massage establishment duly authorized to operate in the City.

SECTION 4. VIOLATION. Except as otherwise permitted under this Ordinance, the establishment, relocation or physical expansion of a massage and bodywork establishment within the limits of the City of Modesto is declared to be a public nuisance. Violations of this Ordinance may be enforced by any applicable laws or ordinances, including, but not limited to, injunctions or administrative or criminal penalties under Modesto Municipal Code.

SECTION 5. SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council of the City of Modesto hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 6. EFFECTIVE DATE AND DURATION. This Ordinance is an extension of Urgency Ordinance 3626 C.S. pursuant to Government Code section 65858 . It shall become effective immediately upon passage and adoption if passed and adopted by at least four-fifths vote of the City Council and shall be in effect for ten (10) months and fifteen (15) days therefrom unless extended by the City Council in accordance with Government Code section 65858.

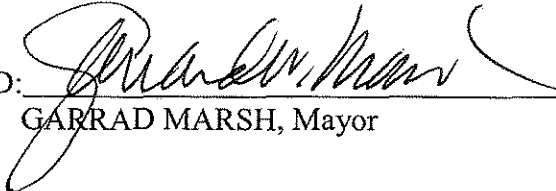
FINAL ADOPTION

The foregoing Ordinance was introduced and adopted at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2015, by Councilmember Lopez, who moved its introduction and adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

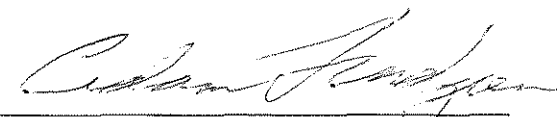
APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney

Effective Date: June 23, 2015

ORDINANCE NO. 3630-C.S.

AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 6 OF TITLE 5 OF THE MODESTO MUNICIPAL CODE, PERTAINING TO FOOD SERVICE ESTABLISHMENT WASTEWATER

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

SECTION 1. Subsection (a) of Section 5-6.401 “Permits” of the Modesto Municipal Code is hereby amended to read as follows:

5-6.401 – Permits

- (a) To provide the maximum public benefit from the use of City facilities, written authorization to use said facilities is required. This written authorization shall be in the form of a discharge permit. All users are required by the Director to obtain a Wastewater Discharge Permit that shall be completed, filed, and approved by the City at least sixty (60) days prior to any planed discharge to sewer. No vested right shall be given by issuance of any permit(s) provided for in this chapter.

SECTION 2. The name of Article 3 of Chapter 6 of Title 5 of the Modesto Municipal Code is hereby revised to be named **“Sewerage Construction and Sewer Use.”**

SECTION 3. Sections 5-6.310 through 5-6.331 Article 3 of Chapter 6 of Title 5 of the Modesto Municipal Code are hereby revised, deleted from Article 3 and relocated to a newly created Article 10 of Chapter 6 of Title 5, to be named “Discharges of Fats, Oils and Grease from Food Service Establishments” and to read as follows:

5-6.1001 - Definitions.

- (a) Best Management Practices (BMPs). Activities, prohibitions, maintenance procedures and other management practices to prevent or reduce the direct or indirect introduction of fats, oils and grease (FOG) into the collection system.
- (b) Change in Operations. Any of the following: 1) ownership or name change; 2) changes in food types processed at a food service establishment; 3) operational procedures that have the potential to change the amount of FOG discharged by food service establishments (FSEs) or Mobile Food Facilities (MFFs) in an amount that alone or collectively causes or creates a potential for a sanitary sewer overflow (SSO) to occur.
- (c) City. The City of Modesto, a municipal corporation of the State of California.

- (d) Collection System. Consisting of all pumps, pipes, conduits, manholes and all other infrastructure, whose purpose is conveying or collecting wastewater discharge to the wastewater plant, excluding private sewer laterals.
- (e) Compliance Schedule. A time schedule, enforceable under the provisions of this chapter, that contains increments of progress (e.g. milestones, in the form of dates). These milestones shall be for the commencement and/or completion of major events leading to the construction and operation of additional pretreatment facilities or the implementation of policies, procedures or operational management techniques required for Responsible Persons to comply with all applicable federal, state or local environmental regulations which may directly or indirectly affect the quality of the Responsible Person's wastewater.
- (f) Composite Sample. A collection of individual samples obtained at selected intervals based on an increment of either flow or time. The resulting mixture (composite sample) forms a representative sample of the waste stream discharged during the sample period.
- (g) Design Hydraulic Depth. A total operating depth of a grease interceptor at which the unit does not contribute FOG to the collection system.
- (h) Direct Discharge. The introduction of pollutants into the collection system through any plumbing connection.
- (i) Director. The Public Works Director or such other persons as may be designated by the City or the Director to perform the services or make the determinations permitted or required in this chapter to be made by the Public Works Director of the City.
- (j) Effluent. Any wastewater outflow from a FSE or MFF or Private Sewer Lateral that is discharged into the collection system.
- (k) Enforcement Officer. A City employee or agent of the City with authority to enforce the provisions of this chapter and the authority to make any decision, on behalf of the Director, required or called for by this chapter.
- (l) Environmental Compliance Inspector (ECI). A person authorized by the Director to inspect any existing or proposed wastewater generation, conveyance, and processing and/or disposal facilities.
- (m) Fats, Oils, and Grease (FOG). Any substance such as vegetable or animal product that is used in, or is a byproduct of, the cooking of food or food preparation process, and that becomes or may become viscous, or solidifies or may solidify.
- (n) Food Grinder and/or Food Waste Disposal Units. Any device for the purpose of grinding food or food waste for introduction into wastewater.

- (o) Food Services includes: Food Service Establishment (FSE) a permanently constructed structure and Mobile Food Facility (MFF) a mobile unit that are used or operated at least in part for the purpose of storing, preparing, service or manufacturing or packing or otherwise handling food, and which has any process or device that uses or produces FOG, or grease vapors, steam, fumes, smoke or odors that are required to be removed by an exhaust hood pursuant to California Health and Safety Code Section 114149.1 or in accordance with the California Uniform Retail Food Facilities Law (CURFFL) (California Health and Safety Code Sections 113700, et seq.). A limited food preparation establishment is not considered an FSE or MFF when engaged only in reheating, hot holding, or assembly of ready to eat food products, provided that there is no wastewater discharge containing FOG, as described in Section 5-6.201(4) of the Modesto Municipal Code.
- (p) Grab Sample. A sample taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.
- (q) Grease Control Device. Any grease interceptor, grease trap or other mechanism, device or process which attaches to, or is applied to, wastewater plumbing fixtures or lines, the purpose of which is to trap, collect or treat FOG prior to it being discharged into the publicly owned treatment works (POTW).
- (r) Grease Disposal Mitigation Fee. A fee charged to the Responsible Person and/or party when there are physical limitations to the property that make the installation of the usual and customary grease interceptor or grease control device for the FSE or MFF impossible or impractical. The grease disposal mitigation fee is intended to cover the costs of increased maintenance of the collection system, for inspection and cleaning of FOG that a usual and customary, and properly maintained, grease control device would otherwise prevent from entering the collection system.
- (s) Grease Interceptor. A multi-compartment device that is generally required, according to the California Plumbing Code. These devices use gravity to separate FOG from the wastewater. To be effective, these devices must be cleaned, maintained and have the FOG removed and disposed of in a proper manner, at regular intervals.
- (t) Grease Trap. A device that is used to serve individual plumbing fixtures. The City requires a minimum grease capacity of one hundred (100) pounds and installed per Health & Safety Code requirements.
- (u) Hearing Officer. A person appointed by the City and/or City Manager to preside over administrative hearings of Municipal Code violations that are appealed in writing to the City Clerk.
- (v) Hot Spots. Areas in sewage system that have experienced SSOs or that must be cleaned or maintained frequently to avoid blockages of the collection system.

- (w) Indirect Discharge. The introduction of pollutants into the collection system by means other than a connection to the collection system.
- (x) Infiltration. Water that enters the collection system from the ground through such means as defective pipes, pipe joints, connections or manhole walls.
- (y) Manifest and/or Bill of Lading. A receipt given by the carrier to the shipper acknowledging receipt of the goods being shipped and specifying the terms of delivery.
- (z) New Construction. Any structure that is planned or under construction, which will require payment of a capacity charge fee.
- (aa) Publicly Owned Treatment Works (POTW). The Collection System and Treatment Plant as defined in Section 212 of the Act, (33 U.S.C. 1292). The POTW shall include any sewers that convey wastewater from persons outside the City, who are, by contract or agreement Responsible Persons of the POTW.
- (ab) Remodeling. Means any physical and/or change in operations to a FSE or MFF causing a change in FOG quantity or consistency.
- (ac) Responsible Person. A person who the Director determines is responsible for causing, permitting, or maintaining a public nuisance or a violation of the Municipal Code, Uniform Plumbing Code, applicable state codes, any National Pollutant Discharge Elimination System ("NPDES") permit or any wastewater discharge permit. The term "Responsible Person" includes, but is not limited to, a property owner, tenant, person with a legal interest in the property, person in possession of the property or person that exercises custody and control over the property.
- (ad) Private Sewer Lateral. A sewer line that connects a building's wastewater facilities to the collection system which includes:
 - (1) Upper Lateral, defined as the private sewer line connecting a home or other structure to the lower lateral, generally extending from the outside of the foundation of the structure to the public right-of-way or the cleanout;
 - (2) Lower Lateral, defined as the private lateral line below the clean-out and connecting a home or other structures to the collection system.
- (ae) Solids Interceptor. A device used to capture all types of solids.
- (af) Twenty-Five Percent (25%) Rule. A requirement for grease interceptors to be maintained such that the combined FOG and solids accumulation does not exceed twenty-five (25) percent of the design hydraulic depth of the grease interceptor. This is to ensure that the minimum hydraulic retention time and required available

hydraulic volume is maintained to effectively intercept and retain FOG discharged to the collection system.

- (ag) Wastewater. Liquid and/or FOG, whether treated or untreated which is discharged by an FSE or MFF into or permitted to enter the collection system.

5-6.1002 - Purpose and Findings.

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

The provisions set forth in this article are designed to ensure compliance with federal, state and local laws and regulations, and to allow the City to meet applicable standards. This article also establishes quantity and quality standards on all discharges containing FOG, which may alone or collectively cause or contribute to FOG accumulation in the POTW causing or potentially causing or contributing to the occurrence of SSOs. This article shall apply to both direct and indirect discharges of wastewater containing FOG discharged to the collection system from any FSE or MFF. Unless otherwise defined herein, terms related to water quality shall be as adopted in the latest edition of Standard Methods for Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association and the Water Environment Federation. Testing procedures for waste constituents and characteristics shall be as provided in 40 Code of Federal Regulations 136.

5-6.1003 - Regulations, Rules and Requirements.

- (a) Fog Discharge Limitation.
 - (1) No FSE or MFF shall discharge FOG, or cause FOG to be discharged into the collection system that causes an SSO or that may accumulate and/or cause or contribute to blockages in the collection system or the POTW.
- (b) SSO; Public Nuisance; Abatement Orders and Cleanup Costs.
 - (1) Any FSE or MFF determined by the Director to have contributed to a sewer blockage, SSO or any collection system obstruction resulting from the discharge of wastewater containing FOG, shall be ordered to install and maintain a grease control device, and may be subject to a plan to abate the nuisance created by collection system failures and blockages, SSOs or any other obstruction. SSOs may cause threat and injury to public health, safety, and welfare of life and property and are hereby declared public nuisances. Furthermore, private sewer lateral failures and SSOs caused by FSEs or MFFs alone or collectively, are the responsibility of the Responsible Person. If the Director determines that the public health and safety require the City to act immediately to contain and clean up any SSO

caused by blockage of a private sewer lateral or the collection system serving an FSE or MFF, or if the City so acts at the request of the Responsible Person of the FSE or MFF, or because of the failure of the Responsible Person or FSE or MFF to abate the condition causing immediate threat of injury to the health, safety, welfare, or property of the public, the City's costs for such abatement may be entirely borne by the Responsible Person of the FSE or MFF, and individuals who are responsible officers or owners of the FSE or MFF, and may constitute a debt to the City, due and payable upon the City's request for reimbursement of such costs, depending upon the Director's determination of the cause of the SSO.

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

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

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

- (d) Prohibitions. FSEs and MFFs are prohibited from doing any of the following:
 - (1) Discharging into the collection system FOG that may accumulate and/or cause or contribute to blockages in the collection system or at the private sewer lateral.
 - (2) Installing any food grinders or food waste disposal units in the plumbing system. FSEs and MFFs shall remove all existing food grinders within one hundred eighty (180) days from the effective date of the ordinance from which this section derives, except as otherwise expressly allowed by the Director.
 - (3) Introducing any additives into an FSE's or MFF's plumbing system, grease control device and/or grease interceptor for the purpose of emulsifying FOG, biologically and/or chemically treating FOG for grease remediation and/or as a supplement to grease interceptor maintenance, unless a specific written authorization from the Director is first obtained.
 - (4) Disposing waste cooking oil into the collection system or storm drain. All waste cooking oils shall be collected and stored properly in receptacles such as rendering bins, barrels or drums for recycling or other acceptable methods of disposal. Waste storage areas shall be protected from rainfall and constructed to prevent storm water run-on or run-off. Drains within trash enclosures containing stored waste cooking oil or stored grease shall be plumbed to private sewer lateral through an approved grease control device or other approved device.
 - (5) Discharging wastewater with temperatures in excess of one hundred forty degrees Fahrenheit (140°F) into any grease control device.

- (6) Discharging wastewater containing fecal materials from toilets, urinals, washbasins or other fixtures to grease control devices and/or the private sewer lateral.
 - (7) Discharging FOG and solid materials removed from a grease control device to collection system. Grease removed from grease interceptors shall be waste hauled to an approved disposal site as part of the operation and maintenance requirements for grease interceptors.
 - (8) Operating grease interceptors with FOG and solids accumulation exceeding twenty-five (25) percent of the design hydraulic depth of the grease interceptor (25% Rule). The grease and solids layers combined shall not exceed twenty-five (25) percent of the total interceptor liquid depth to avoid overloading the interceptor.
- (e) FOG Pretreatment Required. Every FSE and MFF is required at the time of construction, remodel, and/or change in operations to install, operate and maintain an approved type and adequately sized grease removal device necessary to maintain compliance with the objectives of this chapter, subject to the waiver provisions of Section 5-6.1006. The grease removal device shall be adequate to separate and remove FOG contained in wastewater from FSEs and MFFs prior to discharge to the collection system, as determined by the then current adopted addition of the California Plumbing Code (CPC). Fixtures, equipment, and drain lines located in the food preparation and clean up areas of any FSEs or MFFs that are a source of FOG discharges shall be connected to the grease interceptor. Compliance shall be established as follows:
- (1) New Construction of FSEs and MFFs.
 - (i) New construction of any FSE or MFF shall include complete installation of an approved type and adequately sized grease interceptor, with a minimum size to be in compliance with the most current adopted CPC, prior to commencing discharges of wastewater to the collection system.
 - (2) Existing FSEs or MFFs and Commissaries.
 - (i) Any existing FSE or MFF, which, in the Director's determination has caused or contributed to grease-related blockage in the collection system, has one or more private sewer laterals connected to hot spots and/or has contributed significant FOG to the collection system, shall be deemed to have reasonable potential to adversely impact the collection system and shall be required to install a grease control device within one hundred eighty (180) days upon issuance of written notification by the Director.

- (ii) Any existing FSE or MFF or commissary that undergoes remodeling and/or a change in operations, as defined in this article, shall be required to install a grease control device or to obtain a waiver in accordance with Section 5-6.1006.
- (f) Commercial and Institutional Properties. Any owner of a commercial and/or institutional property where FSEs or MFFs are located shall be responsible for the installation and maintenance of a grease interceptor serving multiple FSEs and/or MFFs that are located on a single parcel.
- (g) Grease Interceptor Requirements.
 - (1) Any FSE or MFF required by this article to provide FOG pretreatment shall install, operate, and maintain an approved type and adequately sized grease interceptor necessary to maintain compliance with the objectives of this article.
 - (2) Grease interceptor sizing and installation shall conform to the most current adopted edition of the CPC. Grease interceptors shall be constructed in accordance with the design approved by the Director and shall have a minimum of two (2) compartments with fittings designed for grease retention. The Director reserves the right to make determinations of grease interceptor size, adequacy, location and need, based on review of relevant information, including, but not limited to, grease interceptor performance, waste stream characteristics, facility location, maintenance needs, and or inspection needs.
 - (3) The grease interceptor shall be installed at a location where it shall at all times be easily accessible for inspection, cleaning, and removal of accumulated grease.
 - (4) An access manhole, with a minimum diameter of twenty-four (24) inches, shall be provided over each grease interceptor chamber. The access manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities.
 - (5) Food waste disposal units or food grinders shall not be connected to or discharged into any grease interceptor.
 - (6) Grease interceptors shall be maintained in efficient operating condition by periodic removal of the full content of the interceptor, which includes wastewater, accumulated FOG, floating materials, sludge and solids.
 - (7) All grease interceptors shall be maintained in a manner consistent with the maintenance frequency approved by the Director.

- (8) All grease interceptors are required to have grease retention fittings as designed for proper function. Any interceptor that does not have the grease retention fittings shall be repaired and/or retro fitted with appropriate grease retention fittings.
- (9) No FOG that has accumulated in a grease interceptor shall be allowed to pass into any private sewer lateral, collection system, storm drain or public right-of-way, or onto the surface of any street or parking area.
- (10) The Director may require any FSE or MFF with a grease interceptor to submit data and information necessary to establish the required maintenance frequency of the grease interceptor.
- (11) The required maintenance frequency for every FSE and MFF with a grease interceptor shall be determined in one of the following methods:
 - (i) Grease interceptors shall be fully pumped out and cleaned at a frequency such that the combined FOG and solids accumulation in the grease interceptor does not exceed twenty-five (25) percent of the total designed hydraulic depth of the grease interceptor (25% Rule). This is to ensure that the minimum hydraulic retention time and required available hydraulic volume is maintained to effectively intercept and retain FOG from being discharged to the collection system.
 - (ii) Every FSE and MFF with a grease interceptor shall fully pump out and clean its grease interceptor not less than once every six (6) months.
 - (iii) Grease interceptors shall be fully pumped out and cleaned quarterly when the frequency described in Section 5-6.1003(g)(11) has not been established. The maintenance frequency shall be adjusted when sufficient data has been obtained to establish an average frequency based on the requirements described in Section 5-6.1003(g)(11). The City may change the required maintenance frequency at any time to reflect changes in actual operations based on the actual generation of FOG from the FSE or MFF.
 - (iv) If the grease interceptor, at any time, contains FOG and solids accumulation exceeding the requirements described in Section 5-6.1003(g)(11), the FSE and/or MFF shall be required to have the grease interceptor serviced immediately such that all FOG, and other materials are completely removed from the grease interceptor. If deemed necessary, the Director may also increase the required maintenance frequency of the grease interceptor.

- (v) Wastewater, accumulated FOG, floating materials, sludge/solids, and other materials removed from the grease interceptor shall be disposed of by waste haulers at an approved disposal site in accordance with all applicable federal, state, and/or local laws.
- (vi) The Director may direct City staff to have an FSE's and/or MFF's grease interceptor serviced if, in the opinion of the Director, the FSE or MFF has failed to comply with the terms of Article 10 of Chapter 6. The FSE or MFF shall be responsible for any and all expenses incurred by the City in undertaking such work.
- (vii) Abandoned grease interceptors shall be emptied and filled in, as required for abandoned septic tanks specified in the most current edition of the California Plumbing Code and City Standards and Specifications.

5-6.1004 - Facilities and Drawing Submittal Requirements.

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

5-6.1005 - Record Keeping Requirements.

- (a) The Responsible Person shall be required to keep on the premises and readily available, copies of all bills of lading, receipts and invoices of all cleaning, maintenance, and grease removal from the grease control device, disposal carrier and disposal site location for no less than three (3) years. The Responsible Person shall, upon request, make the bills of lading, receipts and invoices available to the Director, any inspector and/or any enforcement officer. These records may include:
 - (1) An on-site logbook of grease interceptor or grease control device cleaning and maintenance practices.
 - (2) A record of BMPs being implemented, including employee training.

- (3) Copies of records and bills of lading of waste hauling interceptor contents.
 - (4) Records of sampling data and sludge height monitoring for FOG and solids accumulation in the grease interceptors.
 - (5) Records of any spills and/or cleaning of the private sewer lateral or collection system.
 - (6) Any other information deemed appropriate by the Director to ensure compliance with this chapter.
- (b) Mobile food facilities or mobile support units containing FOG in the wastewater shall be required to keep with the units and readily available, copies of all bills of lading, receipts and invoices of all FOG related cleaning, maintenance, and grease removal from the units and disposal site location for no less than one (1) year.

5-6.1006 - Waiver of Grease Interceptor Requirement.

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

- (7) Any other condition that the Director deems reasonably related to the generation of FOG discharges.
- (b) Where the installation of a grease interceptor is not feasible, an FSE or MFF may be granted a waiver of the grease interceptor requirement upon the payment of a grease disposal mitigation fee as described in Section 5-6.1006(d). Additional requirements may also be imposed to mitigate the discharge of FOG into the collection system. The Director's determination to grant the waiver upon the payment of a grease disposal mitigation fee will be based upon, but not limited to, evaluation of the following conditions:
 - (1) There is inadequate space for installation and/or maintenance of a grease interceptor.
 - (2) There is inadequate slope for gravity flow between kitchen plumbing fixtures and the grease interceptor and/or between the grease interceptor and the private sewer lateral or the collection system.
 - (c) Application for Waiver of Requirement for Grease Interceptor. An FSE or MFF may submit to the City of Modesto Environmental Compliance Section an application for waiver from the grease interceptor requirement. The FSE or MFF bears the burden of demonstrating that the installation of a grease interceptor is not feasible or otherwise required. A waiver may be issued upon determination by the Director that reasons are sufficient to justify such a waiver.
 - (d) Terms and Conditions of Waiver. A waiver shall contain the terms and conditions that serve as the basis for its issuance. A waiver may be revoked by the Director at any time upon his or her determination that any of the terms or conditions for its issuance is not satisfied or if the conditions upon which the waiver was based have changed so that the justification for the waiver no longer exists. The waiver shall be valid so long as the FSE or MFF remains in compliance with the terms and conditions or until the expiration date specified in the waiver. Waivers are non-transferable.

5-6.1007 - Monitoring Facilities Requirements.

- (a) The City may require the FSE or MFF to construct and maintain in proper operating condition at the FSE's or MFFs sole expense, flow monitoring, constituent monitoring and/or sampling facilities.
- (b) The location of the monitoring or metering facilities shall be subject to approval by the Director.
- (c) FSEs and MFFs shall, during regular business hours, provide immediate and safe access to the Director and his or her designees to the FSE and MFFs monitoring and metering facilities.

- (d) FSE and MFF shall, upon request, submit to the Director waste analysis plans, contingency plans, and other necessary information to verify compliance with these regulations.
- (e) No FSE or MFF shall increase the use of water or in any other manner attempt to dilute a discharge as a way of achieving compliance with these regulations.

5-6.1008 - Grease Trap Requirements.

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

5-6.1009 - Fees.

It is the purpose of Section 5-6.1009 to provide for the recovery of costs from Responsible Persons of the collection system for the implementation of the program established in Article 10.

- (a) Charges and Fees. The City may adopt charges and fees by resolution which may include:
 - (1) Fees for reimbursement of costs of setting up and operating the City's FOG program;
 - (2) Fees for consistent removal by the City of FOG and/or pollutants otherwise subject to Federal Pretreatment Standards;
 - (3) Other fees as the City may deem necessary to carry out the requirements contained in Article 10.
- (b) Costs incurred by the City as a result of required on-site sampling and analysis shall be reimbursed to the City by the Responsible Person.
- (c) Noncompliance Fee. Any Responsible Person determined to be in noncompliance with the terms and conditions specified in any provision of this article may be required to pay a noncompliance fee. The purpose of the noncompliance fee is to compensate the City for costs of additional inspection and follow-up, sampling, monitoring, laboratory analysis, treatment, disposal, and administrative

processing incurred as a result of the noncompliance, and shall be in addition to and not in lieu of any penalties as may be assessed pursuant to Articles 7 and 8 of Chapter 6. Noncompliance fees shall be in the amount determined by Council Resolution.

- (d) Grease Disposal Mitigation Fee. Any FSE or MFF that operates without a grease interceptor may be required to pay an annual grease disposal mitigation fee to equitably cover the costs of increased maintenance of the collection system as a result of the FSE's or MFFs inability to adequately remove FOG from its wastewater discharge. This section shall not be interpreted to allow new construction or an existing FSE or MFF undergoing remodeling and/or a change in operations to operate without an approved grease interceptor unless the Director has determined that it is impossible or impracticable to install and/or operate a grease interceptor for the subject facility under the provisions of Section 5-6.1006 of Article 10.
 - (1) The grease disposal mitigation fee shall be established annually by the Director and approved through Council Resolution. The grease disposal mitigation fee shall be based on the estimated annual increased cost of maintaining the collection system for inspection and removal of FOG and other viscous or solidifying agents attributable to the FSE or MFF resulting from the lack of a grease interceptor.

5-6.1010 - Monitoring and Reporting Conditions.

- (a) The Director may require periodic reporting of the status of implementation of BMPs, in accordance with Article 10.
- (b) The Director may require visual monitoring at the sole expense of the Responsible Person to observe the actual conditions of the FSE's or MFF's private sewer lateral.
- (c) The Director may require reports for self-monitoring of wastewater constituents and FOG characteristics of the Responsible Person needed for determining compliance with any conditions or requirements as specified in this Chapter 6. Monitoring reports of the analyses of wastewater constituents and FOG characteristics shall be in a manner consistent with this chapter and form approved by the Director and shall be submitted upon request of the Director. Failure by the Responsible Person to perform any required monitoring, or to submit monitoring reports required by the Director constitutes a violation of Chapter 6 and shall be cause for the City to initiate all necessary tasks and analyses to determine the wastewater constituents and FOG characteristics for compliance with any conditions and requirements specified in Chapter 6. The Responsible Person shall be responsible for any and all costs and expenses of the City in undertaking such monitoring analyses and preparation of reports.

- (d) Other reports may be required, such as compliance schedule progress reports, FOG control monitoring reports, and any other reports deemed reasonably appropriate by the Director to ensure compliance with Chapter 6.

5-6.1011 - Falsifying Information or Tampering with Process.

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

5-6.1012 - Inspections and Sampling Conditions.

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

5-6.1013 - Right of Entry.

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

5-6.1014 - Notification of Spill.

- (a) In the event a Responsible Person is unable to comply with any provision of Article 10 due to a breakdown of equipment, accidents, or human error or the Responsible Person has reasonable opportunity to know that their discharge will exceed the discharge provisions of Chapter 6, the Responsible Person shall immediately notify the Wastewater Division by telephone. If the material discharged to the collection system has the potential to cause or result in sewer blockages or SSOs, the Responsible Person shall immediately notify the Wastewater Division.
- (b) Confirmation of Responsible Person's notification shall be made in writing to the Director postmarked no later than five (5) calendar days from the date of the incident. The written notification shall state the date of the incident, the reasons for the discharge or spill, what steps were taken to immediately correct the problem, and what steps are being taken to prevent the problem from recurring.
- (c) Such notification shall not relieve the Responsible Person of any expense, loss, damage or other liability which may be incurred as a result of damage or loss to the City or any other damage or loss to persons or property; nor shall such notification relieve the Responsible Person of any fees or other liability which may be imposed by these regulations or other applicable law.

5-6.1015 - Notification of Planned Changes.

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

5-6.1016 - Harmful discharge.

- (a) The City may suspend or terminate the wastewater service when such suspension or termination is necessary, in the opinion of the Director, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, or which causes obstruction to the collection system or the POTW, or causes the City to violate any condition of its permits.
- (b) Any Responsible Person notified of a suspension or termination of wastewater service shall immediately stop or eliminate all discharges to the collection system. In the event of a failure of the Responsible Person to comply voluntarily with the suspension or termination order, the Director shall take such steps as he or she deems necessary, including immediate severance of the sewer connection, to

prevent or minimize damage to the collection system or the POTW. The Director shall reinstate the wastewater service only upon proof of the elimination of the nonconforming discharge. A detailed written statement submitted by the Responsible Person describing the causes of the harmful discharge and the measures taken to prevent any future occurrence shall be submitted to the Director within fifteen (15) days of the date of occurrence.

5-6.1017 - Determination of Non-Compliance.

- (a) Sampling and Inspection Procedures.
 - (1) Sampling and inspection of FSEs or MFFs shall be conducted in the time, place, manner, and frequency determined at the sole discretion of the Director.
 - (2) Noncompliance with any discharge provisions of these regulations may be determined by an inspection of the grease control device, grease interceptor and associated manifest and documentation, or analysis of a grab or composite sample of the effluent of a FSE or MFF.
 - (3) Any sample taken from a sample point must be considered representative of the discharge to the collection system, as determined by the Director.
- (b) Notice of Violation and Correction Order. Any Responsible Person found to be in violation with the terms and conditions specified in any provision of Article 10 may be issued a notice of violation and/or correction order in which there will be a specified time period to correct the violation. If the violation is not corrected within the specified time period, the Responsible Person shall be considered in noncompliance.

5-6.1018. - Compliance Schedule.

- (a) Upon determination that a Responsible Person is in noncompliance with the terms and conditions specified in any provision of Article 10, or needs to construct and/or acquire and install a grease control device or grease interceptor, the Director may require the Responsible Person to enter into a compliance schedule on terms and conditions specified by the Director.
- (b) The compliance schedule may contain terms and conditions including, but not limited to, requirements for installation of a grease control device, grease interceptor and facilities, submittal of drawings or reports, audit of waste hauling records, BMPs and waste minimization practices, payment of fees, or other provisions to ensure compliance with Article 10.
- (c) If compliance is not achieved in accordance with the terms and conditions of a compliance schedule during its term, the Director may issue an order suspending or terminating wastewater service pursuant to Article 8 of this Chapter 6.

5-6.1019 - Suspension and/or Termination of Wastewater Service.

- (a) The City may suspend and/or terminate wastewater service when the Director determines that a Responsible Person:
 - (1) Fails to comply with the terms and conditions of a compliance schedule order.
 - (2) Knowingly provides a false statement, representation, record, report, or other document to the City and/or the Director.
 - (3) Refuses to provide records, reports, plans, or other documents required by the City and/or the Director to determine discharge compliance or compliance with Article 10.
 - (4) Falsifies, tampers with or knowingly renders inaccurate any monitoring device or sample collection method.
 - (5) Refuses reasonable access to the FSE or MFF for the purpose of inspection and monitoring.
 - (6) Fails to make timely payment of all amounts owed to the City for charges or any other fees imposed pursuant to Chapter 6.
 - (7) Causes obstruction, sewer blockages or SSOs in the collection system.
 - (8) Violates grease interceptor or grease control device maintenance requirements or any provision of this Chapter 6.
 - (9) Fails to report significant changes in operations, or wastewater constituents and characteristics.

5-6.1020 - Violation—Penalty.

- (a) Any violation of Article 10, or the orders, rules and regulations issued under Chapter 6 is unlawful and shall be an infraction or misdemeanor as determined by the City Attorney.
- (b) Any Responsible Person in violation of Article 10, or the orders, rules and regulations issued under Chapter 6 may be ordered by the Director to cease and desist operations until the violation is cured. Continuance of operations after issuance to the Responsible Person of a notice to cease and desist shall be unlawful, and an infraction or misdemeanor as determined by the City Attorney. Each day in which any such violation shall continue shall be deemed a separate offense.
- (c) The violation of any of the provisions of Article 10, or the orders, rules and regulations issued under Chapter 6, or the doing of any act prohibited or the

failure or omission to do any act required by Article 10, or the orders, rules and regulations issued under Chapter 6, is a public nuisance and may be enjoined by the City Attorney.

- (d) If any violation of Article 10, or the orders, rules and regulations issued under Chapter 6, causes damage to the collection system or POTW, the Director may seek to recover civil damages from the Responsible Person causing such damage.
- (e) The Director is authorized to levy against any person administrative civil penalties as prescribed in Charter 6 of Title 1 of the City Municipal Code per day for each violation of the rules and regulations issued under Chapter 6. The notice and order shall provide information as to the reason for the administrative fine and the authority and the notice shall also specify the person's right to appeal.

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

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

5-6.1021 - Appeals.

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

5-6.1023 - Failure to Comply with the Administrative Enforcement Order.

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

SECTION 4. [not used]

SECTION 5. SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. This City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July 2015, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and ordered printed and published by the following vote:


AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal,
Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 14th day of July, 2015, Councilmember Lopez moved its final adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Madrigal, Kenoyer, Zoslocki,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, MAYOR

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: August 14, 2015

ORDINANCE NO. 3631-C.S.

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

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

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

8-3.102. CONTRACTING AUTHORITY.

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

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

- expenditure of City funds in the amount of three hundred thousand dollars (\$300,000.00) or less.
- (d) Contracts for public works projects consisting of the installation and establishment of water service connections associated with new development. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of seventy-five thousand dollars (\$75,000.00) or less.
 - (e) Contracts for public works projects consisting of repairs determined by the City Manager to be of urgent necessity for the preservation of life, health, or property. The City Manager may approve and authorize all contracts for such projects in the amount of two hundred thousand dollars (\$200,000.00) or less. Within ten (10) days of the authorization for any such work, the City Manager shall report to the City Council the circumstances of the emergency.
 - (f) Contracts for public works projects consisting of the construction, improvement, repair, expansion, renovation, or modification of any facilities associated with development and installed by the developer provided:
 - (1) That an agreement is approved by the City Council prior to commencement of construction of the works.
 - (2) The agreement clearly defines the work to be done and the basis for reimbursement.
 - (3) That total reimbursement required by the agreement is less than four hundred thousand dollars (\$400,000.00) in City funds.
 - (g) Contracts for public works projects consisting of the installation, construction, and improvement, of the Coffee-Claratina Dual Use Neighborhood Park/Storm Basin in the City of Modesto. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of one million five hundred thousand dollars (\$1,500,000.00) or less.
 - (h) Contracts for public works projects consisting of the installation and construction of any upgrade and/or rebuild of the City's Institutional Network (INET). The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the

amount of four million two hundred thousand dollars (\$4,200,000.00) or less.

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

water lines and associated appurtenances for the 9th Street Water Main Replacement Project in the amount of five hundred eighty-five thousand dollars (\$585,000) or less.

- (p) Contracts for Public Works projects consisting of bus stop improvements at various locations on the Modesto Area Express route system. The City Manager may approve all contracts for such projects in the amount of six hundred seventy-five thousand dollars (\$675,000) or less annually.
- (q) Contracts for work done by City forces consisting of roadway and intersection improvements on Oakdale Road between Claratina Avenue and Mable Avenue in the amount of one hundred forty thousand dollars (\$140,000.00) or less.
- (r) Contracts for work done by City forces to repair, replace and improve water lines and associated appurtenances for the Del Rio Water Main Replacement Project in the amount of three hundred ninety thousand dollars (\$390,000.00) or less.
- (s) Contracts for public works projects consisting of energy efficient improvements to City facilities that are funded through the American Recovery and Reinvestment Act (ARRA) of 2009, Energy Efficiency and Conservation Block Grant (EECBG) Program. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of six hundred thousand dollars (\$600,000.00) or less.
- (t) Contracts for public works to purchase and construct a Police Officer Memorial and associated appurtenances at the Modesto Police Headquarters in the amount of one hundred twenty-five thousand dollars (\$125,000.00) or less.
- (u) Contracts for public works projects consisting of the design, purchase and installation of water mains and associated appurtenances used to upgrade the water system in the Airport Neighborhood service area in the amount of one million four hundred five thousand one hundred sixty-six dollars (\$1,405,166.00) or less.
- (v) Contracts for public works projects consisting of the design, purchase and installation of street lights and associated appurtenances used to upgrade the street lighting throughout the City in the amount of four million dollars

(\$4,000,000) or less.

- (w) Contracts for work done by City forces in the design, purchase and installation of Tenth Street Improvements between I and J Streets consisting of irrigation, storm drain, stamped concrete, street trees, planters, and electrical improvements and associated appurtenances. Improvements shall be consistent in concept with Resolution 2014-172 and the Staff Report presented to the City Council at its regular Council Meeting of June 9, 2015.
- (x) Contracts for work done by City forces, consisting of the design, purchase and installation of flashing beacons and associated appurtenances used to construct flashing beacons throughout the City in the amount of \$770,000 or less.

Any contract for a public works project which may be approved as set forth in subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), and (x) above of this section and authorized by the City Manager, District Administrator, or other authorized person, is not subject to the public bidding requirements of articles 2 and 4 of this chapter or of Section 1307 of the Modesto City Charter. This section is adopted pursuant to Sections 801(1c) and 1307 of the Modesto City Charter. The City Manager may delegate his or her authority in a manner consistent with the procedures established by this chapter. As set forth in Section 2-2.03 of this Code, all contract documents that require City Council approval shall be approved as to form by the City Attorney or the City Attorney's authorized representative before presentation to the City Council.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of July, 2015, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and ordered printed and published by the following vote:


AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney

Ord. No. 3631-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of August, 2015, Councilmember Madrigal moved its final adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Madrigal, Kenoyer, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


GARRAD MARSH, MAYOR

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: September 4, 2015

ORDINANCE NO. 3632-C.S.

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

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

SECTION 1. AMENDMENT OF CODE. Sections 3-2.1401 and 3-2.1401.1 of

Article 14 of Chapter 2 of Title 3 of the Modesto Municipal Code are amended to read as follows:

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

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

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

CARPENTER ROAD, between Blue Gum Avenue and Orangeburg Avenue	30 miles per hour
CARPENTER ROAD, between the Tuolumne River and Robertson Road	35 miles per hour
CENTER STREET, between Rosedale Avenue and Calaveras Avenue	25 miles per hour
CONANT AVENUE, between Sisk Road and Rumble Road	25 miles per hour
CONANT AVENUE, between Standiford Avenue and Veneman Avenue	25 miles per hour
CROWS LANDING, between 7th Street and Blankenburg Avenue	35 miles per hour
CROWS LANDING, between School Avenue and Imperial Avenue	35 miles per hour
CROWS LANDING, between Imperial Avenue and Whitmore	45 miles per hour
DEL VALE AVENUE, between Del Vista Avenue and Glenwood Drive	25 miles per hour
EICHER AVENUE, between Conant Avenue and Goldie Avenue	25 miles per hour
EMERALD AVENUE, between Maze Boulevard and Kansas Avenue	25 miles per hour
ENCINA AVENUE, between Santa Barbara Avenue and Conejo Avenue	25 miles per hour
ENSLLEN AVENUE, between Granger Avenue and Orangeburg Avenue	25 miles per hour
FAIRMONT AVENUE, between Virginia Avenue and McHenry Avenue	25 miles per hour

FAIRMONT AVENUE, between Sunrise Avenue and Coffee Road	25 miles per hour
GRAPE AVENUE, between Pearl Street and Evergreen Avenue	25 miles per hour
GRISWOLD AVENUE, between Virginia Avenue and McHenry Avenue	25 miles per hour
HADDON AVENUE, between La Loma Avenue and Conejo Avenue	25 miles per hour
JEFFERSON STREET, between Paradise Road and 8th Street	25 miles per hour
K STREET, between Washington Street and 9th Street	25 miles per hour
KEARNEY AVENUE, between Glenwood Drive and Coldwell Drive	25 miles per hour
KELLER STREET, between Sylvan Avenue and Rumble Road	25 miles per hour
LEGION PARK ROAD, between Santa Cruz Avenue and Tioga Drive	25 miles per hour
LEVELAND LANE, between College Avenue and TSRR tracks	25 miles per hour
LINCOLN OAK DRIVE, between Merle Avenue and Floyd Avenue	25 miles per hour
LUCERN AVENUE, between Johnson Street and Coffee Road	25 miles per hour
MADISON STREET, between Paradise Avenue and Laurel Avenue	25 miles per hour

MORTON BOULEVARD, between 9th Street and Downey Avenue	25 miles per hour
NEECE DRIVE, between Rouse Avenue and Sunset Avenue	25 miles per hour
NORTH MARTIN LUTHER KING DRIVE, between Maze Boulevard and Laurel Avenue	25 miles per hour
PEARL STREET, between Carver Road and Dougfir Drive	25 miles per hour
PRINCETON AVENUE, between Tully Road and College Avenue	25 miles per hour
RIVER ROAD, between Herndon Avenue and 1,200 feet west of Herndon Avenue	35 miles per hour
ROBLE AVENUE, between Santa Ana Avenue and Rosina Avenue	25 miles per hour
SHARON WAY, between Budd Street and Prescott Road	25 miles per hour
SHERWOOD AVENUE, between Orangeburg Avenue and Briggsmore Avenue	25 miles per hour
SNYDER AVENUE, between Blue Bird Drive and Dale Road	25 miles per hour
STODDARD AVENUE, between McHenry Avenue and Virginia Avenue	25 miles per hour
SURREY AVENUE, between Oakdale Road and Eastridge Drive	25 miles per hour
TIOGA DRIVE, between Conejo Avenue and Legion Park Drive	25 miles per hour
VENEMAN AVENUE NORTH, between Snyder Avenue and Regency Park Drive	25 miles per hour

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

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

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

<u>NAME OF STREET OR PORTION AFFECTED</u>	<u>DECLARED PRIMA FACIE SPEED LIMIT</u>	<u>DATE SURVEYED</u>
BANGS AVENUE, between Dale Road and McHenry Avenue	45 miles per hour	February 1, 2012
BLUE GUM AVENUE, between Morse Road and Carpenter Road *ES 10	35 miles per hour	February 4, 2010

BRIGGSMORE AVENUE, between Claus Road and Santa Fe Railroad Tracks	45 miles per hour	December 22, 2011
BRIGGSMORE AVENUE, between Coffee Road and Oakdale Road *ES10	50 miles per hour	July 1, 2009
BRIGGSMORE AVENUE, between McHenry Avenue and Coffee Road *ES10	45 miles per hour	June 24, 2009
BRIGGSMORE AVENUE, westbound and eastbound between Oakdale Road and Claus Road	50 miles per hour	December 22, 2011
BRIGGSMORE AVENUE, between Prescott Road and Tully Road	45 miles per hour	February 3, 2015
BRIGGSMORE AVENUE, between Tully Road and McHenry Avenue *ES10	45 miles per hour	June 24, 2009
BRIGHTON AVENUE, between Coffee Road and Locke Road	30 miles per hour	May 8, 2013
CALIFORNIA AVENUE, between Carpenter Road and Martin Luther King Drive	30 miles per hour	January 17, 2013
CARPENTER ROAD, between Blue Gum Avenue and Woodland Avenue *ES 10	40 miles per hour	February 2, 2010
CARPENTER ROAD, between Woodland Avenue and Maze Boulevard	40 miles per hour	February 16, 2012

CARPENTER ROAD, between Maze Boulevard and Paradise Road *ES 10	50 miles per hour	February 2, 2010
CARVER ROAD, between Bangs Avenue and Pelandale Avenue	35 miles per hour	December 22, 2011
CARVER ROAD, between Pelandale Avenue and Brixton Lane	30 miles per hour	December 28, 2011
CARVER ROAD, between Brixton Lane and Briggsmore Avenue	30 miles per hour	December 28, 2011
CARVER ROAD, between Briggsmore Avenue and Orangeburg Avenue	30 miles per hour	December 28, 2011
CARVER ROAD, between Orangeburg Avenue and 9th Street	30 miles per hour	December 28, 2011
CELESTE DRIVE, between Coffee Road and Oakdale Road	30 miles per hour	May 8, 2013
CLARATINA AVENUE, between Coffee Road and Oakdale Road *ES 10	55 miles per hour	July 1, 2009
CLAUS ROAD, between Sylvan Avenue and Briggsmore Avenue	50 miles per hour	January 26, 2012
CLAUS ROAD, between Briggsmore Avenue and Scenic Drive	45 miles per hour	January 26, 2012
CLAUS ROAD, between Scenic Drive and Yosemite Boulevard	45 miles per hour	January 26, 2012
COFFEE ROAD, between Claratina Avenue and Sylvan Avenue *ES 10	40 miles per hour	December 15, 2009
COFFEE ROAD, between Sylvan Avenue and Floyd Avenue *ES 10	40 miles per hour	February 8, 2010

COFFEE ROAD, between Floyd Avenue and Briggsmore Avenue *ES10	40 miles per hour	February 26, 2010
COFFEE ROAD, between Briggsmore Avenue and Scenic Drive *ES 10	40 miles per hour	February 8, 2010
COLLEGE AVENUE, between Rumble Road and Bowen Avenue *ES10	30 miles per hour	February 4, 2010
COLLEGE AVENUE, between Bowen Avenue and Princeton Avenue	35 miles per hour	October 15, 2012
COLLEGE AVENUE, between Princeton Avenue and Needham Avenue	30 miles per hour	October 15, 2012
CREEKWOOD DRIVE, between Claus Road and Yosemite Boulevard *ES 10	35 miles per hour	February 26, 2010
CROWS LANDING ROAD, between 7th Street and Hatch Road	35 miles per hour	May 8, 2013
CROWS LANDING ROAD, between Hatch Road and Whitmore Avenue *ES10	35 miles per hour	February 2, 2010
DALE ROAD, northbound and southbound, between Bangs Avenue and Kiernan Avenue	40 miles per hour	December 20, 2011
DALE ROAD, between Bangs Avenue and Snyder Avenue	35 miles per hour	February 1, 2012
DALE ROAD, between Snyder Avenue and Veneman Avenue	35 miles per hour	February 1, 2012
DALE ROAD, between Veneman Avenue and Standiford Avenue	30 miles per hour	February 1, 2012

EASTRIDGE DRIVE, between Orangeburg Avenue and Scenic Drive *ES 10	30 miles per hour	February 11, 2010
EL VISTA AVENUE, between Scenic Drive and Yosemite Boulevard *ES10	35 miles per hour	August 13, 2009
EMERALD AVENUE, between Maze Boulevard and California Avenue *ES10	30 miles per hour	February 5, 2010
EVERGREEN AVENUE, between Orangeburg Avenue and Carver Road	30 miles per hour	February 22, 2012
FINE AVENUE, between Hillglen Avenue and Merle Avenue	30 miles per hour	May 8, 2013
FLOYD AVENUE, between Coffee Road and Oakdale Road	30 miles per hour	February 23, 2012
FLOYD AVENUE, between McHenry Avenue and Coffee Road	30 miles per hour	February 24, 2012
FLOYD AVENUE, eastbound and westbound, between Oakdale Road and Roselle Avenue	35 miles per hour	January 26, 2012
FLOYD AVENUE, between Roselle Avenue and Claus Road *ES10	40 miles per hour	June 24, 2009
G STREET, between 9 th Street and 17 th Street *ES10	25 miles per hour	December 14, 2009
GRANGER AVENUE, between Tully Road and McHenry Avenue *ES 10	35 miles per hour	February 26, 2010

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

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

NEEDHAM STREET, between 9th Street and L Street	35 miles per hour	March 6, 2012
NORWEGIAN AVENUE, between McHenry Avenue and Coffee Road *ES10	35 miles per hour	February 26, 2010
OAKDALE ROAD, between 1300 feet north of Mable Avenue and Sylvan Avenue	45 miles per hour	March 7, 2012
OAKDALE ROAD, between Sylvan Avenue and Floyd Avenue	45 miles per hour	March 7, 2012
OAKDALE ROAD, between Floyd Avenue and Briggsmore Avenue	40 miles per hour	February 3, 2015
OAKDALE ROAD, between Briggsmore Avenue and Scenic Drive *ES 10	40 miles per hour	February 4, 2010
ORANGEBURG AVENUE, between Briggsmore Avenue and Martin Avenue *ES10	35 miles per hour	April 25, 2007
ORANGEBURG AVENUE, between Martin Avenue and McHenry Avenue	40 miles per hour	March 21, 2012
ORANGEBURG AVENUE, between McHenry Avenue and Coffee Road	40 miles per hour	March 22, 2012
ORANGEBURG AVENUE, between Coffee Road and Oakdale Road	35 miles per hour	March 22, 2012
ORANGEBURG AVENUE, between Oakdale Road and Lakewood Avenue	35 miles per hour	May 17, 2012
ORANGEBURG AVENUE, between Lakewood Avenue and Claus Road	35 miles per hour	May 23, 2013

PARADISE ROAD, between Carpenter Road and Martin Luther King Drive	35 miles per hour	May 23, 2012
PARADISE ROAD, between Martin Luther King Drive and Washington Street	30 miles per hour	May 23, 2012
PARKER ROAD, between Santa Fe and Church Street *ES 10	45 miles per hour	February 4, 2010
PELANDALE AVENUE, between Sisk Road and Dale Road	45 miles per hour	December 20, 2011
PELANDALE AVENUE, between Dale Road and Prescott Avenue *ES 10	50 miles per hour	March 5, 2010
PELANDALE AVENUE, between Prescott Avenue and Carver Road *ES10	50 miles per hour	March 5, 2010
PELANDALE AVENUE, between Carver Road and Tully Road *ES 10	50 miles per hour	March 5, 2010
PELANDALE AVENUE, between Tully Road and McHenry Avenue *ES10	50 miles per hour	March 5, 2010
PRESCOTT ROAD, between Snyder Avenue and Standiford Avenue *ES10	40 miles per hour	May 15, 2007
PRESCOTT ROAD, between Standiford Avenue and Rumble Road *ES10	40 miles per hour	May 16, 2007
PRESCOTT ROAD, between Rumble Road and Briggsmore Avenue	35 miles per hour	May 17, 2007

RIVERSIDE DRIVE, between Edgebrook Drive and Yosemite Boulevard	30 miles per hour	February 3, 2015
ROSE AVENUE, between Floyd Avenue and Briggsmore Avenue *ES10	30 miles per hour	May 24, 2007
ROSE AVENUE, between Briggsmore Avenue and Scenic Drive *ES10	30 miles per hour	May 30, 2007
ROSEBURG AVENUE, between Carver Road and Tully Road	30 miles per hour	June 13, 2002
ROSEBURG AVENUE, between Tully Road and McHenry Avenue *ES10	30 miles per hour	February 11, 2010
ROSEBURG AVENUE, between McHenry Avenue and Sunrise Avenue *ES 10	30 miles per hour	February 4, 2010
ROSELLE AVENUE, between Sylvan Avenue and Floyd Avenue	40 miles per hour	April 21, 2015
ROSELLE AVENUE, between Floyd Avenue and Briggsmore Avenue	40miles per hour	February 3, 2015
ROSEMORE AVENUE, between Blue Gum Avenue and Kansas Avenue*ES 10	30 miles per hour	April 18, 2007
ROUSE AVENUE, between Colorado Avenue and Neece Drive *ES 10	30 miles per hour	February 5, 2010
RUMBLE ROAD, between Sisk Road and Conant Avenue *ES10	30 miles per hour	December 15, 2009

RUMBLE ROAD, between Conant Avenue and Tully Road *ES 10	30 miles per hour	February 4, 2010
RUMBLE ROAD, between Tully Road and McHenry Avenue *ES 10	30 miles per hour	February 4, 2010
RUMBLE ROAD, between McHenry Avenue and Coffee Road	30 miles per hour	April 21, 2015
SANTA CRUZ AVENUE, between Yosemite Boulevard and Legion Park Drive *ES 10	30 miles per hour	February 9, 2010
SCENIC DRIVE, between Burney Street and Coffee Road	30 miles per hour	April 23, 2012
SCENIC DRIVE, between Coffee Road and Oakdale Road *ES10	40 miles per hour	July 8, 2009
SCENIC DRIVE, between Oakdale Road and Lakewood Avenue *ES 10	40 miles per hour	February 10, 2010
SCENIC DRIVE, between Lakewood Avenue and Lillian Drive *ES10	40 miles per hour	July 8, 2009
SCENIC DRIVE, between Lillian Drive and Claus Road *ES10	40 miles per hour	July 8, 2009
SIERRA DRIVE, between G Street and 7th Street *ES 10	30 miles per hour	February 25, 2010
SISK ROAD, between Pelandale Avenue and Standiford Avenue	40 miles per hour	December 20, 2011
SISK ROAD, between Standiford Avenue and Briggsmore Avenue	40 miles per hour	December 20, 2011
SNYDER AVENUE, between Dale Road and Prescott Road	30 miles per hour	March 25, 2015

SNYDER AVENUE, between Prescott Road and Tully Road	30 miles per hour	April 21, 2015
STANDIFORD AVENUE, between Sisk Road and Prescott Road *ES 10	45 miles per hour	February 4, 2010
STANDIFORD AVENUE, between Prescott Road and Tully Road *ES 10	40 miles per hour	February 4, 2010
STANDIFORD AVENUE, between Tully Road and McHenry Avenue *ES10	40 miles per hour	February 4, 2010
SUNRISE AVENUE, between Floyd Avenue and Lucern Avenue *ES10	30 miles per hour	February 9, 2010
SUTTER AVENUE, between Paradise Road and Robertson Road *ES 10	30 miles per hour	March 5, 2010
SYLVAN AVENUE, between McHenry Avenue and Coffee Road *ES10	40 miles per hour	February 4, 2010
SYLVAN AVENUE, between Coffee Road and Oakdale Road *ES 10	40 miles per hour	February 4, 2010
SYLVAN AVENUE, between Oakdale Road and Roselle Avenue *ES10	45 miles per hour	June 24, 2009
SYLVAN AVENUE, between Roselle Avenue and Claus Road	45 miles per hour	January 8, 2015
SYLVAN MEADOWS DRIVE, between Dragoo Park Drive and Coffee Road	25 miles per hour	August 2, 2012
TENAYA DRIVE, between Empire Avenue and the easterly city limit on Tenaya Drive	30 miles per hour	December 29, 2011

TULLY ROAD, between Bangs Avenue and Standiford Avenue *ES10	45 miles per hour	December 14, 2009
TULLY ROAD, between Standiford Avenue and Briggsmore Avenue *ES10	35 miles per hour	December 14, 2009
TULLY ROAD, between Briggsmore Avenue and Coldwell Avenue *ES10	35 miles per hour	December 14, 2009
TULLY ROAD, between Coldwell Avenue and 9 th Street *ES10	30 miles per hour	December 14, 2009
TUOLUMNE BOULEVARD, between Paradise Road and 7th Street *ES 10	35 miles per hour	February 2, 2010
UNION AVENUE, between Tully Road and McHenry Avenue *ES10	30 miles per hour	December 15, 2009
VENEMAN AVENUE, between Dale Road and Regency Park Drive *ES10	30 miles per hour	December 15, 2009
VIRGINIA AVENUE, between Roseburg Avenue and Needham Street *ES 10	30 miles per hour	December 11, 2010
WHITMORE AVENUE, between Ustick Road and Crows Landing Road *ES 10	45 miles per hour	February 2, 2010
WHITMORE AVENUE, between Crows Landing Road and Morgan Road *ES 10	40 miles per hour	February 2, 2010

WOODLAND AVENUE, between Morse Road and Carpenter Road *ES10	30 miles per hour	February 2, 2010
WOODLAND AVENUE, between Carpenter Road and 9th Street	30 miles per hour	March 25, 2015
WOODROW AVENUE, between Tully Road and McHenry Avenue	30 miles per hour	March 25, 2015
5TH STREET, between L Street and Sierra Drive *ES 10	30 miles per hour	February 4, 2010
6TH STREET, between M Street and Sierra Drive	30 miles per hour	February 26, 2015
7TH STREET BRIDGE, between B Street and River Road	30 miles per hour	August 30, 2000
9TH STREET, between Carpenter Road and Tully Road *ES 10	45 miles per hour	February 4, 2010
9TH STREET, between Tully Road and L Street *ES 10	35 miles per hour	March 5, 2010
9TH STREET, between D Street and Morton Boulevard *ES 10	35 miles per hour	February 4, 2010

SCHOOL ZONE REDUCED SPEED LIMITS

BOWIE AVENUE, between School Ave and El Paso Ave	15 miles per hour
FINE AVENUE, between Landing Way and Kodiak Drive	15 miles per hour
FLOYD AVENUE, between Newport Drive and Vicki Drive	15 miles per hour

KODIAK DRIVE, between Litt Road And Fine Avenue	15 miles per hour
MERLE AVENUE, between Wisdom Way And Walnut Tree Drive	15 miles per hour
POUST AVENUE, between Chapparad Place And Kidd Avenue	15 miles per hour
SCHOOL AVENUE, between Crows Landing Road and Bowie Avenue	15 miles per hour

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

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

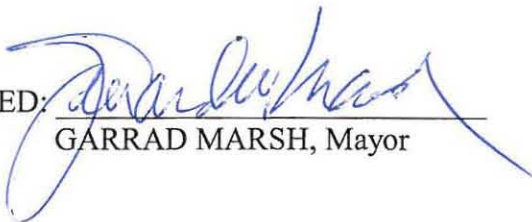
SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of July, 2015, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and ordered printed and published by the following vote:


AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal,
Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney

Ord. No. 3632-C.S.


FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of August, 2015, Councilmember Lopez, moved its final adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Madrigal, Kenoyer, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, MAYOR

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: September 4, 2015

ORDINANCE NO. 3633-C.S.

**AN ORDINANCE AMENDING PROVISIONS OF TITLE 7,
CHAPTER 5, "STREET TREES" OF THE MODESTO
MUNICIPAL CODE RELATING TO STREET TREES**

WHEREAS, the Modesto Municipal Code currently regulates the planting and maintenance of trees within the right-of-way or planting easement in the City, and

WHEREAS, the City wishes to update its regulations on the planting and maintenance of trees within the right-of-way or planting easement in the City to increase clarity and ensure that the regulations are consistent with the terminology used in the solid waste industry, and

WHEREAS, the proposed modifications will ensure that the regulations contained in the Municipal Code accurately reflect the current procedures used by the City and comply with applicable law.

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

SECTION 1. AMENDMENT OF CODE. Chapter 5 "Street Trees," of Title 7 is hereby amended to read as follows:

Chapter 5 - STREET TREES

7-5.01 - Definitions.

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

- (a) "Department" shall mean the Public Works Department.
- (b) "Director" shall mean the Public Works Director.
- (c) "Street Tree Plan" shall mean an official adopted plan for the planting of certain varieties of trees in public rights-of-way or planting easements within the City.

- (d) "Official street trees" shall be those specified in the Street Tree Plan.
- (e) "Right-of-way" shall mean that portion of the public street right-of-way between the curb, or curb line, and the adjacent property line used for the purpose of planting and maintaining City street trees.
- (f) "Planting easement" shall mean that portion of land made available as a public easement for the purpose of planting and maintaining City street trees.
- (g) "Maintain" or "maintenance," when used in reference to street trees, shall mean and include pruning, spraying, mulching, fertilizing, cultivating, supporting, treating for disease or injury, promoting public safety, or any other similar act which promotes the life, growth, health or beauty of street trees not to include the control of vertebrate pests.
- (h) "Street tree" shall mean any tree whose center of trunk at ground level is within the right-of-way or planting easement.

7-5.02 - Street Tree Plan.

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

7-5.03 - Responsibilities, Duties and Authority of the Director.

The Director, or his or her designee, shall have the authority and responsibility to do the following:

- (a) Carry out the provisions of this chapter.
- (b) Remove or replace any tree located within a planting right-of-way or easement, in accordance with the provisions of this chapter.
- (c) Enter in or upon any part of a right-of-way or easement or adjacent property, with the permission of the owner, as is reasonably necessary for the purpose of planting and maintaining street trees. If a street tree poses an immediate threat to public safety, the Director, or his or her designee, may enter onto the adjacent property without the permission of the owner, to the extent allowed by law.

7-5.04 - Planting and Maintenance.

(a) Except as otherwise provided in this section, the subdivider of a subdivision or parcel map shall supply and plant approximately one (1) tree per lot, excepting corner lots, where two (2) or three (3) trees shall be planted.

(b) The City shall maintain street trees in all rights-of-way and planting easements within the City.

(c) The City, by mutual agreement, may provide and plant street trees in subdivisions outside of the City at a fee to be established by resolution of the Council and not be less than that charged within the City.

(d) The City will provide no maintenance of street trees in areas outside of the City, except by special agreement. The City will not provide maintenance of street trees on private property, except in rights-of-way or public planting easements.

(e) The property owner shall be responsible for watering street trees located in a right-of-way or easement abutting his or her property.

(f) This section shall not prevent any person, firm or public utility from installing and maintaining any overhead wires or underground pipes or conduits lawfully on, over or under public streets or public rights-of-way, subject to the provisions and requirements of Chapter 4 of Title 4 of this Code. The Director when reviewing plans for planting, maintenance or removal of street trees and shall consider the effect of such activity on existing overhead wires, underground pipes or conduits and shall avoid unnecessary disturbance to or relocation of said facilities.

7-5.05 - Removal and Maintenance.

(a) The Director shall be responsible for overseeing the inspection, maintenance, removal and replacement of street trees planted within rights-of-way or easements. The Director may authorize the removal of street trees or other plant material planted in a right-of-way or easement if he or she determines them to be unhealthy, hazardous, undesirable or causing excessive damage to existing public improvements, or street trees.

(b) The Director shall have the authority to require property owners to take such action as is necessary to control insects, scales, parasites, fungus, and other injurious pests or plant material that are present on the individual's property that would cause serious injury to street trees and other plant material within the City. The Director shall notify the property owner in writing, describing the conditions and stating the control necessary to correct the condition, and establishing a reasonable time within which the corrective steps shall be taken.

(c) The Director shall have the authority to require property owners to remove or prune any privately planted tree, shrub, vine, or other plant material if he or she determines it to be seriously interfering with the growth and health of any street tree.

(d) In the event a property owner desires to remove a tree from the right-of-way or easement abutting his/her property, the property owner or his/her authorized agent shall submit an application to the Department's Solid Waste Division. The Director shall

determine whether or not such tree is required to be retained in order to preserve the intent and purpose of the Street Tree Plan. In making his or her determination, the Director shall consider the inconvenience or hardship which retention of the tree would cause the property owner, and also the condition, age, desirability of variety and location of the tree. If the Director finds that the tree may be removed without violating the intent and spirit of the Street Tree Plan, he or she may authorize the property owner to remove such tree at the property owner's own expense and liability. If a permit is granted for removal of a street tree, all removal work shall be completed within sixty (60) days from the date of issuance of the permit, and shall be under the general supervision of, and in accordance with, rules established by the Director. All tree stumps shall be removed to a depth specified by the Director. All removal permits shall be void after the expiration of sixty (60) days from the date of issuance, unless extended by the Director.

7-5.06 - Protection.

(a) No person shall remove, trim, prune, spray, or cut any above- or below-ground portions of any street tree in a right-of-way or easement without first obtaining permission from the Director.

(b) No person shall interfere or cause any person to interfere with any work being done under the provisions of this chapter by any employee of the City, or by any person or firm doing work for the City or under a permit granted by the City.

(c) No person shall interfere or cause anyone to interfere with or damage any overhead wires or underground pipes or conduits while removing, trimming, pruning, spraying, or cutting any street trees in a right-of-way or easement. The owner of such facilities shall be notified when such work may interfere with or cause damage to the facilities. The cost of repair of the damage to overhead wires, underground pipes or conduits shall be the responsibility of the person, firm or corporation doing or causing the work to be done. The City of Modesto and its officers and employees shall be exempt from the provisions of this subsection.

(d) No person shall pour concrete (driveway, patios, walkways or other types of concrete pours) on private property less than 6 feet (6') from the center of any existing city tree in any direction, unless otherwise approved by the Director..

(e) It shall be unlawful for any person to injure or destroy by any means any tree planted or maintained by the City in rights-of-way or easements, including, but not limited to, the following:

(1) Constructing a concrete sidewalk or driveway or otherwise filling up the ground around any street tree so as to shut off air or water from its roots.

(2) Piling building materials, equipment, or other substance around any tree.

(3) Pouring any deleterious material on any tree or on the ground near any tree.

(4) Posting any sign, poster, notice, or other object on any tree, tree stake or guard, or fastening any guy wire, cable, rope, nails, screws, or other device to any tree, tree stake or guard.

- (5) Causing or encouraging any fire or burning near or around any tree.
- (6) Using any mechanical weeding device against a tree.
- (7) Constructing retaining walls, fences, or other similar improvements which prohibit the planting or maintaining of street trees or otherwise affect their growth.
- (8) Operating construction equipment in such a manner to cause it to contact the tree.
- (9) Disrupt the anchorage of the tree or change the grade around the tree.
- (10) No person shall plant a tree or other plant material in a right-of-way or easement other than grass or other similar planting materials, unless approved by the Director, in consultation with the City Arborist.

7-5.07 - Duty to Trim Trees.

Notwithstanding other provisions of this chapter, it is hereby made the duty of every person owning or occupying any land within the City to keep all private trees extending over any street or alley trimmed up to a height of not less than twelve (12) feet, except that a height of not less than seven (7) feet shall be permitted over the sidewalk area. Such persons are also responsible for keeping the street, alley and sidewalk space clear of debris.

7-5.08 - Cooperation with Other Departments and Agencies.

(a) Any public utility maintaining any overhead wires or underground pipes or conduits shall obtain permission from the Director before performing any maintenance to wires, pipes, or conduits, if the maintenance would cause injury to street trees. A public utility shall in no way injure, deface, prune, or scar any street tree until its plans and procedures have been approved by the Director.

(b) Any public utility performing work which might affect street trees shall permit the Director or his or her designee to inspect any and all maintenance or operational work performed by the public utility.. If the Director believes that a public utility's work would cause excessive or unnecessary injury to any street tree, the Director shall have the authority to stop the maintenance and operational work. The public utility shall arrange with the Director another method of maintenance or operational work satisfactory to the Director.

(c) The provisions of subsections (b) and (c) of this section shall not apply to emergency public utility maintenance work which is performed during nonworking hours for City personnel.

7-5.09 - Liability.

Nothing in this chapter shall impose any liability upon the City, or members of the Council, or any of its officials or employees, nor relieve the owner or occupant of any private property from

the duty to keep his private property, sidewalks, and rights-of-way abutting such private property in a safe condition, free from hazards to public use.

7-5.10 - Appeals.

Any person may appeal any administrative action taken by the Director pursuant to the provisions of this chapter, including the denial, suspension or revocation of a permit applied for or issued pursuant to this chapter, to the Council. Such an appeal shall be taken in accordance with the procedure prescribed by Chapter 4 of Title 1 of this Code.

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

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

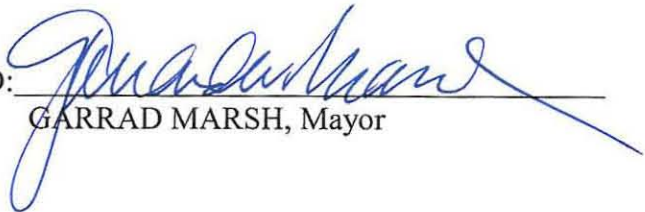
SECTION 4. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of August, 2015, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney

Ord. No. 3633-C.S.

FINAL ADOPTION CLAUSE

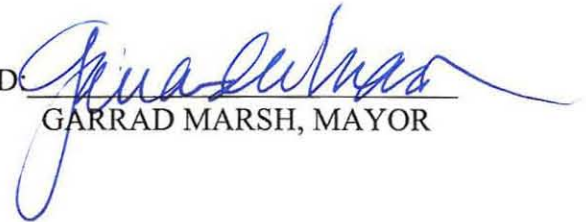
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 1st day of September, 2015, Councilmember Madrigal, moved its final adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Madrigal, Kenoyer, Zoslocki,
Mayor Marsh

NOES: Councilmembers: None

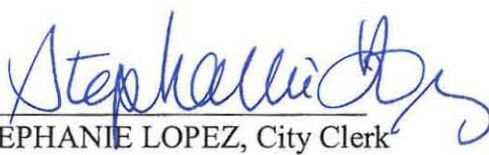
ABSENT: Councilmembers: None

APPROVED:



GARRAD MARSH, MAYOR

ATTEST:



STEPHANIE LOPEZ, City Clerk

Effective Date: October 1, 2015

ORDINANCE NO. 3634-C.S.

**AN ORDINANCE AMENDING PROVISIONS OF TITLE 5,
CHAPTER 5, ARTICLE 1, "SOLID WASTE" OF THE
MODESTO MUNICIPAL CODE RELATING TO SOLID
WASTE**

WHEREAS, the Modesto Municipal Code currently regulates the collection of solid waste in the City, and

WHEREAS, the City wishes to update its regulations on the collection of solid waste to increase clarity and ensure that the regulations are consistent with the terminology used in the solid waste industry, and

WHEREAS, the proposed modifications will ensure that the regulations contained in the Municipal Code accurately reflect the current procedures used by the City and comply with applicable law.

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

SECTION 1. AMENDMENT OF CODE. Article 1 "Solid Waste," of Chapter 5 of Title 5 is hereby amended to read as follows:

5-5.101 - Declaration of Policy.

The accumulation, collection, removal and disposal of solid waste must be controlled by the City for the protection of the public health, safety and welfare. The Council finds that to give effect to this policy, a comprehensive system for the periodic collection, removal and disposal of solid waste from all premises in the City is essential and benefits all occupants of premises in the City, and, therefore, all such occupants are required to provide for removal or collection of solid waste from all premises in the City in accordance with the provisions of this chapter.

5-5.102 - 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.

5-5.103 - Definitions.

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

- (a) "Annexation" means the legal process of including new territory within the incorporated boundaries of the City.
- (b) "Automated collection container" means a standard container designed for automated collection.
- (c) "Cannery or food processing waste" means the solid residues resulting from canning/food processing operations, which is segregated by the generator and which is collected for reuse.
- (d) "Collection" means the collection and transport of solid waste.
- (e) "Collection routes" means streets or areas designated for collection on a particular day/schedule.
- (f) "Collection vehicle" means any vehicle used by the collector for the collection of solid waste.
- (g) "Collector" means a person or firm authorized by a valid service agreement with the City of Modesto to collect solid waste within the City limits.
- (h) "Commercial" means occurring in a business zone.
- (i) "Commercial Waste Generator" means a business subject to subdivision (a) of Section 42649.2. of the Public Resources Code.
- (j) "Construction and demolition sites" means sites where construction or demolition activities are taking place.
- (k) "Containerized small green waste" means small green waste set out for collection in a standard container.
- (l) "Customer" shall mean any person, firm or corporation receiving service under the provisions of this chapter.
- (m) "Designated recycling collection location" means the location where an authorized recycling collector has agreed with a customer to pick up segregated recyclable materials as approved by the Public Works Director.
- (n) "Detachable container" means a container, watertight and with a cover, designed for direct dumping into a collection vehicle, and constructed in standard sizes with a minimum of one (1) cubic yard in capacity, as approved by the Public Works Director, and furnished by a collector.
- (o) "Disposal" means the final disposition of solid waste at a solid waste facility.

- (p) "Drop box container" means a metal box designed for loading upon a vehicle for transportation to a solid waste facility, with a minimum of twenty (20) cubic yards' capacity, of a design approved by the Public Works Director, and furnished by a collector.
- (q) "Finance Director" means the Finance Director of the City of Modesto or his/her designee.
- (r) "Garbage" means putrescible kitchen and table food waste and animal, fish, food, fowl, fruit or vegetable matter, or any portion thereof, resulting from the storage, preparation, cooking, or handling of food stuffs, or any other material contaminated by or rendered useless because of contact with any putrescible matter, except that garbage shall not include cannery or food processing wastes as defined in subsection (c), industrial garbage as defined in subsection (w), or swill as defined in subsection (ap) of this section.
- (s) "Garbage/recyclables" means garbage and recyclables commingled in the same container. Garbage/recyclables shall also include rubbish when said rubbish is included in the same container.
- (t) "Hazardous substance or hazardous wastes" means all substances defined as hazardous waste, acutely hazardous waste, or extremely hazardous waste by the State of California in the Health and Safety Codes or in future amendments to or recodifications of such statutes, or identified and listed as hazardous waste by the U.S. Environmental Protection Agency pursuant to the Federal Resource Conservation and Recovery Act and all future amendments thereto.
- (u) "Household hazardous waste" means hazardous waste generated at a residential location within the City.
- (v) "Industrial areas" means areas which are zoned industrial by the City's Zoning Code.
- (w) "Industrial garbage" means garbage produced by any person, firm or corporation engaged in the business of processing or manufacturing agricultural products, animals, poultry, goods, wares or other products or materials, who processes or manufactures the same for the purpose of wholesale in processed or manufactured form, and shall include cannery/food processing waste. Industrial garbage also means garbage produced by any person, firm or corporation engaged in the business of building construction and/or building demolition.
- (x) "Industrial garbage collector" means an agent or employee of the City, or any person, or the employees thereof, with whom an agreement shall have been entered under the terms of this chapter for the collection of industrial garbage.
- (y) "Initial term and any extensions" means the term of a service agreement and any extensions beyond that time period as established by the City Council.

- (z) "Large green waste" means shrubbery, brush, tree limbs, tree branches, tree trimmings and similar material, excluding tree limbs larger than six (6) feet in length or six (6) inches in diameter, and any single piece of large green waste weighing more than fifty (50) pounds.
- (aa) "Organic Waste" means food waste, nonhazardous wood waste, and paper waste
- (ab) "Organic recycling container" means a organic recycling retainer to be used for the separate collection and recycling of small green waste and organic waste. Organic recycling container shall also mean a detachable or other container as approved by the Public Works Director, used for the collection and recycling of small green waste from commercial or other customer classes.
- (ac) "Place" or "Premises" means every dwelling house, dwelling unit, apartment house or multiple-dwelling building, trailer or mobile home park, store, restaurant, rooming house, hotel, motel, hospital, office building, department store; manufacturing, processing or assembling shop or plant; warehouse; and every other property or building where any person resides or any business or activity is carried on or conducted within the City of Modesto.
- (ad) "Property value" means a worth to the extent that a person will collect the materials involved with compensation to the owner or producer, or at no cost to the owner or producer.
- (ae) "Public Works Director" means the Public Works Director of the City of Modesto and his/her duly authorized agent.
- (af) "Recyclable materials" means domestic, commercial or industrial by-products which may have an economic value if recycled, which may be source separated, set aside, handled, packaged or offered for collection by the residence/business. Recyclables include, but are not limited to, glass, newspaper, plastics, metal, bi-metal, aluminum, and other materials.
- (ag) "Recyclables" means recyclable materials.
- (ah) "Recycling" means the process of collecting, sorting, cleansing, treating, reconstituting, and/or marketing recyclable materials which would otherwise be disposed of in a landfill. The collection, transport or disposal of solid waste which is not intended for, or capable of being, reused, shall not be construed to be recycling.
- (ai) "Recycling collector" means a person, firm, organization or company which the City has authorized to provide recycling service in the City.
- (aj) "Recycling container" means any container provided by an authorized recycling collector to a customer for the purpose of segregating recyclable materials for collection by collector. Recycling containers shall be clearly marked to indicate purpose and to warn that theft of the container, theft of its contents, or diversion for uses other than by the collector are punishable under this Code.
- (ak) "Removal" means transportation and disposal of solid waste by noncustomers in accordance with the provisions of this chapter.
- (al) "Residential premises" means any dwelling unit; the occupant of which places his/her solid waste in a standard container.
- (akm) "Rubbish" means nonputrescible, useless, unused, unwanted or discarded material or

debris, either combustible or noncombustible, which by their presence may injuriously affect the health, safety and comfort of persons and property in the vicinity thereof.

(an) "Salvageable waste" means matter and material which will be reused and which has a property value.

(ao) "Service area" means the area of the City to be served by a collector as described in the service agreement between City and collector.

(ap) "Small green waste" means leaves, weeds, grass clippings, vines, twigs and other similar soft vegetative materials, and woody prunings from trees no longer than two (2) foot length or six (6) inches in diameter, except that small green waste shall not include large green waste or leaves separated and set out for collection between November 1 and December 31 of each year pursuant to Article 11 of Chapter 7 of Title 4 of this Code.

(aq) "Solid waste" means all putrescible and nonputrescible solid, semisolid and liquid waste accumulated or delivered for collection and disposal within the City and includes, but is not limited to, construction debris, demolition debris, bulky waste, and small green waste . Solid waste does not include hazardous waste or household hazardous waste, designated waste, infectious waste, recyclable materials when recycled, sewage, or abandoned automobiles.

(ar) "Solid Waste Enforcement Officer" means the Solid Waste Enforcement Officer of the City of Modesto

(as) "Standard container" means a plastic container, watertight and with a close-fitting cover, of not less than sixty (60) nor more than ninety (90) gallons' net capacity of a design satisfactory to the Public Works Director, or such other disposal unit approved by the Public Works Director, and supplied by the solid waste collector to its residential customers. The Public Works Director shall make the determination of what size container a residential customer receives.

(at) "Swill" means all classes of putrescible, animal, fish, fowl, fruit or vegetable matter, and shall include matter or substances used in the preparation, cooking, dealing in or storage of meats, fowl, fish, fruits and vegetables that are subject to immediate decay and the attraction of flies or rodents, and having a property value.

(au) "Swill collector" means an agent or employee of the City, or any person, or the agents, assignees, or employees thereof, with whom an agreement shall have been entered under the terms of this chapter for the collection of swill.

(av) "Term" means the length of an agreement entered under the terms of this chapter.

5-5.104 - Segregation and Disposition of Solid Waste Materials.

Every producer of solid waste may segregate the same into garbage, recyclables, garbage/recyclables, containerized small green waste , industrial garbage, rubbish, and/or swill, and dispose of the same as provided in this chapter.

5-5.105 - Illegal Dumping, Depositing or Burying Solid Waste.

(a) It is unlawful and shall constitute an abatable nuisance for any person to place solid waste or hazardous waste as defined in Sections 5-5.103(s) and 5-5.103(an), upon any public

property or the private property without the consent of the property owner, unless approved by the Public Works Director. This section does not apply to solid waste or hazardous waste placed at a permitted solid waste facility approved for such use. Intent to remove the solid or hazardous waste shall not constitute a defense to this offense.

- (b) It is unlawful for any person to place hazardous waste as defined in Section 5-5.103(t), into any garbage container, street, alley or public right-of-way.
- (c) It is unlawful for any person to place large green waste, organic waste, or solid waste as defined in Sections 5-5.103 (z, aa, and aq), into any garbage or organic recycling container without the permission or consent of the person owning, renting or having legal control of that container.

5-5.106 - Accumulation of Garbage, Garbage/Recyclables, Small green waste , or Rubbish.

Every person occupying premises, every owner of any unoccupied premises or property, and every owner of multiple-dwelling buildings shall keep the same in a clean and sanitary condition, and shall not cause, suffer, or permit any garbage, garbage/recyclables, or small green waste to accumulate on such premises or property for a period in excess of one (1) calendar week; or cause, suffer, or permit any rubbish to accumulate on their premises for a period in excess of one (1) calendar month; provided, however, that this provision shall not be construed to prohibit any person from keeping building materials on any premises or property during the period of active construction, reconstruction, or repair of a building or structure thereon under a current valid building permit; nor the neat storage of clean recyclables intended to be taken by the occupant to a recycling center, nor the keeping of wood, neatly piled, upon such premises for household use; nor the composting of grass or trimmings in a manner allowed pursuant to the Composting Regulations of the State of California.

5-5.107 - Garbage, Garbage/Recyclables, Small green waste , and/or Swill Collection.

Collection or removal of garbage, garbage/recyclables, and small green waste shall be made at least once a week, and collection of swill shall be made daily. Collectors shall transfer the contents of all containers into the collection vehicle provided therefor without spilling any contents.

5-5.108 - Containers Required.

It shall be unlawful for any person occupying any premises within the City, or for any person, controlling or maintaining any premises within the City where solid waste is created, produced, or accumulated, to fail or neglect to provide a sufficient number of each approved type of standard containers for receiving and holding, without leakage or escape of odors, all solid waste produced, created, or accumulated upon such premises, except as hereinafter provided; and all such persons shall deposit all such solid waste in the correct containers, and all such containers shall be at all times kept in a good, usable and sanitary condition. Containers shall be kept continuously closed except when solid waste is being placed therein or removed therefrom, and

shall at all times be closed against the access of flies, rodents, and animals to the contents thereof. Garbage, rubbish and/or garbage/recyclables may be deposited in the same container. It shall be unlawful for any person to place anything other than small green waste or organic waste in an organic recycling container. It shall further be unlawful for any person to place small green waste or organic waste in any solid waste collection container, other than an organic waste container.. No standard container shall exceed one hundred (100) pounds in weight when filled for collection or removal, except when detachable or drop box containers are used.

5-5.109 - Number of Containers Required.

All places or premises within the City shall have sufficient containers of the approved type to hold all garbage, garbage/recyclables, and small green waste/organic waste generated, produced or accumulated on the place or premises during a one (1) week period, unless a more frequent collection schedule has been approved or directed pursuant to this chapter. In determining the sufficiency of the number of containers required, the following minimum standards shall apply.

- (a) One (1) family and two (2) family dwellings:, one (1) black standard container for garbage and recyclables, and one (1) organic recycling retainer for small green wasteand organic waste per dwelling unit.
- (b) Three (3) or four (4) family dwellings, , one (1) standard container per dwelling unit for garbage and recyclables, unless a lesser number is authorized by the Public Works Director, and sufficient small green waste/organic waste composita collection containers of a type approved by the Public Works Director.
- (c) Apartment Houses and multiple dwelling buildings: One (1) detachable container per building equivalent to 1 standard container per dwelling unit for garbage and recyclables, unless a lesser number is authorized by the Public Works Director and sufficient small green waste/organic waste collection containers of a type approved by the Public Works Director.
- (d) Motel, hotel, trailer park, or mobile home park: One (1) standard container for garbage and garbage/recyclables per unit or space, unless a lesser number is authorized by the Public Works Director, and sufficient small green waste/organic waste collection containers of a type approved by the Public Works Director.
- (e) Commercial place or premises:, not less than one (1) standard container for garbage and recyclables, or one (1) detachable container(s) for garbage and recyclables as determined by the Public Works Director, and sufficient small green waste/organic waste collection containers of a type approved by the Public Works Director.
- (f) Enclosures Required: For multifamily apartment houses, multiple dwelling buildings, commercial and industrial premises, one (1) enclosure per building in compliance with the Garbage Enclosure & Container standards set forth by the Council on August 9, 2005

(Resolution #2005-404), unless a lesser number is authorized by the Public Works Director.

Customers responsible for solid waste removal or collection services for apartment houses, multiple-dwelling buildings, commercial and industrial places or premises may arrange for the use of detachable containers and/or drop box containers instead of standard containers. These arrangements shall be made with the collector on the basis of charges established for this purpose.

Nothing herein shall be construed to prohibit the joint use of a detachable container or drop box container by two (2) or more customers upon approval of the Public Works Director.

5-5.110 - Prohibited Location of Containers.

Solid waste, rubbish, swill, and industrial garbage containers shall not be placed or allowed to remain in or on any street right-of-way, except within twenty-four (24) hours prior to and following service day or as otherwise authorized by the Public Works Director.

5-5.111 - Container Locations.

- (a) On single-family and two (2) family premises, standard solid waste containers and organic recycling containers shall be placed by the customer on the premises and when subject to collection may be collected by the collector as follows:
 - (1) Where alleys exist, immediately adjacent to the property and accessible from the alley without the necessity of entering the premises.
 - (2) Where alleys do not exist, containers shall be placed in front of or on the side of the property from where the contents were generated, on the abutting asphaltic portion of the street next to the curb, or the edge of the driveway apron, or such other location as approved by the Public Works Director.
 - (3) All containers shall be placed no more than four (4) feet from an area where the collection vehicle can reasonably park. All residential containers set out for collection shall have the necessary clearance from obstructions on either side of the container as well as overhead clearance needed for the collection vehicle to empty contents of the container without causing damage to public or private property. In case of dispute, an acceptable residential container location shall be as determined by the Public Works Director.
 - (4) All containers should be screened from public view, except within twenty-four (24) hours prior to and following service day, in a manner approved by the Public Works Director.
- (b) Standard and detachable containers for solid waste service to multiple-dwelling buildings, apartments, commercial and industrial premises shall be placed in a location no greater than fifty (50) feet from the nearest point where the collector's vehicle can

reasonably be parked. Drop box containers shall be located as agreed upon between the customer and the collector. In case of dispute, the location shall be as determined by the Public Works Director.

- (c) Containers for solid waste may be placed on premises at locations other than described in this section if the customer is handicapped or disabled and the location is approved by the Public Works Director.

5-5.112 - Explosives or Hazardous Materials.

No person shall deposit in any container used for solid waste, any explosive, highly flammable, radioactive or otherwise hazardous material or substance. A violation of this section shall be punishable as a misdemeanor.

5-5.113 - Spillage of Solid Waste.

All solid waste hauled by any person over public streets in the City shall be secured during the hauling thereof so as to prevent spillage or blowing.

5-5.114 - Furnishing of Detachable and Drop Box Containers.

Any agreement entered into by the City for garbage, garbage/recyclables, or small green waste/organic waste collection shall provide for the availability of approved detachable containers and drop box containers by the collector on a rental basis. The collector shall be responsible for the general repair and upkeep of all detachable containers and drop box containers. The customer shall maintain all rented detachable containers and drop box containers in sanitary condition at all times.

5-5.115 - Hours of Collection.

- (a) No collections shall be made in residential districts, as shown on the Zoning Map of the City of Modesto, or at schools, churches, hospitals, offices or commercial establishments in or adjacent to said residential district except between the hours of 6:00 a.m. and 6:00 p.m. year round.
- (b) Collections may be made in commercial areas when not adjacent to residential areas between the hours of 6:00 a.m. and 9:00 p.m. Monday through Sunday.
- (c) No collection shall be made from premises in residential or commercial areas other than described in subsections (a) and (b) of this section except when prior approval has been given by the Public Works Director.

5-5.116 - Collection Equipment.

All collections shall be made with vehicles of a design approved by the Public Works Director. All collections shall be made as quietly as possible, and use of any unnecessarily noisy trucks or equipment is prohibited.

5-5.117 - Agreement to Collect Solid Waste.

- (a) It shall be unlawful for any person or entity to engage in the business of collecting solid waste, recyclables or small green waste/organic waste within the City unless such person or entity is an employee or agent of the City, or is a party to an agreement approved by the Council pursuant to this chapter, or is the employee of such a party.
- (b) It shall be unlawful for any commercial or industrial establishment to enter into any agreement for collection of solid waste, recycling, or organic waste unless such person or entity is party to an agreement approved by the council pursuant to this chapter or is the employee of such a party unless otherwise approved by the Public Works Director.
- (c) It shall be unlawful for any person to interfere in any manner with the lawful operations of such a collector or their authorized agents or assignees.
- (d) The City may provide in any agreement pursuant to this chapter that the collector may assign a portion or portions of the solid waste collection services for which that person or entity is so contracted to one (1) or more agents or assignees upon approval of the City Council. The collector shall be responsible for the operation and conduct of such agents or assignees.

5-5.118 - Removal of Solid Waste by Producers.

Notwithstanding the provisions of Section 5-5.117:

- (a) Any person may remove or may cause to be removed from premises occupied by that person or under their control, all solid waste created or produced on such premises if all of the following conditions have been met or will be complied with:
 - (1) Removal shall be made only by the owner or occupant personally, or by employees of such owner or occupant.
 - (2) All vehicles used in carrying out removal shall be owned by or under the exclusive control of the owner or occupant, and such vehicles and activities shall meet all the requirements of this chapter and all other laws and ordinances of the State of California and the City relating to solid waste disposal.
 - (3) Persons removing solid waste in excess of normal annual residential volume (defined herein as three thousand (3,000) pounds per year) shall comply with the following additional requirements:
 - (i) No waste shall be permitted to leak, blow, litter or fall from any vehicle engaged in such removal.
 - (ii) All removal shall be done safely and quietly with due regard to the property of others.
 - (iii) No person shall remove solid waste from any location within two hundred (200) feet of a public or private elementary, junior high, or high school,

where such school is shown on an official map of the City, as designated by the Public Works Director, during the forty-five (45) minutes before the commencement of the regular school day and forty-five (45) minutes following the conclusion of the regular school day, where such locations are accessible to and used by children as routes to or from school.

- (iv) Persons engaged in solid waste removal pursuant to these requirements shall be responsible for any damage in excess of normal wear and tear to the City's driving surfaces, whether or not paved, resulting from the illegal weight of, or any leakage or spillage of oils, fluids or solids by vehicles used in such solid waste removal.
 - (v) Vehicles used shall comply with CHP and D.O.T. regulations, and shall be thoroughly washed and disinfected inside the collection body following each use.
 - (vi) No driver shall operate a vehicle as in subsection (b)(3)(v) of this section, without a valid and appropriate driver's license.
 - (vii) All vehicles as in subsection (b)(3)(v) of this section shall be clearly identified with the name and local telephone number of its operator affixed thereto.
 - (viii) Garbage shall be disposed of at a permitted transfer facility or at the Fink Road Sanitary Landfill. If disposed of outside of Stanislaus County, the county where disposal occurs shall have an export agreement with the City of Modesto.
 - (ix) Small green waste shall be separated from garbage and taken to a permitted composting facility or such other locations as directed by the Public Works Director.
 - (x) Insurance requirements as specified from time to time by the City's Risk Manager shall be complied with.
- (4) A cash security deposit shall be deposited with the City in an amount set from time to time by Council resolution, to ensure prompt removal of solid waste in the event it is not removed from the premises on a regular weekly basis by a noncustomer owner or person in control of the premises. A security deposit shall be made for each separate residential property or business location owned or controlled by a noncustomer, based on the frequency and volume of past collection. Events requiring City to use a noncustomer's deposit for solid waste removal shall be treated as a public nuisance

subject to immediate abatement and charged to such noncustomer. Conduct requiring City to expend noncustomer deposit moneys shall constitute a misdemeanor.

- (5) Persons engaged in solid waste removal shall procure and retain a receipt from a permitted solid waste facility for each week they remain a noncustomer of a collector and display all such receipts for the preceding one-quarter ($\frac{1}{4}$) calendar year upon reasonable request by appropriate City authority. Failure to show proof of solid waste disposal for each week that a person is a noncustomer shall constitute a public health and safety risk sufficient to permit City to administratively require such person to become a customer.
- (b) Any producer of industrial garbage or swill, or their employees, may transport the same upon or through any street or public place of the City for disposal at a permitted disposal facility or site.
- (c) It shall be unlawful for any person acting as an employee of a producer of industrial garbage or swill to collect or transport such industrial garbage or swill from more than one (1) industrial producer thereof.
- (d) Any person engaged in the business of gardening or tree trimming, or building demolition, or construction cleanup work, including both yards and building interiors, is authorized to remove small green waste, rubbish or salvageable waste produced as an incident to such business. It shall be unlawful to dispose of small green waste, organic waste and recyclable waste. These materials shall be taken to an approved recycling or compost facility unless otherwise approved by the Public Works Director.

5-5.119 - Rate-Making for Solid Waste Collection Services.

- (a) Charges for solid waste service shall be as determined by the collector for each customer class and shall not be subject to City review and mediation.
- (b) The City shall not engage in rate-making with respect to charges for solid waste collection service, except to set maximum rates as set forth in subsection (c) of this section.
- (c) Inasmuch as collectors granted exclusive service agreements will have no competition with respect to customers who do not wish to be noncustomers, the City Council reserves the right to set maximum rates that may be charged for any solid waste collection services offered by collectors having agreements with the City specifying that the collector has an exclusive service agreement with respect to such service or services. No collector may charge differing rates within the same class of solid waste customer.

5-5.120 - Fee for Collection of Solid Waste and Industrial Garbage.

The privilege of engaging in the businesses of collecting solid waste, industrial garbage or swill

is conditioned on entering into a contractual relationship with the City to provide some or all of these services.

5-5.121 - Fee for Collection of Swill.

The fee for the privilege of engaging in the business of collecting swill in the City shall be the sum of twenty-five dollars (\$25.00) per calendar quarter, or fraction thereof, payable in advance.

5-5.122 - Delinquent Fees.

- (a) Penalty. To all fees not paid within thirty (30) days following the close of the preceding quarter there shall be added a penalty of five (5) percent of the amount of fees due per month or fraction thereof until paid. The maximum penalty imposed on any one (1) delinquency occurring heretofore or hereafter shall not exceed twenty-five (25) percent of the amount of service agreement fees due.
- (b) Interest. In addition to any penalties imposed by this section, delinquent service agreement fees heretofore or hereafter occurring shall be subject to interest at the rate of seven (7) percent per annum until paid.

5-5.123 - Collection Agreement Proposals.

Proposals to enter into a collection agreement with the City pursuant to this chapter shall be submitted in writing to the City Clerk. The City shall charge a reasonable fee, as determined by a resolution adopted by the City Council, to the proponent of a proposal to cover the City's costs associated with the due diligence in consideration of the proposal. Each proposal shall contain the following information:

- (a) Name and Address of the Proponent. If the proponent is a firm or partnership, names of all owners and partners of all classes, limited and general, shall be listed. If the proponent is a corporation, the names and titles of each of the officers and directors shall be listed, and in addition the names of all stockholders owning, holding or controlling five (5) percent or more of corporate stock shall be listed;
- (b) The types of services offered;
- (c) The number, kind and capacity of the vehicles and other equipment to be used for such purposes;
- (d) A financial statement showing the proponent's financial status and their financial ability to conduct the collection operation proposed in their proposal;
- (e) Proposed consideration to the City if agreement is reached.

5.124 - Procedure to Enter into Agreement.

Upon receipt of a proposal to enter into an agreement hereunder, the Council shall pass a resolution declaring its intention to consider the proposal, setting forth notice of the day, hour and place, when and where any and all persons may appear before the Council and be heard

thereon. The time fixed for such hearing shall be not less than ten (10) days nor more than thirty (30) days after the date of the passage of said resolution.

5-5.125 - Protests May Be Filed.

At any time not later than the hour set for the hearing to consider a proposal, any person interested may make written protest stating objections against the proposed agreement. Such protest must be signed by the protestant and delivered to the City Clerk.

5-5.126 - Hearing.

At the time set for the hearing, the Council shall proceed to hear the matter, and all persons shall be given opportunity to be heard. The Council may adjourn said hearing from time to time.

5-5.127 - Competitive Bids.

The Council may in its discretion, in lieu of considering proposals for agreements, advertise for competitive bids for agreements specified by the City.

5-5.128 - Entering Agreements.

Upon consideration of a proposal or bid for an agreement, the Council may enter into an agreement with any proponent or bidder it determines to be best qualified to render proper and efficient collection service. The Council also has the right to reject all bids and proposals. Every agreement entered into by the Council pursuant to the provisions of this chapter shall cover the following matters:

- (a) The name and address of the person, firm or corporation with whom the agreement is made;
- (b) The type of collection service authorized;
- (c) Whether the agreement is exclusive or nonexclusive; limited or unlimited;
- (d) The term of the agreement, which in no case shall be longer than ten (10) years;
- (e) Such other conditions as the Council may provide.

5-5.129 - Limit on Number of Agreements.

In order to preserve the health, safety and welfare of the people in the City, the Council hereby retains the authority to limit the number of agreements for the collection of solid waste, swill, and industrial garbage which will be made under this chapter.

5-5.130 - Insurance.

Each collector engaging in the collection of solid waste and industrial garbage shall provide the Finance Director with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council and shall be the same for all collectors.

5-5.131 - Faithful Performance Bond by Solid Waste Collectors.

Each party other than City to an agreement to collect solid waste pursuant to the provisions of this chapter shall file with the City Clerk a faithful performance bond or other form of security satisfactory to the City in an amount required by the agreement, and said amount shall be the same for all collectors. Said bond or security shall be conditioned upon the faithful performance of all of the terms and conditions of said agreement and the provisions of this chapter, insofar as they are applicable to said collector.

5-5.132 - Assignment of Agreements.

No agreement entered into by the Council with a collector pursuant to the provisions of this chapter and no ownership interest in any party to such an agreement can be sold, gifted, transferred, leased, assigned, mortgaged, pledged, hypothecated, or otherwise encumbered or disposed of, in whole or in part, directly or indirectly, whether voluntarily or by operation of law, or through any stock transfer, transfer in trust, change in control, consolidation or merger of any company or corporation, without the prior written consent of the City Council granted after a public hearing in accordance with the procedures specified in Sections 5-5.123 through 5-5.126 of this chapter. The Council may grant or deny such a request, and may impose such conditions as it may deem to be in the public interest including, but not limited to, conditions requiring acceptance of amendments to this service agreement and the payment to City of a reasonable transfer fee in an amount to be determined by the City Council sufficient to cover the City's costs associated with the transfer. Any attempted disposition made without such consent shall be void.

- (a) Proof of Financial Responsibility. In the event of any assignment duly authorized by the Council, the assignee shall assume the liability and responsibilities of the collector. Any such transfer or assignment shall be made only by an instrument in writing, such as a bill of sale or similar document, a duly executed copy of which shall be filed in the office of the City Clerk with thirty (30) days after any such transfer or assignments. Consent of the Council may not be unreasonably refused; provided, the proposed assignee shall demonstrate to the City Council the financial responsibility as required by all the provisions of this chapter and the service agreement.
- (b) Hypothecation. Prior consent of the Council shall be required for a transfer in trust, mortgage or other hypothecation, in whole or in part, to secure an indebtedness, when such indebtedness hypothecations shall equal or exceed fifty (50) percent of the independently appraised market value of the property used by collector in its operation. Such consent shall not be unreasonably withheld.
- (c) Acquisitions of Interest. In the event the collector is a corporation, it shall notify the Council when ownership of more than thirty (30) percent of the voting stock of the collector is acquired by a person or group of persons acting in concert, none of whom already own twenty (20) percent or more of the voting stock, singly or collectively. Any such acquisition shall require the approval of the Council which approval shall not be unreasonably withheld. Failure to comply with this provision shall be grounds for the

termination of the service agreement pursuant to the provisions of this chapter and the service agreement.

- (d) Bankruptcy. In the event that collector should become insolvent or if proceedings in bankruptcy shall be instituted by or against collector, or if collector shall be adjudged bankrupt or insolvent by any court, or if a receiver or trustee in bankruptcy or a receiver of any property of collector shall be appointed in any suit or proceeding brought by or against collector, or if collector shall make an assignment for the benefit of creditors, and during the pendency of said proceeding the collector fails to maintain service levels as required herein or by any other applicable law, City may initiate termination of the service agreement.

5-5.133 - Termination of Agreements.

Any agreement entered by the Council pursuant to the provisions of this chapter may be terminated by the Council, if after conducting a public hearing on said termination, the Council finds and determines that the person doing business by virtue of such agreement has failed to comply with any of its material terms, or this chapter, has failed to render satisfactory collection services, or without cause in accordance with the provisions of the agreement.

- (a) Termination for Cause. The City further reserves the right to terminate the service agreement or impose liquidated damages in the event of any of the following:
 - (1) If collector practices, or attempts to practice, any fraud or deceit upon the City.
 - (2) If collector becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of collector in a bankruptcy proceeding.
 - (3) If collector fails to provide or maintain in full and in effect, any or all of the bonds and/or coverages required by its service agreement with the City.
 - (4) If collector willfully and materially violates any orders or rulings of any regulatory body having jurisdiction over collector relative to its service agreement with the City, provided that the collector may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no breach of the service agreement shall be deemed to have occurred.
 - (5) If collector ceases to provide collection services as required by the service agreement over all or a substantial portion of its service area for a period of seven (7) days or more, for any reason within the control of the collector.
 - (6) If the collector willfully fails and/or refuses to provide City with required information, reports, and/or test results related to vehicle incidents or other incidents where such tests are conducted as part of an investigation of an incident, in a timely manner as provided in its service agreement.

- (7) Any other act or omission by the collector, which materially violates the terms, conditions, or requirements of its service agreement.
- (b) Process for Imposing Damages for Termination. The Solid Waste Manager may file a complaint with the Public Works Director charging a failure of collector to comply with the provisions of this chapter or the service agreement.
- (1) Upon issuance of the Solid Waste Manager's complaint, the Public Works Director shall conduct a factual investigation thereof and render a decision relative to the justification for complaint, in writing, within ten (10) days following the decision.
 - (2) If the Public Works Director determines that the collector's performance pursuant to its service agreement with the City has not been in conformity with the provisions of either the service agreement, the requirements of this chapter, or the requirements of the California Integrated Waste Management Board, including, but not limited to, the laws governing transfer, storage, or disposal of special wastes, the Public Works Director may advise collector in writing of such deficiencies. The Public Works Director may set a reasonable time within which correction of all such deficiencies is to be made. Unless otherwise specified, a reasonable time for correction shall be thirty (30) days from the receipt by the collector of such written notice. The Public Works Director shall review the collector's response and notify the collector of his/her decision, in writing.
 - (3) A decision or order of the Public Works Director shall be final and binding on collector if the collector fails to file a "Notice of Appeal" with the City Manager within thirty (30) days of receipt of the Director's decision. Within ten (10) working days of receipt of a Notice of Appeal, the City Manager shall either refer the appeal to the City Council for proceedings in accordance with subsection (b)(4) of this section, or refer the matter to a hearing officer.
 - (4) The City Council shall set the appeal on the matter referred by the City Manager for hearing within sixty (60) days from receipt by the City Manager of the appeal or referral. At the hearing, the City Council shall consider the report of the Public Works Director indicating the deficiencies, and shall give the collector, or its representatives and any other interested person, a reasonable opportunity to be heard.
 - (5) Based on the evidence presented at the public hearing, the Council shall determine whether the service agreement should be terminated, liquidated damages imposed, or both. The City Council may also find in favor of collector. The decision of the City Council shall be final and binding. Collector's performance under the service agreement is not excused during the period of time prior to the City Council's final determination as to whether such performance is deficient.

- (c) Remedies—Liquidated Damages. The City Council may, at its discretion, assess liquidated damages not to exceed the sum of five thousand dollars (\$5,000.00) per day, for each calendar day that service is not provided by collector in accordance with the service agreement for a period not to exceed forty-five (45) days.
- (d) Additional Remedies. In addition to liquidated damages, above, the City shall have the following rights:
- (1) To Rent or Lease Equipment from Collector. The City may rent or lease equipment from collector for the purpose of collecting, transporting, and disposing of solid waste which collector is obligated to collect, transport, and dispose of pursuant to its service agreement, for a period not to exceed six (6) months.
 - (2) To Contract with Others to Perform the Services. The City may contract others to perform the services otherwise to be performed by collector hereunder, or perform such services itself.
 - (3) To Obtain Injunctive Relief. In the event of a breach under the terms of the service agreement by collector, City may suffer irreparable injury and incalculable damages sufficient to support injunctive relief, to enforce the provisions of the service agreement and to enjoin the breach thereof.
 - (4) To Reduce the Service Area. If at the time of the annual review the total number of unresolved complaints exceeds two and one-half tenths (0.25) of one (1) percent of the total annual stops for the prior year, the City Council may determine whether it is appropriate to decrease the service area of collector because of poor performance and authorize another collector to provide services. The maximum reduction in service area for poor performance under this provision shall be ten (10) percent for each occurrence.
 - (5) To Invoke Eminent Domain. Nothing set forth in a service agreement entered into between City and collector shall be deemed or construed to impair or affect, in any way, to any extent, the right of the City to acquire the property of the collector, either by purchase or through the exercise of the right of eminent domain, at fair market value, or be construed to contract away or to modify or abridge, whether for a term or in perpetuity, the City's right of eminent domain.
 - (6) To Collect and Bill Collector. Should collector fail to provide collection services as stipulated in its service agreement, within twenty-four (24) hours of a request being communicated by the City to collector to do so, the City may collect and dispose of same and collector shall be liable for all expenses incurred including, but not limited to, disposal, operating, administration, and legal costs. Reimbursement to City for such expenses will be paid by collector within thirty (30) days after date of invoice.

- (7) To Conduct Inspections. At all reasonable times during any normal business hours, the collector shall permit the City's authorized representatives to examine all property of the collector, and to examine and copy any and all records kept or maintained by the collector under its control which pertain to the service agreement.
- (e) Force Majeure. Collector shall not be in default under its service agreement in the event that any of the services provided by the collector under the terms of the agreement are temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, explosion, natural disasters such as floods, earthquakes, landslides, fires, strikes, lockouts, other labor disturbances or other catastrophic events which are beyond the reasonable control of collector. Other catastrophic events do not include the financial inability of the collector to perform or failure of the collector to obtain any necessary permits or licenses from other governmental agencies or the right to use the omissions of the collector. In the event a labor disturbance interrupts collection services as required by a service agreement, City may elect to exercise its rights under the service agreement.

5-5.134 - Customer May Contract for Excess Collection.

Any owner or occupant of any premises may contract with a City collector, or their agents or assignees, for special haul services for the removal of solid waste or rubbish in excess of services provided by the collector under regular collection fees.

5-5.135 - Collection of Solid Waste Charges.

Any agreement entered into by the Council pursuant to the provisions of this chapter for the collection of solid waste, except industrial garbage, shall specify that all charges for solid waste service shall be collected solely by the collector or by the City pursuant to contract with a collector. The City may contract with a collector to perform customer billing and collection services. Nevertheless, such a contract shall not obligate the City to, and the City shall not, use its police power to collect bills remaining overdue or unpaid.

5-5.136 - Records Required.

Each collector pursuant to the provisions of this chapter shall maintain detailed records of all receipts and expenditures received or incurred in the operation of such business, including all fees collected for services rendered.

The City, its officers and employees shall be entitled to inspect, audit and copy such books and records upon notice at all reasonable times.

5-5.137 - Annual Financial Report by Solid Waste Collectors.

Each collector of solid waste or industrial garbage pursuant to the provisions of this chapter shall file each year with the Finance Director a detailed financial statement, including a balance sheet and profit and loss statement. Said statement shall be filed on or before the date set forth in said agreement for the fiscal or calendar year specified in said agreement. Any collector who fails to

file said statement on or before said date shall pay a penalty of one hundred dollars (\$100.00) a day for each calendar day, or part thereof, until said statement is filed.
This section shall not apply to swill collectors.

5-5.138 - Inspection and Enforcement.

The Solid Waste Enforcement Officer and/or the Public Works Director may, from time to time, inspect all premises within the City to determine compliance with and to enforce the provisions of this chapter.

5-5.139 - Application of Other Provisions of this Code.

Except for the provisions of Article 3 thereof, the provisions of Chapter 1 of Title 6 of this Code shall not apply to collectors under the provisions of this chapter.

5-5.140 - Collection.

- (a) It shall be unlawful and punishable as an infraction for any person, other than an authorized curbside recycling collector, or its employees or agents, to remove salvageable waste which has been placed at a designated collection location. Placement of salvageable waste at a designated collection location shall constitute consent to its collection by an authorized recycling collector.
- (b) Theft of recycling containers or diversion of said containers to uses other than their designated purpose shall be punishable as an infraction.

5-5.141 - Unattended Newspaper Recycling Receptacles Prohibited Without the Issuance of a Temporary Permit.

- (a) It shall be unlawful for any person, other than a collector authorized by a service agreement with City and as expressly permitted by the Public Works Director, to place, locate, establish, maintain, erect, leave, or otherwise make available any unattended newspaper recycling receptacle which is in public view, in the City of Modesto, for the purpose of collecting discarded newspaper as hereinafter defined; provided, however, that in the case of undertakings sponsored by and located on a site owned by a bona fide nonprofit organization, or religious organization, or public agency, the City Manager or his/her designee shall be authorized to issue temporary permits for the location and use of newspaper recycling receptacles.
- (b) The City Manager shall promulgate, and from time to time amend rules and regulations for the issuance of temporary permits; and such rules and regulations as adopted or amended are hereby incorporated herein by reference as if fully set forth herein.
- (c) For the purposes of this section, the following words and phrases shall have the meanings set forth herein:
 - (1) "Newspaper" shall mean newspapers, magazines, or print material of like purpose.

- (2) "Newspaper recycling receptacle" shall mean any unattended bin, box, container, structure or device, the purpose of which is to serve as a container for the collection of discarded newspaper as herein defined.
- (3) "Person" shall mean any natural person, partnership, corporation, association, firm, company or entity, and shall include both male and female gender.

5-5.142 Mandatory Commercial Recycling

- (a) Per Public Resources Code Section 42649.2, the owner or operator of a business that contracts for solid waste services and generates more than four (4) cubic yards of total solid waste per week or is a multifamily residential dwelling of five (5) units or more shall arrange for recycling services, consistent with state or local laws or requirements, including a local ordinance or agreement, applicable to the collection, handling, or recycling of solid waste, to the extent that these services are offered and reasonably available from a local service provider.
- (b) A commercial waste generator shall take either of the following actions:
 - 1) Separate specified recyclable materials from solid waste and subscribe to a basic level of recycling service that includes the collection of those recyclable materials or specific provisions for authorized self-hauling.
 - 2) Subscribe to an alternative type of recycling service that may include mixed waste processing that yields diversion results comparable to source separation.

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

SECTION 3. EFFECTIVE DATE. This ordinance shall go into effect and be

in full force and operation from and after thirty (30) days after its final passage and adoption.

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of August, 2015, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and ordered printed and published by the following vote:


AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal,
Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

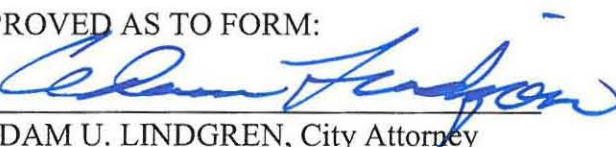
APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney

Ord. No. 3634-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 1st day of September, 2015, Councilmember Madrigal, moved its final adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Madrigal, Kenoyer, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


GARRAD MARSH, MAYOR

ATTEST:


STEPHANIE LOPEZ, City Clerk

Effective Date: October 1, 2015

ORDINANCE NO. 3635-C.S.

AN ORDINANCE AMENDING PROVISIONS OF TITLE 4, CHAPTER 7, ARTICLE 11, "COLLECTION OF PRUNED REFUSE" OF THE MODESTO MUNICIPAL CODE RELATING TO GREEN WASTE AND LEAF COLLECTION

WHEREAS, the Modesto Municipal Code currently regulates the collection of green waste and leaves in the City, and

WHEREAS, the City wishes to update its regulations on the collection of green waste and leaves to increase clarity and ensure that the regulations are consistent with the terminology used in the solid waste industry, and

WHEREAS, the proposed modifications will ensure that the regulations contained in the Municipal Code accurately reflect the current procedures used by the City.

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

SECTION 1. AMENDMENT OF CODE. Article 11 "Collection of Pruned Refuse," of Chapter 7 of Title 4 is hereby amended to read as follows:

Article 11. - Green Waste and Leaf Collection

4-7.1101 - Declaration of Purpose.

This article is enacted as an exercise of the general police power of the City to promote the maintenance of the public health and safety by systemizing the collection of large green waste, small green waste and leaves in the City.

4-7.1102 - Definition.

a) "Large green waste" shall mean and include shrubbery, brush, tree limbs, tree trimmings,

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tree branches and similar materials.

b) "Small green waste" shall mean leaves, grass clippings, vines, twigs and other similar soft vegetative materials, and woody prunings from trees which are no longer than two (2) feet long or six (6) inches in diameter, except green waste shall not include large green waste or leaves separated and set out for collection between November 1 and December 31 of each year pursuant to Article 11 of Chapter 7 of Title 4 of this code.

c) "Organic waste" shall mean food waste, nonhazardous wood waste and paper waste.

d) "Organic recycling container" shall mean a green standard container to be used for the separate collection and recycling of small green waste and organic waste. Organic recycling container shall also mean a detachable or other container as approved by the Public Works Director, used for the collection and recycling of small green waste from commercial or other customer classes.

4-7.1103 - Placement for Collection.

The following regulations shall govern the placement of large green waste, small green waste and leaves for collection by the City. Failure to comply with any regulation shall be unlawful and punishable as an infraction.

a) Placement.

A. Large Green Waste:

- i. Alley Collection: Where alleys in which garbage containers are serviced exist, green waste shall be placed in the alley for collection. Large Green waste shall be placed in the alley in a compact manner, directly behind the property from where it was generated, shall not extend more than three (3) feet into the alley, and must be at least one foot (1) from the abutting property's fence.
- ii. Street Collection: Where alleys do not exist, large green waste shall be placed in the abutting street for collection. Large green waste shall be placed at the curb in front of or on the side of the property where it was generated in a compact manner. Large green waste collection piles shall not extend further than three (3) feet into the street and must be at least one and one-half (1 ½) feet from the foot of the curb. Where curbs do not exist, large green waste

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shall be placed one and one-half (1 ½) feet from the point of the gutters, so as to permit drainage.

B. Leaves.

Throughout the year residents shall place leaves and other small green waste into their organic recycling container. From November 1 through December 31 of each year, after an organic recycling container reaches capacity, residents shall place leaves in the street. Leaves shall be placed in a compact manner and shall not be combined with any other small or large green waste. The leaf pile shall not extend into the street more than four (4) feet and shall be placed at least one and one-half (1 ½) feet from the foot of the curb. Where curbs do not exist, leaves shall be placed one and one-half (1 ½) feet from the low point of the gutters, so as to permit drainage. Leaves shall not be placed in plastic bags or any other type of container for collection. Leaves shall not be placed in alleys.

- b) Prohibited Location. Large Green waste trimming piles and leaf piles shall not be placed near sewer clean-outs, manholes, fire hydrants, drains or other utility fixtures. Green Waste and leaves shall not be collected when obstructed by parked vehicles, overhead obstructions, or in any way not immediately accessible to the collection equipment.
- c) Size. No tree limbs put out for collection shall exceed six (6) feet in length or six (6) inches in diameter. No single piece of large green waste shall weigh more than fifty (50) pounds.
- d) Time. The Public Works Director shall assign each property in the City a week in which Large green waste pickup will occur for that property and shall notify residents of this pickup schedule. This pickup shall occur once-a-month, from January through November. The City will not collect large green waste in the month of December and will only collect leaves. Residents shall not place large green waste on the street or alley for collection more than seventy-two (72) hours before their collection day.
- e) Small Green Waste. All small green waste shall be placed in organic waste containers approved by the Public Works Director. Residents shall not place more than one hundred (100) pounds of small green waste and organic waste into their organic waste container unless authorized by the Public Works Director. Organic waste containers shall be placed on the street or alley in the same manner as black garbage containers, and will be serviced on the same day, as further described in Title 5, Chapter 5 of this Code.
- f) Christmas trees. Christmas trees are to be placed in the street or alley during the regular large green waste collection schedule for the area. All stands, ornaments, tinsel, lights, wire

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and garland must be removed from the tree. Trees with flocking, paint, and fireproofing will not be picked up as part of large green waste collection and must be disposed of by residents in an alternative manner. All regulations for the size and placement of large green waste are applicable to Christmas trees.

4-7.1104 - Frequency of Collection.

It is the objective of this article that large green waste be collected once a month, except during the month of December, in all areas of the City to the maximum extent possible within the limitations of the personnel and equipment available.

4-7.1105 - Dumping Prohibited.

It shall be unlawful and shall constitute an abatable nuisance for any person to place any large or small green waste or leaves upon any public property, unless authorized by the Director of Public Works, or upon or adjacent to any vacant property, unless authorized by the owner of the property in writing. The dumping or depositing of large or small green waste or leaves on park strips and storm drain inlets is prohibited.

4-7.1106 - Administration of Collection Service.

The Public Works Director, or his or her designee, shall be responsible for the operation of the City's large and small green waste collection service and leaf season pickup. He or she shall have charge and supervision of collection and removal, and shall prescribe and establish routes and days for the collection and removal of large and small green waste or leaves from various parts of the City, and may change the same from time to time. When such routes or days of collection are established or changed, he/she shall give notice thereof to the public in such a manner as he/she deems best. He/she shall have the power to implement this article by issuing such traditional rules, regulations and instructions in writing as he/she deems necessary to carry out the purpose and intent of this article.

4-7.1107 - Right to Refuse Green Waste and Leaf Collection.

No collection will be made by the City of any large or small green waste or leaves which are placed for collection in violation of the provisions of this article, or any rules or regulations issued pursuant thereto.

3635-C.S.
Effective: October 1, 2015

4-7.1108 - Collection by Others.

Nothing contained in this article shall prohibit the collection of green waste or leaves by private persons, corporations or associations who are licensed to do so; provided, however, that large green waste or leaves shall not be placed in the street or green waste placed in the alley except for collection by the City.

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

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

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

3635-C.S.
Effective: October 1, 2015

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of August, 2015, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and ordered printed and published by the following vote:


AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal,
Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney

Ord. No. 3635-C.S.

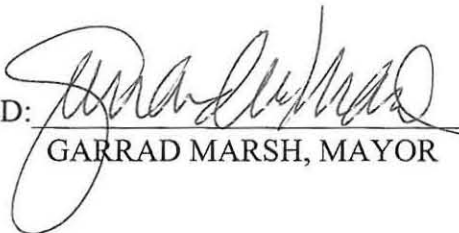
FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 1st day of September, 2015, Councilmember Madrigal, moved its final adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Madrigal, Kenoyer, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, MAYOR

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: October 1, 2015

3635-C.S.
Effective: October 1, 2015

ORDINANCE NO. 3636 C.S.

AN ORDINANCE AMENDING TITLE 9, CHAPTER 1 “BUILDING REGULATIONS,” OF THE MODESTO MUNICIPAL CODE ADOPTING ARTICLE 18 “SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEMS

WHEREAS, the City Council seeks to implement AB 2188, which requires that, on or before September 30, 2015, every city, county, or city and county shall adopt an ordinance that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems; and

WHEREAS, solar energy creates local jobs and economic opportunity; and

WHEREAS, rooftop solar energy provides reliable energy and pricing for the City’s residents and businesses; and

WHEREAS, the City Council wishes to promote the use of solar energy by providing an expedited streamlined permitting process for small residential rooftop solar energy systems.

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

SECTION 1. AMENDMENT OF CODE. Chapter 1, “Building Code” of Title 9, “Building Regulations,” is hereby amended to include Article 18 “Small Residential Rooftop Solar Energy Systems” as follows:

Chapter 1 – BUILDING CODE*

Article 18. – Small Residential Rooftop Solar Energy Systems

- 9-1.1801 - Purpose.
- 9-1.1802 - Definitions.
- 9-1.1803 - Applicability.
- 9-1.1804 - Solar Energy Systems.
- 9-1.1805 - Permit Application Procedures.
- 9-1.1806 - Permit Review and Inspection.

9-1.1801 - Purpose.

The purpose of this Ordinance is to adopt an expedited, streamlined solar permitting process for small residential rooftop solar energy systems that complies with the Solar Rights Act and AB 2188, as codified in Government Code section 65850.5.

9-1.1802 - Definitions.

As used in this article:

- (a) “Solar Energy System” means either of the following:

- (i) Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating.
 - (ii) Any structural design feature of a building, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.
- (b) A “small residential rooftop solar energy system” means a solar energy system which meets all of the following criteria:
- (i) Is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal.
 - (ii) Conforms to all applicable state fire, structural, electrical, and other building codes as adopted by the City and contained in the Modesto Municipal Code, and conforms to all state and local health and safety standards.
 - (iii) Is installed on a single or duplex family dwelling.
 - (iv) Contains a solar panel or module array that does not exceed the City’s maximum legal building height.
- (c) “Electronic submittal” means the utilization of one or more of the following:
- (i) Email.
 - (ii) The Internet.
 - (iii) Facsimile.
- (d) “Specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.
- (e) “Reasonable restrictions” on a solar energy system are those restrictions that do not significantly increase the cost of the system or significantly decrease its efficiency or specified performance, or that allow for an alternative system of comparable cost, efficiency, and energy conservation benefits.
- (f) “Significantly increase the cost of the system or decrease its efficiency or specified performance” means:
- (i) For Water Heater Systems or Solar Swimming Pool Heating Systems: an increase in the cost of the system as, originally proposed, exceeding the lesser of ten percent (10%) or one thousand dollars (\$1,000), or a decrease in the efficiency of the solar energy system, as originally proposed, exceeding ten percent (10%).
 - (ii) For Photovoltaic Systems: an increase in the cost of the system as originally proposed exceeding one thousand dollars (\$1,000), or a decrease in the efficiency of the solar energy system, as originally proposed, exceeding ten percent (10%).

9-1.1803 – Applicability.

- (a) This Ordinance applies to the permitting of all small residential rooftop solar energy systems in the City.
- (b) Small residential rooftop solar energy systems legally established or permitted prior to the effective date of this Ordinance are not subject to the requirements of this Ordinance unless physical modifications or alterations are undertaken that materially change the size, type, or components of the small rooftop energy system in such a way as to require new permitting. Routine operation and maintenance or like-kind replacements shall not require a permit.

9-1.1804 – Solar Energy System Requirements.

- (a) All solar energy systems permitted under this Article shall meet applicable health and safety standards and requirements imposed by the state and the City.
- (b) Solar energy systems for heating water in single-family residences and for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined by the California Plumbing and Mechanical Code.
- (c) Solar energy systems for producing electricity shall meet all applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

9-1.1805 – Permit Application Procedures.

- (a) All documents required for the submission of an expedited solar energy system application shall be made available on the City's publicly accessible website.
- (b) Applicants may submit the required permit application and documents in person at the City's Building Safety Department or may use electronic submittal.
- (c) An applicant's electronic signature shall be accepted on all forms, applications, and other documents in lieu of a wet signature.
- (d) The City's Building Official shall adopt a standard plan and checklist of all requirements with which small residential rooftop solar energy systems shall comply to be eligible for expedited review.
- (e) The small residential rooftop solar energy system permit process, standard plan(s), and checklist(s) shall substantially conform to recommendations for expedited permitting, including the checklist and standard plans contained in the most current version of the *California Solar Permitting Guidebook* adopted by the Governor's Office of Planning and Research.
- (f) All fees prescribed for the permitting of small residential rooftop solar energy systems must comply with Government Code Section 65850.55, Government Code Section 66015, Government Code Section 66016, and State Health and Safety Code Section 17951

9-1.1806 – Permit Review and Inspection.

- (a) The Building Official shall implement an administrative, nondiscretionary review process to expedite approval of small residential rooftop solar energy systems. The Building Official shall review the permit application within three (3) business days upon receipt of a complete application that meets the requirements of the approved checklist and standard plan. The Building Official may require an applicant to apply for a use permit if the Building Official finds, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety. Such decisions may be appealed to the Planning Commission.
- (b) The Building Official's review of the application shall be limited to review of whether the application meets all local, state, and federal health and safety requirements.
- (c) If a use permit is required, the Building Official may deny an application for the use permit only if the Building Official makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid the adverse impact. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. Such decisions may be appealed to the Planning Commission.
- (d) Any condition imposed on an applicant by the Building Official shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost.
- (e) A "feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the City, on another similarly situated application in a prior successful application for a permit. The City, shall use its best efforts to ensure that the selected method, condition, or mitigation does not significantly increase the cost of the system or decrease its efficiency or specified performance.
- (f) If an application is deemed incomplete, the Building Official shall send the applicant a written correction notice detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance.
- (g) Only one inspection shall be required and performed by the Building and Safety Services Department for small residential rooftop solar energy systems eligible for expedited review.
- (h) The inspection shall be done in a timely manner and should include consolidated inspections. The solar energy systems contractor shall be present for the inspection with the Building and Safety Services Department. An inspection shall be scheduled within five (5) business days of a request and all reasonable efforts will be made by the City to perform the inspection during a scheduling window of no more than two (2) hours. If a small residential rooftop solar energy system fails an inspection, a subsequent inspection is authorized and the subsequent inspection need not conform to the requirements of this Ordinance (j) Upon confirmation by the Building Official of the application and supporting documentation being complete and meeting the requirements of the checklist, the Building Official shall administratively approve the application and issue all required

permits or authorizations. Such approval does not authorize an applicant to connect the small residential rooftop energy system to the local utility provider's electricity grid. The applicant is responsible for obtaining such approval or permission from the local utility provider.

Section 2. Severability.

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

Section 3. Effective Date.

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

Section 4. CEQA.

The City Council hereby finds that the adoption of this Ordinance does not constitute the approval of a "project" under the California Environmental Quality Act (CEQA) pursuant to section 15060(c)(2) and (3) and 15061(b)(3) of the State CEQA Guidelines. Specifically, this Ordinance will not result in a direct or foreseeable indirect physical change in the environment as it does not authorize the construction of any new structures or other physical changes to the environment.

Section 5. Publication.

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


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The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of September 2015, by Councilmember Madrigal, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and ordered printed and published by the following vote:


AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal,
Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney

FINAL ADOPTION CLAUSE

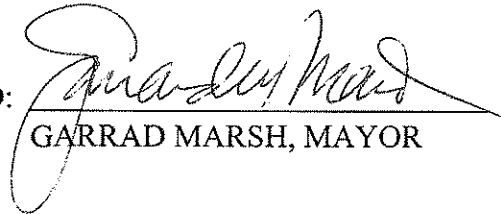
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 8th day of September 2015, Councilmember Gunderson moved its final adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer,
Zoslocki, Mayor Marsh

NOES: Councilmembers: None

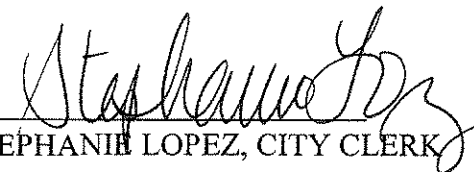
ABSENT: Councilmembers: Madrigal,

APPROVED:



GARRAD MARSH, MAYOR

ATTEST:



STEPHANIE LOPEZ, CITY CLERK

Effective Date: October 8, 2015

2425083.4
2446526.1

ORDINANCE NO. 3637-C.S.

AN ORDINANCE AMENDING TITLE 4, CHAPTER 7 OF THE MODESTO MUNICIPAL CODE TO ADD ARTICLE 5.5, "DISPOSAL OF PRESCRIPTION WASTE" AUTHORIZING THE POLICE CHIEF, OR HIS DESIGNEE, TO INSTALL AND MAINTAIN A PRESCRIPTION WASTE DISPOSAL BOX WITHIN THE CITY OF MODESTO

WHEREAS, unwanted, unused or expired pharmaceutical controlled substances, commonly known as prescription drugs, are a public health and safety hazard as they can bring harm to children and the elderly and can be used for illegal purposes. Additionally, unwanted, unused or expired prescription drugs have been found to be an environmental hazard when disposed of improperly as the drugs can negatively affect the quality of streams and aquatic life; and

WHEREAS, the City of Modesto seeks to provide the safe disposal of unwanted, unused or expired prescription medication by placing a secure drop box in the lobby of the Modesto Police Department; and

WHEREAS, California Public Resource Code section 47120, encourages local government agencies to develop safe, efficient, convenient and cost-effective, sustainable, and environmentally sound solutions for the disposal of drugs; and

WHEREAS, the Department of Justice has advised that for the purposes of federally regulated controlled substances, City Council, pursuant to Title 21 of the Code of Federal Regulations part 1301.24(a)(2), may authorize the Chief of Police and his designees to possess pharmaceutical controlled substances in the performance of his duties.

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

SECTION 1. AMENDMENT: Title 4, Chapter 7 of the City's Municipal Code is hereby amended by adding Article 5.5 "Disposal of Prescription Waste," to read as follows:

Article. 5.5.-Disposal of Prescription Waste

[4-7.550] Operation of Prescription Waste Drop Box

In accordance with the purpose and provisions of California Public Resource Code § 47120 and Title 21 of the Code of Federal Regulations part 1301.24(a)(2), or any applicable successor provisions of federal or state law, the Chief of Police, or his designee, is authorized to possess pharmaceutical controlled substances, commonly known as prescription drugs, in the performance of his or her duties. The Police Chief, or his or her designee, shall have installed and maintain, a box to contain prescription drugs for disposal.

SECTION 2. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council of the City of Modesto hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 3. EFFECTIVE DATE

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

SECTION 4. PUBLICATION

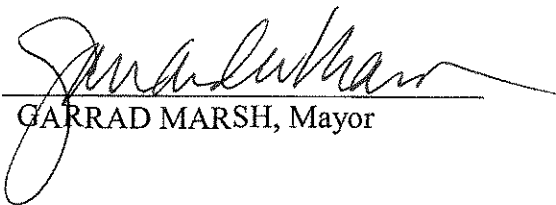
At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *the Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance,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


The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of October, 2015, by Councilmember Madrigal, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal,
Zoslocki, Mayor Marsh

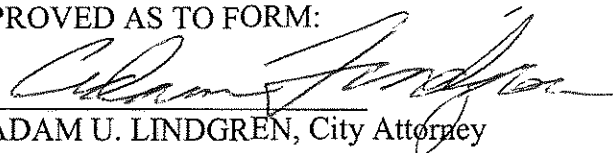
NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, Mayor

ATTEST:
By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

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

Ord. No. 3637-C.S.

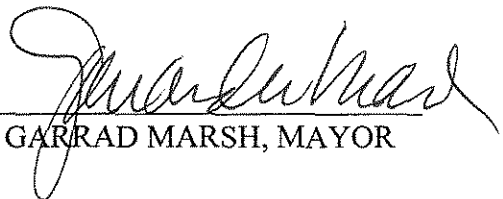
FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 4th day of November, 2015, Councilmember Lopez, moved its final adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Madrigal, Kenoyer, Zoslocki,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, MAYOR

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: December 4, 2015

ORDINANCE NO. 3638-C.S.

AN ORDINANCE AMENDING ARTICLE 18 OF TITLE 2, CHAPTER 1, "STANDING COMMITTEES" OF THE MODESTO MUNICIPAL CODE TO ALIGN STANDING COMMITTEE NAMES WITH THE CITY'S 2015-2018 STRATEGIC PLAN

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

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

2-1.18 - Standing Committees.

The standing committees of the Council shall be the Great Safe Neighborhoods Committee, the Healthy Economy Committee, the Effective Government Committee, and the Appointments and Audit Committee, each of which committees shall consist of three (3) members of the Council appointed by the Mayor. The responsibilities of the Appointments and Audit Committee shall be to review and make recommendations for appointments to City Boards, Commissions, and Committees, and such other responsibilities established from time to time by resolution of the City Council.

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

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

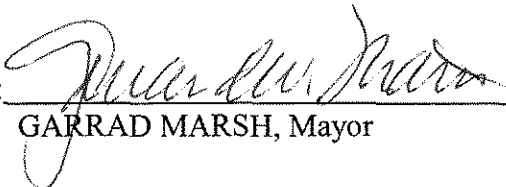
SECTION 4. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth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

The foregoing ordinance was reintroduced at a regular meeting of the Council of the City of Modesto held on the 8th day of December, 2015, by Councilmember Kenoyer, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and ordered printed and published by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

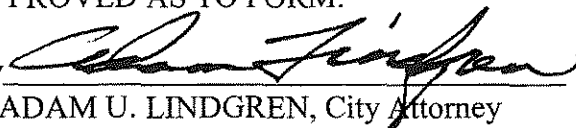
APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney

Ord. No. 3638-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 12th day of January 2016, Councilmember Kenoyer moved its final adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the ordinance adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


GARRAD MARSH, MAYOR

ATTEST:


STEPHANIE LOPEZ, CITY CLERK

Effective Date: February 12, 2016

ORDINANCE NO. 3639-C.S.

**AN ORDINANCE AMENDING PROVISIONS OF TITLE 5,
CHAPTER 8, "SMOKING POLLUTION CONTROL" OF THE
MODESTO MUNICIPAL CODE**

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

WHEREAS, the City wishes to update its regulations in light of recent developments in tobacco and smoking-related products and practices including the use of e-cigarettes, medical marijuana, and vaping; and

WHEREAS, it is the intent of the City Council to provide for the public health, safety, and welfare of the public and limit the exposure to secondhand smoke to nonsmokers who access public facilities, especially those who utilize public transportation; and.

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

WHEREAS, the proposed modifications will also authorize the City to designate smoking areas in public facilities so as to limit the exposure of the general public to secondhand smoke.

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

SECTION 1. AMENDMENT OF CODE. Chapter 8 of Title 5 is hereby amended to read as follows:

Article 1. - Findings, Purposes and Definitions

5-8.101 - Findings.

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

- (a) Numerous scientific studies have found that tobacco smoke is a major contributor to indoor air pollution.
- (b) Reliable scientific studies, including studies by the Surgeon General of the United States and studies commissioned and assessed by the U.S. Environmental Protection

Agency, have shown that breathing sidestream or secondhand smoke is a significant health hazard to non-smokers; particularly to children and teens, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease.

- (c) Health hazards induced by exposure to environmental tobacco smoke include lung and other forms of cancer, respiratory infection, decreased respiratory function, decreased exercise tolerance, broncho-constriction and broncho-spasm, and that the most common cause of premature death from environmental tobacco smoke is heart disease.
- (d) Reliable scientific studies assessed by the U.S. Environmental Protection Agency have found that sidestream and secondhand tobacco smoke is a leading cause of premature death and disability among nonsmokers.
- (e) Nonsmokers with allergies, respiratory diseases and those who suffer other ill effects of breathing sidestream or secondhand tobacco smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of adverse reactions to same.
- (f) Smoking in public places and work places is a major cause of fires and damage to merchandise and equipment as well as costly maintenance and repairs to furniture and fixtures. Studies have shown higher cost to the employer are associated with smoking in the work place due to increases in absenteeism, accidents, costs of medical care, loss of productivity, and cleaning and maintenance requirements.
- (g) The health care costs produced by smoking-related ailments and diseases constitute a heavy and avoidable financial drain on our community.
- (h) Substantial scientific evidence exists that the direct use of tobacco products causes cancer, heart disease, and various other medical diseases. The Surgeon General of the U.S. has found that tobacco-caused diseases are the leading cause of premature, preventable death and disability in the U.S.
- (i) The Surgeon General of the U.S. and U.S. Department of Health and Human Services have found that a majority of those Americans who die of tobacco-caused diseases became addicted to nicotine in tobacco products as adolescents before the age of legal consent.
- (j) The National Institute on Drug Abuse has concluded that the nicotine in tobacco products is a powerful addictive drug and identifies nicotine addiction as the most widespread example of drug dependence in the U.S.
- (k) Air pollution caused by smoking is an offensive annoyance and irritant. Smoking results in serious and significant physical discomfort of nonsmokers and constitutes a public nuisance in public places and work places.
- (l) The U.S. Food and Drug Administration conducted laboratory analysis of electronic cigarette samples and found them to contain carcinogens and toxic chemicals to which users and bystanders could potentially be exposed, suggesting that the same health and public nuisance concerns present with conventional cigarettes exist with electronic cigarettes.

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

5-8.102 - Purposes.

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

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

5-8.103 - Definitions.

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

- (a) "Bar" means a business which is devoted to the serving of alcoholic beverages for consumption by patrons on the premises. The serving of food, if any, shall be limited to appetizers.
- (b) "Business" means any sole proprietorship, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.
- (c) "City of Modesto" includes all entities of which the Council of the City of Modesto is the governing body.
- (d) "Employee" means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a business or nonprofit entity.
- (e) "Employer" means any person, partnership, corporation, including a municipal corporation, or nonprofit entity, who employs the services of one (1) or more individual persons.
- (f) "Enclosed area" means any area closed in by a ceiling and three or more connected, floor-to-ceiling walls with appropriate openings for ingress and egress in said walls.
- (g) "Nonprofit entity" means any corporation, unincorporated association or other entity created for charitable, philanthropic, educational, character-building, political, social or other similar purposes, the net proceeds from the operations of which are committed to the promotion of the objectives or purposes of the entity and not to private gain. A public agency is not a "nonprofit entity" within the meaning of this section.
- (h) "Person" shall mean any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
- (i) "Place of employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and rest rooms, conference and class rooms, employee cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a child care or health care facility.
- (j) "Public place" means any enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, banks, educational facilities, health facilities, shopping malls, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, hotels and motels, theaters and waiting rooms. A private residence is not a "public place" unless it is used as a child care or health care facility.

- (k) "Restaurant" means any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, including any associated outdoor eating area, and any other eating establishment which gives or offers for sale food to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities, except that the term "restaurant" shall not include a cocktail lounge or tavern if said cocktail lounge or tavern is a "bar" as defined in subsection (a) of this section. A "restaurant" for the purposes of this definition includes a bar area, if any, within a restaurant.
- (l) "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.
- (m) "Service line" means any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.
- (n) "Smoke" means the gases, particles or vapors released into the air by combustion, electronic ignition or vaporization when the apparent or usual purpose of the combustion, electronic ignition or vaporization is human inhalation of the resulting combustion products, including but not limited to tobacco smoke, cigarette smoke, marijuana smoke, and gases, aerosol or vapor released by the ignition of e-cigarettes or electronic smoking devices. "Smoke" does not include the product of combustion of incense or similar products when used solely for olfactory purposes and not containing tobacco, marijuana, or nicotine.
- (o) "Smoking" means engaging in an act that generates smoke, as defined in Section 5-8.103(n) of this Code, including but not limited to the lighting or possession of a lighted pipe, cigar, cigarette, or hookah water pipe, an operating e-cigarette or electronic smoking device, or a lighted smoke inhalation device of any kind that generates smoke of any kind, from tobacco, marijuana, any liquid cartridge, or any other weed or plant. Smoking does not mean the operation of any device or product specifically approved by the United States Food and Drug Administration for the use in mitigation, treatment, or prevention of disease.
- (p) "Sports arena" means enclosed or unenclosed sports pavilions, gymnasiums, health spas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.
- (q) "Unenclosed" means any area that is not an enclosed area.
- (r) "E-cigarette" or "electronic cigarette" or "electronic smoking device" means any electronic or battery-operated device, the use of which resembles smoking, that can be used to deliver an inhalable dose of nicotine or other substances by delivering a vaporized solution. "E-cigarette," "electronic cigarette," or "electronic smoking device" includes any such electronic smoking device, whether manufactured, distributed, marketed or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor. "E-cigarette," "electronic cigarette," or "electronic smoking device" does not include any product specifically approved by the United States Food and Drug Administration for use in the mitigation, treatment, or prevention of disease.

Article 2. - Prohibition of Smoking in City Vehicles and City Facilities

5-8.201 - Smoking Prohibited.

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

(b) Smoking is prohibited in the following specified unenclosed facilities owned, leased, rented or controlled by the City, except while passing on the way to another destination:

- (1) Modesto Downtown Transportation Center
- (2) Bus stops
- (3) Within twenty (20) feet of a bus stop

5-8.202 Exception to Smoking Prohibition – Designated Smoking Area.

(a) The City Manager, or his or her designee, for public rights-of-way or property owned or under control of the City, may designate unenclosed areas on such premises, including the Modesto Downtown Transportation Center, where smoking is permitted. The designated smoking areas must satisfy all of the following criteria:

(1) The designated smoking area shall be as small as practicable to accommodate the number of smokers anticipated to use the area. Notwithstanding this criteria, the City Manager, or his or her designee, may not designate a smoking area that would be smaller than fifty (50) square feet, or with a dimension on any side less than five (5) feet.

(2) The smoking area is not located within twenty (20) feet of any entrance or exit of any public building.

(3) Any designated smoking area must display one (1) or more conspicuously displayed signs in accordance with Section 5-8.601(a) that identifies the area as a designated smoking area.

Article 3. - Prohibition of Smoking in Public Places

5-8.301 - Smoking Prohibited.

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

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

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

Article 4. - Prohibition of Smoking in Places of Employment

5-8.401 - Smoking Prohibited.

- (a) Within ninety (90) days of the effective date of this article, each employer having an enclosed place of employment located within the City shall adopt, implement, make known and maintain a written smoking policy which shall contain the following requirements:
Smoking shall be prohibited in all enclosed facilities within a place of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, rest rooms, vehicles and all other enclosed facilities.
- (b) The smoking policy shall be communicated to all employees within three (3) weeks of its adoption, and at least annually thereafter.
- (c) All employers shall comply with these nonsmoking provisions and shall be responsible for their implementation in their places of employment.
- (d) "No Smoking" signs shall be conspicuously posted at building entrances and in employee lounges, cafeterias and lunchrooms.
- (e) All employers shall supply a written copy of the smoking policy to any existing or prospective employee.

Article 5. - Exempted Areas

5-8.501 - Smoking Optional Areas.

- (a) Notwithstanding any other provision of this article to the contrary, the following areas shall not be subject to the smoking restrictions of this article [chapter]:
- (1) Reserved.
 - (2) Private residences, except when used as a child care or health care facility.
 - (3) Retail tobacco stores.
 - (4) A maximum of fifty (50) percent of hotel and motel rooms (provided, however, that each hotel and motel shall designate not less than fifty (50) percent of their hotel/motel rooms as nonsmoking rooms. The hotel/motel rooms designated as nonsmoking rooms will be posted as smoking prohibited and ashtrays removed).
 - (5) Restaurant, hotel or motel banquet, conference or meeting rooms and public and private assembly rooms, when used for private functions.
 - (6) Private clubs during events attended exclusively by members of the organization and their invited guests and from which members of the general public are excluded. An organization shall be deemed to be a private club where such organization has drafted and filed Articles of Incorporation and Bylaws with the California Secretary of State and such Articles of Incorporation and Bylaws specify the purpose of such organization to be a private club not open to the general public and/or is a nonprofit organization. The organization shall be in good standing with the California Secretary of State.
 - (7) Smoking may be permitted at bingo game establishments but only in a separate, enclosed room away from lobby and rest rooms.
- (b) It shall not constitute a violation for a person to smoke in a location where smoking has been authorized in the manner prescribed by this section.
- (c) The foregoing places in subsection (a) are not considered places of employment subject to the provisions of Section 5-8.401. Employers will, however, attempt to find a reasonable alternative accommodation where feasible for nonsmoking employees who do not wish to be assigned to work in a smoking permissible area. Notwithstanding any provision in this ordinance [chapter] which permits smoking in a place of employment, any nonsmoking employee may object to his or her employer about smoking in his or her work place. The employer shall attempt to reach a reasonable accommodation, insofar as possible. If an accommodation which is satisfactory to all affected nonsmoking employees cannot be reached within a particular place of employment, the employer who employs the nonsmoking employees shall formulate, promulgate and implement restrictions or prohibitions upon smoking in a manner which accommodates the reasonable preferences and needs of the nonsmoking employees in relation to the nuisance and health impacts of the smoking upon the nonsmokers. The area in which smoking is prohibited shall be posted by "no smoking" signs in the manner prescribed by the provisions of Section 5-8.601(a).
- (d) Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment described in this section may declare that entire establishment as a nonsmoking establishment.

Article 6. - Signs

5-8.601 - Posting of Signs.

- (a) "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every building, as well as on entrances at eye level, or other place where smoking is regulated by this article, by the owner, operator, manager or other person having control of such building or other place.
- (b) Every restaurant shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
- (c) Every owner, operator, manager or other person having control of a motion picture theater shall show upon each motion picture theater screen for at least five (5) seconds prior to the showing of each motion picture a notice that smoking is prohibited within the theater.

Article 7. - Exemption Procedures

5-8.701 - Smoking Pollution Control Ordinance Compliance Committee.

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

5-8.702 - Procedure.

- (a) Any owner or manager of a business or other establishment subject to this chapter may make a written application to the committee for an exemption or modification to any provision of this chapter due to unusual circumstances or conditions. The committee shall consider such written application and may make any exemptions or modifications to the requirements of this chapter as are in keeping with the purposes of this chapter as may be necessary and proper considering the unusual conditions or circumstances presented.
- (b) Exemptions may only be granted on the proposed implementation of an alternative approach or technology which would provide equivalent protection from the health hazards of sidestream smoke.
- (c) The applicant will be entitled to present evidence at the hearing which will be scheduled within sixty (60) days of the receipt of the application.
- (d) The committee will, after taking into consideration the testimony received at the hearing, issue its findings and recommendations within twenty (20) days of the completion of the hearing.

Article 8. - General Provisions

5-8.801 - Enforcement.

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

operator or other person having control of such establishment that all requirements of this chapter have been complied with.

5-8.802 - Violations and Penalties.

- (a) Violations. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to fail to comply with any of this chapter's provisions.
 - (1) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this chapter.
- (b) Penalties. Any person, business, tobacco retailer, or owner, manager or operator of any establishment subject to this chapter who violates any provision of this chapter shall be deemed guilty of a misdemeanor, except that when the City Attorney shall elect to charge such violation as an infraction, it shall be an infraction. A conviction, or guilty or nolo contendere plea to a violation of this chapter shall be subject to payment of a fine as provided in Section 1-2.01 of the Modesto Municipal Code.
 - (1) Violations of this chapter occurring at the Modesto Downtown Transportation Center may be charged as an infraction under Penal Code 640 and subject to a fine not to exceed \$250.
 - (2) Administrative fines or penalties. In addition to all other remedies set forth in this chapter, administrative penalties pursuant to Title 1, Chapter 6 of the Modesto Municipal Code may be imposed against any person for violations of any provision of this chapter.

5-8.803 - Nonretaliation.

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

5-8.804 - Other Applicable Laws.

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

Article 9. - Severability

5-8.901 - Severability.

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

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

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

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

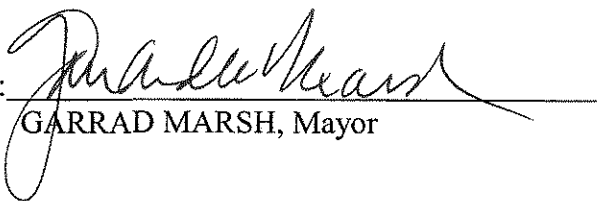
SECTION 4. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of November, 2015, by Councilmember Lopez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Kenoyer, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

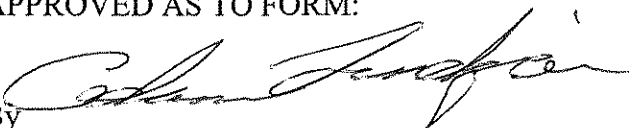
APPROVED: 
GARRAD MARSH, Mayor

ATTEST:

By 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
ADAM U. LINDGREN, City Attorney

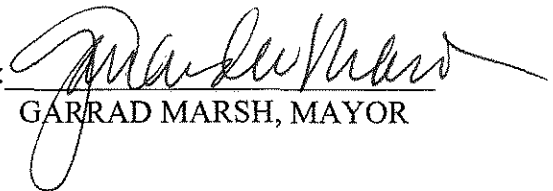
FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 24th day of November, 2015, Councilmember Kenoyer, moved its final adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Madrigal, Kenoyer, Zoslocki,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
GARRAD MARSH, MAYOR

ATTEST: 
STEPHANIE LOPEZ, City Clerk

Effective Date: December 24, 2015

ORDINANCE NO. 3640-C.S.

AN ORDINANCE AMENDING SECTION 11-3-8 OF THE CITY OF MODESTO ZONING ORDINANCE AND ZONING MAP TO REZONE FROM MEDIUM DENSITY RESIDENTIAL (R-2) ZONE AND PLANNED DEVELOPMENT ZONE P-D(333) TO LOW DENSITY RESIDENTIAL (R-1) ZONE, MEDIUM HIGH DENSITY RESIDENTIAL (R-3) ZONE, AND GENERAL COMMERCIAL (C-2) ZONE, PROPERTY LOCATED ON THE WEST SIDE OF DALE ROAD, NORTH OF VINTAGE FAIRE MALL (VALLEY VENTURES LLC).

WHEREAS, a verified application for an amendment to Section 11-3-8 of the Zoning Map was filed by Valley Ventures LLC on July 2, 2015, to rezone from Medium Density Residential (R-2) Zone and Planned Development P-D(333) to Low Density Residential (R-1) Zone, Medium High Density Residential (R-3) Zone and, General Commercial (C-2) Zone, property located west of Dale Road and north of Vintage Faire Mall, and

WHEREAS, after a public hearing held on October 19, 2015, it was found and determined by the Planning Commission that the requested zone change will not be detrimental to the public health, safety or welfare because the rezone will provide for new housing and commercial development that is compatible with surrounding land uses which include single-family and multi-family residential uses, commercial uses, medical and professional offices; the requested zone change will result in an orderly planned use of land because the project will provide for the development of a vacant infill property with single-family residential uses of the same density as the neighborhood to the north, multi-family residential uses in addition to existing multi-family developments to the west, and provide for commercial uses along the Dale

Road frontage which is predominately developed with residential, regional commercial and professional office uses; and the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan and any applicable specific plans(s) because the allowable uses of the Low Density Residential (R-1) Zone, Medium High Density Residential (R-3) and General Commercial (C-2) Zone is consistent with the site's General Plan Land Use Designation of Mixed Use (MU), and

WHEREAS, by Resolution No. 2015-24, adopted on October 19, 2015, the Planning Commission recommended to the Council that the application of Valley Ventures LLC to amend Section 11-3-8 of the Zoning Map to rezone the hereinafter described property from Medium Density Residential (R-2) Zone and Planned Development P-D(333) Zone, to Low Density Residential (R-1) Zone, Medium High Density Residential (R-3) Zone and General Commercial (C-2) Zone, be approved.

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

SECTION 1. After a public hearing held on December 15, 2015, in Room 2001 on the 2nd Floor of Tenth Street Place, located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety or welfare because the rezone will provide for new housing and commercial development that is compatible with surrounding land uses which include single-family and multi-family residential uses, commercial uses, medical and professional offices.
2. The requested change will result in an orderly planned use of land because the project will provide for the development of a vacant infill property with

single-family residential uses of the same density as the neighborhood to the north, multi-family residential uses in addition to existing multi-family developments to the west, and provide for commercial uses along the Dale Road frontage which is predominately developed with residential, regional commercial and professional office uses.

3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plan(s) because the allowable uses of the Low Density Residential (R-1) Zone, Medium-High Density Residential (R-3) Zone and General Commercial (C-2) Zone is consistent with the site's General Plan Land Use Designation of Mixed Use (MU), which allows for commercial and residential uses.

SECTION 2. ZONING CHANGE. Section 11-3-8 of the Zoning Map is hereby amended to rezone the following described property from Medium Density Residential (R-2) Zone and Planned Development P-D(333) Zone, to Low Density Residential (R-1) Zone, Medium High Density Residential (R-3) Zone and General Commercial (C-2) Zone:

R-2 to R-1

All that portion of the Remainder No. 2 parcel as shown on the Parcel Map filed in Book 39 of Parcel Maps at Page 61, Stanislaus County Records, lying in Section 11, Township 3 South, Range 8 East, Mount Diablo Meridian, City of Modesto, County of Stanislaus, State of California, described as follows:

COMMENCING at the Southeast corner of the real property as described in the 1982 City of Modesto Zoning Ordinance No. 2147-C.S. for Planned-Development Zone P-D(333), on file at the City Clerk's Office and being the intersection of the South line of said Remainder No. 2 with the centerline of Dale Road, also being the East line of said Section 11; thence South 89° 25' 36" West, along the South lines of said Remainder No. 2 and said P-D(333), 2010.56 feet to the Southeast corner of said P-D(333) and the TRUE POINT OF BEGINNING of this description; thence North 00° 19' 13" West, along the West line of said P-D(333), 499.33 feet to the Northwest corner of said P-D(333) and being the beginning of a non-tangent curve to which a radial line bears North 26° 55' 01" East from the center; thence along the North line of said P-D(333) the following four courses:

1. 126.67 feet, Southeasterly along said non-tangent curve, concave to the Southwest, having a radius of 830.00 feet and a central angle of $8^{\circ} 44' 40''$ to the beginning of a reverse curve;
2. Thence 526.74 feet, Easterly along said reverse curve, concave to the Northeast, having a radius of 830.00 feet and a central angle of $36^{\circ} 21' 41''$;
3. Thence North $89^{\circ} 18' 00''$ East, 158.85 feet to the beginning of a tangent curve;
4. Thence 228.76 feet, Easterly along said tangent curve, concave to the Northwest, having a radius of 700.00 feet and a central angle of $18^{\circ} 43' 29''$;

Thence North $00^{\circ} 19' 16''$ West, 452.89 feet; thence North $89^{\circ} 17' 55''$ East, 287.82 feet to the beginning of a tangent curve; thence 122.53 feet, Southeasterly along said tangent curve, concave to the Southwest, having a radius of 280.00 feet and a central angle of $25^{\circ} 04' 24''$; thence North $00^{\circ} 19' 16''$ West, 36.39 feet to the North Line of said Remainder No. 2; thence South $89^{\circ} 17' 55''$ West, along said North line, 1864.28 feet to the Northern most Northwest corner of said Remainder No. 2, being the East line of Blue Bird Drive as shown on said Parcel Map; thence along the said East line the following three courses:

1. South $00^{\circ} 11' 22''$ East, 130.54 feet to the beginning of a tangent curve;
2. Thence 23.49 feet, Southeasterly along said tangent curve, concave to the Northeast, having a radius of 15.00 feet and a central angle of $89^{\circ} 43' 18''$;
3. Thence South $00^{\circ} 05' 49''$ West, 60.00 feet to the South line of Vintage Drive as shown on said Parcel Map;

Thence North $89^{\circ} 54' 00''$ West, along said South line 170.75 feet to the Western most Northwest corner of said Remainder No. 2; thence South $00^{\circ} 19' 12''$ East, along the West line of said Remainder No. 2, a distance of 560.00 feet to the Southwest corner of said Remainder No. 2; thence South $89^{\circ} 53' 46''$ East, along the South line of said Remainder No. 2, a distance of 499.86 feet to an angle point in said South line; thence North $89^{\circ} 25' 36''$ East, along said South line, 130.11 feet to the point of beginning.

Also including the easterly Right-of-Way of Blue Bird Drive and the southerly Right-of-Way of Vintage Drive, being immediately adjacent to the abovementioned description.

Containing 20.9 acres, more or less.

P-D(333) to R-1

All that portion of the Remainder No. 2 parcel as shown on the Parcel Map filed

in Book 39 of Parcel Maps at Page 61, Stanislaus County Records, lying in Section 11, Township 3 South, Range 8 East, Mount Diablo Meridian, City of Modesto, County of Stanislaus, State of California, described as follows:

COMMENCING at the Southeast corner of the real property as described in the 1982 City of Modesto Zoning Ordinance No. 2147-C.S. for Planned Development Zone P-D(333), on file at the City Clerk's Office and being the intersection of the South line of said Remainder No. 2 with the centerline of Dale Road also being the East line of Said Section 11; thence South 89° 25' 36" West, along the South lines of said Remainder No. 2 and said P-D(333), 926.31 feet to the TRUE POINT OF BEGINNING of this description; thence South 89° 25' 36" West, continuing along said South lines, 1084.25 feet to the Southwest corner of said P-D(333); thence North 00° 19' 13" West, along the West line of said P-D(333), 499.33 feet to the Northwest corner of said P-D(333) and being the beginning of a non-tangent curve to which a radial line bears North 26° 55' 01" East from the center; thence along the North line of said P-D(333) the following four courses:

1. 126.67 feet, Southeasterly along said non-tangent curve, concave to the Southwest, having a radius of 830.00 feet and a central angle of 8° 44' 40" to the beginning of a reverse curve;
2. Thence 526.74 feet, Easterly along said reverse curve, concave to the Northeast, having a radius of 830.00 feet and a central angle of 36° 21' 41";
3. Thence North 89° 18' 00" East, 158.85 feet to the beginning of a tangent curve;
4. Thence 228.76 feet, Easterly along said tangent curve, concave to the Northwest, having a radius of 700.00 feet and a central angle of 18° 43' 29";

Thence South 00° 19' 16" East, 97.76 feet; thence North 89° 40' 44" East, 100.00 feet; thence South 00° 19' 16" East, 211.70 feet to the point of beginning.

Containing 7.762 acres, more or less.

R-2 to R-3

All that portion of the Remainder No. 2 parcel as shown on the Parcel Map filed in Book 39 of Parcel Maps at Page 61, Stanislaus County Records, lying in Section 11, Township 3 South, Range 8 East, Mount Diablo Meridian, City of Modesto, County of Stanislaus, State of California, described as follows:

COMMENCING at the Southeast corner of the real property as described in the 1982

City of Modesto Zoning Ordinance No. 2147-C.S. for Planned Development Zone P-D(333), on file at the City Clerk's Office and being the intersection of the South line of said Remainder No. 2 with the centerline of Dale Road also being the East line of said Section 11; thence South 89° 25' 36" West, along the South lines of said Remainder No. 2 and said P-D(333), 926.31 feet; thence North 00° 19' 16" West, 211.70 feet; thence South 89° 40' 44" West, 100.00 feet; thence North 00° 19' 16" West, 97.76 feet to THE TRUE POINT OF BEGINNING of this description being on the North line of said P-D(333) and the beginning of a non-tangent curve to which a radial line bears South 19° 25' 29" East from center; thence 288.39 feet, Northeasterly along said North line being said non-tangent curve, concave to the Northwest, having a radius of 700.00 feet and a central angle of 23° 36' 17" to the beginning of a reverse curve; thence 273.73 feet, Northeasterly along said North line being said reverse curve, concave to the Southeast, having a radius of 700.00 feet and a central angle of 22° 24' 18" to the beginning of a non-tangent curve to which a radial line bears North 58° 20' 41" East from center; thence 101.93 feet, Northwesterly along said non-tangent curve, concave to the Southwest, having a radius of 220.00 feet and a central angle of 26° 32' 46"; thence North 00° 19' 16" West, 68.07 feet to the beginning of a non-tangent curve to which a radial line bears North 24° 22' 19" East from center; thence 122.53 feet, Northwesterly along said non-tangent curve, concave to the Southwest, having a radius of 280.00 feet and a central angle of 25° 04' 24" to a parallel line being 10.00 feet, measured at right angles, Southerly of the North line of said Remainder No. 2; thence South 89° 17' 55" West, along said parallel line, 287.82 feet; thence South 00° 19' 16" East, 452.89 feet to the point of beginning.

Containing 3.189 acres, more or less.

P-D(333) to R-3

All that portion of the Remainder No. 2 parcel as shown on the Parcel Map filed in Book 39 of Parcel Maps at Page 61, Stanislaus County Records, lying in Section 11, Township 3 South, Range 8 East, Mount Diablo Meridian, City of Modesto, County of Stanislaus, State of California, described as follows:

COMMENCING at the Southeast corner of the real property as described in the 1982 City of Modesto Zoning Ordinance No. 2147-C.S. for Planned-Development Zone P-D(333), on file at the City Clerk's Office and being the intersection of the South line of said Remainder No. 2 with the centerline of Dale Road, also being the East line of said Section 11; thence South 89° 25' 36" West, along the South lines of said Remainder No. 2 and said P-D(333), 656.14 feet to the TRUE POINT OF BEGINNING of this

description; thence South 89° 25' 36" West, 270.17 feet; thence North 00° 19' 16" West, 211.70 feet; thence South 89° 40' 44" West, 100.00 feet; thence North 00° 19' 16" West, 97.76 feet to the North line of said P-D(333) and to the beginning of a non-tangent curve to which a radial line bears South 19° 25' 29" East from center; thence 288.39 feet, Northeasterly along said North line being said non-tangent curve, concave to the Northwest, having a radius of 700.00 feet and a central angle of 23° 36' 17" to the beginning of a reverse curve; thence 273.73 feet, Northeasterly along said North line being said reverse curve, concave to the Southeast, having a radius of 700.00 feet and a central angle of 22° 24' 18" to the beginning of a non-tangent curve to which a radial line bears North 58° 20' 41" East from center; thence 2.27 feet, Southeasterly along said non-tangent curve, concave to the Southwest, having a radius of 220.00 feet and a central angle of 00° 35' 27" to the beginning of a reverse curve; thence 178.93 feet, Southeasterly along said reverse curve, concave to the Northeast, having a radius of 280.00 feet and a central angle of 36° 36' 49"; thence South 89° 25' 36" West, 241.44 feet; thence South 00° 19' 16" East, 479.20 feet to the point of beginning.

Containing 3.426 acres, more or less.

R-2 to C-2

All that portion of the Remainder No. 2 parcel as shown on the Parcel Map filed in Book 39 of Parcel Maps at Page 61, Stanislaus County Records, lying in Section 11, Township 3 South, Range 8 East, Mount Diablo Meridian, City of Modesto, County of Stanislaus, State of California, described as follows:

COMMENCING at the Southeast corner of the real property as described in the 1982 City of Modesto Zoning Ordinance No. 2147-C.S. for Planned Development Zone P-D(333), on file at the City Clerk's Office and being the intersection of the South line of said Remainder No. 2 with the centerline of Dale Road, also being the East line of said Section 11; thence South 89° 25' 36" West, along the South lines of said Remainder No. 2 and said P-D(333), 656.14 feet; thence North 00° 19' 16" West, 479.20 feet; thence North 89° 25' 36" East, 241.44 feet to the beginning of a non-tangent curve to which a radial line bears South 22° 19' 18" West from center; thence 178.93 feet, Northwesterly along said non-tangent curve, concave to the Northeast, having a radius of 280.00 feet and a central angle of 36° 36' 49" to the beginning of a reverse curve; thence 2.27 feet, Northwesterly along said reverse curve, concave to the Southwest, having a radius of 220.00 feet and a central angle of 00° 35' 27" to THE TRUE POINT OF BEGINNING of this description, being on the North line of said P-D(333) and the beginning of a non-tangent curve to which a radial line bears North 20° 37' 28" West from center; thence

243.42 feet, Easterly along said North line being said non-tangent curve, concave to the South, having a radius of 700 feet and a central angle of $19^{\circ} 55' 28''$; thence North $89^{\circ} 18' 00''$ East, along said North line, 310.46 feet to the Northeast corner of said P-D(333) being on said centerline of Dale Road and the East line of said Section 11; thence North $00^{\circ} 19' 16''$ West, along said centerline, 134.96 feet to the Easterly extension of the North line of said Remainder No. 2; thence South $89^{\circ} 17' 55''$ West, along said extension and then along said North line, 619.67 feet; thence South $00^{\circ} 19' 16''$ East, 104.46 feet to the beginning of a non-tangent curve to which a radial line bears North $31^{\circ} 47' 55''$ East from center; thence 101.93 feet, Southeasterly along said non-tangent curve, concave to the Southwest, having a radius of 220.00 feet and a central angle of $26^{\circ} 32' 46''$ to the point of beginning.

Containing 1.995 acres, more or less.

P-D(333) to C-2

All that portion of the Remainder No. 2 parcel as shown on the Parcel Map filed in Book 39 of Parcel Maps at Page 61, Stanislaus County Records, lying in Section 11, Township 3 South, Range 8 East, Mount Diablo Meridian, City of Modesto, County of Stanislaus, State of California, described as follows:

BEGINNING at the Southeast corner of the real property as described in the 1982 City of Modesto Zoning Ordinance No. 2147-C.S. for Planned-Development Zone P-D(333), on file at the City Clerk's Office and being the intersection of the South line of said Remainder No. 2 with the centerline of Dale Road, also being the East line of said Section 11; thence South $89^{\circ} 25' 36''$ West, along the South lines of said Remainder No. 2 and said P-D(333), 656.14 feet; thence North $00^{\circ} 19' 16''$ West, 479.20 feet; thence North $89^{\circ} 25' 36''$ East, 241.44 feet to the beginning of a non-tangent curve to which a radial line bears South $22^{\circ} 19' 18''$ West from center; thence 178.93 feet, Northwesterly along said non-tangent curve, concave to the Northeast, having a radius of 280.00 feet and a central angle of $36^{\circ} 36' 49''$ to the beginning of a reverse curve; thence 2.27 feet, Northwesterly along said reverse curve, concave to the Southwest, having a radius of 220.00 feet and a central angle of $00^{\circ} 35' 27''$ to the North line of said P-D(333) and the beginning of a non-tangent curve to which a radial line bears North $20^{\circ} 37' 28''$ West from center; thence 243.42 feet, Easterly along said North line being said non-tangent curve, concave to the South, having a radius of 700.00 feet and a central angle of $19^{\circ} 55' 28''$; thence North $89^{\circ} 18' 00''$ East, along said North line, 310.46 feet to the Northeast corner of said P-D(333), being on said centerline of Dale Road and the East line of said Section 11; thence South $00^{\circ} 19' 16''$ East, along said centerline, 640.13 feet to the point

of beginning.

Containing 9.021 acres, more or less.

APN: 076-028-015

SECTION 3. ZONING MAP. Section 11-3-8 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

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

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

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 15th day of December, 2015, by Councilmember Zoslocki, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Ah You, Madrigal, Kenoyer, Ridenour, Zoslocki,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Grewal

APPROVED: 
GARRAD MARSH, Mayor

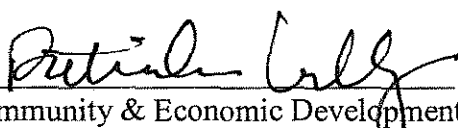
ATTEST:
By: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney

APPROVED AS TO DESCRIPTION:

By: 
Community & Economic Development
Department, Planning Division

Ord. No. 3640-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 12th day of January 2016, Councilmember Zoslocki moved its final adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Ah You, Kenoyer, Madrigal, Ridenour,
Zoslocki, Mayor Marsh

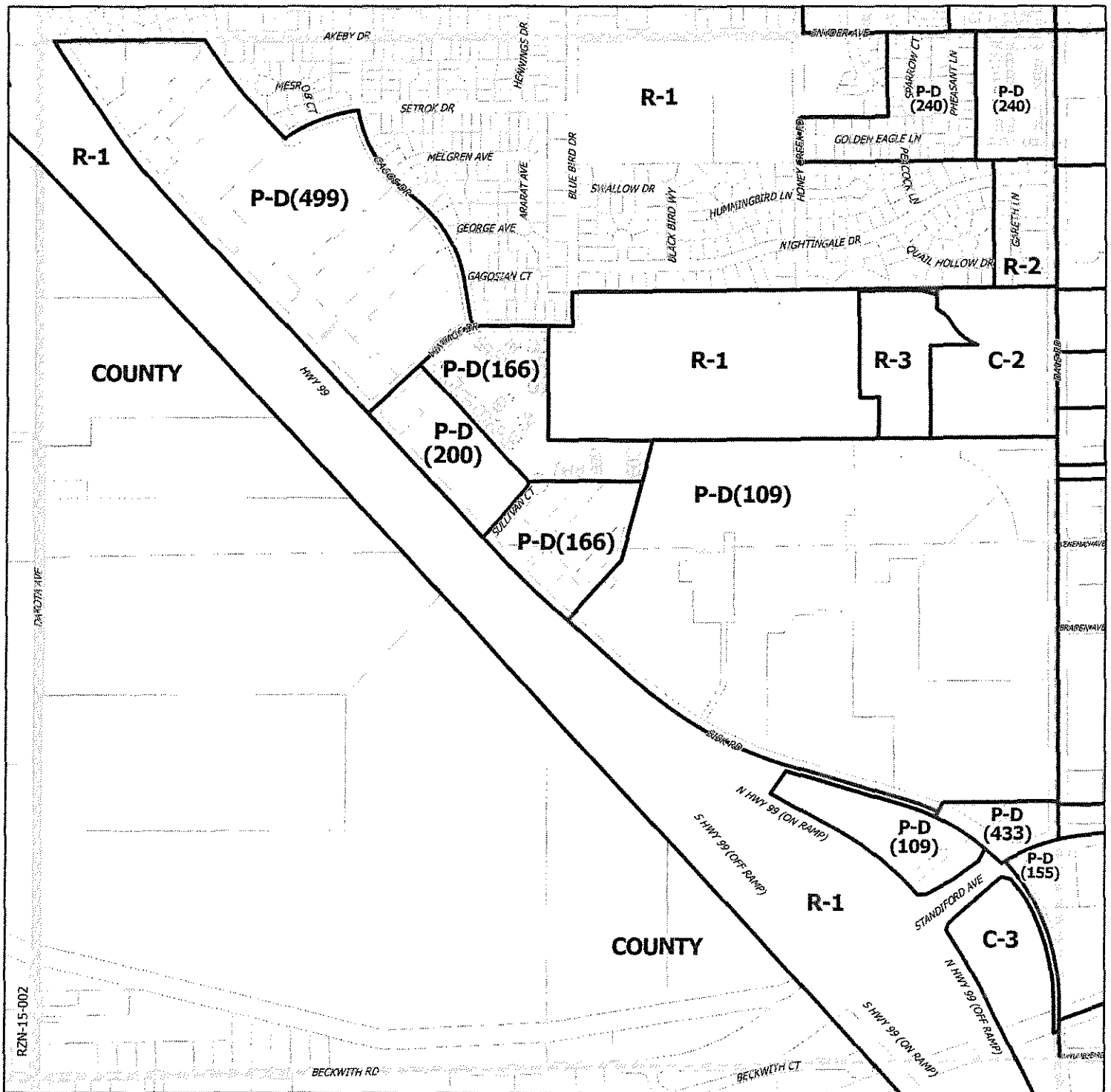
NOES: Councilmembers: None

ABSENT: Councilmembers: Grewal

APPROVED: 
GARRAD MARSH, MAYOR

ATTEST: 
STEPHANIE LOPEZ, CITY CLERK

Effective Date: February 12, 2016



1 inch = 700 feet

Ord. 3640-C.S.

ZONING MAP OF THE CITY OF MODESTO

11-3-8