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LOS BANOS CODE

Chapter AO

ORDINANCE ADOPTING CODE

Code of Ordinances

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Title 1

GENERAL PROVISIONS

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Chapter 1
Adoption Of Code

§ 1-1.01. Title: References to Code.

This Code shall be known as the "Los Banos Municipal Code." It shall be sufficient to refer to this Code as the Los Banos Municipal Code in any prosecution for the violation of any provision hereof. It shall also be sufficient to designate any ordinance adding to, amending, or repealing the provisions of this Code as an addition or amendment to, or a repeal of, the Los Banos Municipal Code, or a portion thereof.

§ 1-1.02. Authority.

Except as otherwise provided in this Code, this Code consists of all the regulatory, penal, and administrative laws of general application of the City of Los Banos, codified pursuant to the authority set forth in Article 2 of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code of the State.

§ 1-1.03. Effective date.

The provisions of this Code shall take effect upon the effective date of the ordinance adopting this Code by reference.

§ 1-1.04. Effect of Code on past actions and obligations.

Neither the adoption of this Code nor the repeal of any ordinance of the City by this Code shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date of this Code, nor be construed as a waiver of any license or penalty on such effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license or penalty or the penal provisions applicable to any violation of such ordinances, nor to affect the validity of any bond or cash deposit required to be posted, filed, or deposited pursuant to any ordinance, and all vested rights and obligations pertaining to such ordinances shall continue in full force and effect.

§ 1-1.05. References to specific ordinances.

The provisions of this Code shall not in any manner affect deposits or other matters of record which refer to, or are otherwise connected with, ordinances which are specifically designated by number or otherwise and which are included within this Code, but such references shall apply to the corresponding provisions set forth in this Code.

§ 1-1.06. Validity of Code.

If any section, subsection, sentence, clause, or phrase of this Code is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Code. The Council hereby declares that it would have adopted this Code and each section, subsection, sentence, clause, and phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

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§ 1-1.07. Repeal of ordinances.

All ordinances of the City in force and effect upon the effective date of this Code are hereby repealed except as follows:

(a) Ordinances relating to matters of a special or temporary nature, which ordinances are listed in Table 2 of the Appendix to this Code; and

(b) Ordinances which have been suspended, which ordinances are listed in Table 3 of the Appendix to this Code.

§ 1-1.08. Maintenance of Code.

At least three copies of this Code, duly certified by the City Clerk, shall be maintained on file in his office as the official copies of the Code. Additional copies of the Code shall be distributed to the departments of the City as shall be prescribed by the City Manager.

Duly certified copies of each ordinance making a change in the Code shall be filed in the office of the City Clerk in books for such purpose, duly indexed for ready reference.

At least quarterly the City Clerk shall cause the loose leaf pages of this Code in which changes have been made to be reproduced, including a notation as to the ordinance number and the date pursuant to which such change is adopted, and distributed in order that the loose leaf copies of the Code, prepared for the use and convenience of the officers and employees of the City and the general public, may be brought up-to-date.

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Chapter 2
Penalty Provisions

§ 1-2.01. Violations misdemeanors or infractions.

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this Code or the provisions of any code adopted by reference by this Code. Any person violating any of such provisions or failing to comply with any of the mandatory requirements of this Code shall be guilty of a misdemeanor or an infraction as designated by, and provided for, in Sections 16, 17, 19c, and 19d of the Penal Code of the State and as expressly specified in Section40000 of the Vehicle Code of the State. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code, or the provisions of any code adopted by reference by this Code, is committed, continued, or permitted by such person and shall be punishable accordingly.

Any person convicted of a misdemeanor under the provisions of this Code shall be punishable by a fine of not more than Five Hundred and No/100ths ($500.00) Dollars, or by imprisonment in the City Jail or County Jail for a period not exceeding six months, or by both such fine and imprisonment.

Any person convicted of an infraction under the provisions of this Code shall be punishable for a first conviction by a fine of not more than Fifty and No/100ths ($50.00) Dollars, for a second conviction within a period of one year by a fine of not more than One Hundred and No/100ths ($100.00) Dollars, and for a third or any subsequent conviction within a period of one year by a fine of not more than Two Hundred Fifty and No/100ths ($250.00) Dollars.

In addition to the penalties provided by this section, any condition caused or permitted to exist in violation of any of the provisions of this Code, or the provisions of any code adopted by reference by this Code, shall be deemed a public nuisance and may be summarily abated by the City, and each day such condition continues shall be regarded as a new and separate offense.

§ 1-2.02. Prohibited acts.

Whenever in this Code any act or omission is made unlawful, it shall include causing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

§ 1-2.03. Imposition of penalty.

The provisions of this Code which declare certain crimes to be punishable as therein mentioned devolve a duty upon the court authorized to pass sentence to determine and impose the punishment described.

§ 1-2.04. Determination of punishment.

Whenever in this Code the punishment for a crime is left undetermined between certain limits, the punishment to be inflicted in a particular case shall be determined by the court authorized to pass sentence, within such limits as may be prescribed by this Code.

§ 1-2.05. Place of confinement.

Every person found guilty of violating any of the provisions of this Code and sentenced to

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imprisonment shall be imprisoned in the City Jail or County Jail.

§ 1-2.06. Fees, charges, licenses, and taxes made a civil debt.

The amount of any fee, service charge, utility charge, license, or tax of any nature whatsoever imposed by any provision of this Code shall be deemed a civil debt owing to the City. An action may be commenced in the name of the City in any court of competent jurisdiction for the collection of the amount of any such delinquent or unpaid fee, service charge, utility charge, license, or tax, together with any penalties applicable thereto as prescribed by this Code. The remedy prescribed by this section shall be cumulative, and the use of an action to collect such an amount as a debt by civil action shall not bar the use of any other remedy provided by this Code or by law for the purpose of enforcing the provisions thereof.

§ 1-2.07. Establishment of a trust account.

As authorized by this Code or applicable State and Federal Codes, any fine, penalty, lien, assessment, collections and/or legal proceeds as a result of enforcement actions shall be deposited into a trust account. The trust account will be exclusive to enhance, deter and/or minimize Code enforcement activities, procedures and expenses and shall be separate from the general fund.
(§ 2, Ord. 1034, eff. July 1, 2005)

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Chapter 3
Rules Of Construction

§ 1-3.01. Scope.

Unless the provisions of this Code otherwise specifically provide, or the context of this Code indicates to the contrary, the general provisions, rules of construction, and definitions set forth in this chapter shall govern the construction of this Code. The provisions of this Code and all proceedings under it are to be construed with a view to effect its objects and to promote justice.

§ 1-3.02. Provisions construed as restatements and continuations.

The provisions of this Code, insofar as they are substantially the same as existing ordinances relating to the same subject matter, shall be construed as restatements and continuations and not as new enactments.

§ 1-3.03. Tenure of officers preserved.

All persons who, at the time this Code takes effect, hold office under any of the ordinances repealed by this Code, which offices are continued by this Code, shall continue to hold such offices in accordance with the tenure originally granted such persons.

§ 1-3.04. Effect of headings.

Title, chapter, article, and section headings contained in this Code shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any title, chapter, article, or section of this Code.

§ 1-3.05. Meaning of section and subsection.

"Section" shall mean a section of this Code, unless some other source is specifically mentioned. "Subsection" shall mean a subsection of the section in which the term occurs, unless some other section is expressly mentioned.

§ 1-3.06. References to acts or omissions within the City.

The provisions of this Code shall refer only to the omission or commission of acts within the territorial limits of the City and to that territory outside the City over which the City has jurisdiction or control by virtue of the Constitution of the State or any law, or by reason of ownership or control of property.

§ 1-3.07. Acts by deputies.

Whenever a power is granted to, or a duty is imposed upon, a public officer or employee, the power may be exercised or the duty may be performed by a deputy of such officer or employee or by a person otherwise duly authorized pursuant to law or ordinance, unless this Code expressly provides otherwise.

§ 1-3.08. Writing.

Writing includes any form of recorded message capable of comprehension by ordinary visual

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means. Whenever any notice, report, statement, or record is required or authorized by this Code, such notice, report, statement, or record shall be made in writing in the English language unless this Code expressly provides otherwise.

§ 1-3.09. References to ordinances: Application to amendments.

Whenever any reference in this Code is made to an ordinance, the reference shall apply to such ordinance of the City unless this Code expressly provides otherwise. Whenever any reference is made to any portion of this Code, or to any ordinance of the City, the reference shall apply to all amendments and additions made to this Code.

§ 1-3.10. Notices required: Service.

Whenever a notice is required to be given pursuant to the provisions of this Code, unless different provisions are otherwise specifically set forth in the text of the Code, such notice may be given either by personal delivery thereof to the person to be notified or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to such person to be notified at his last known business or residence address as the same appears in the public records of the City or other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time the notice is deposited in the post office.

§ 1-3.11. Notices required: Service: Proof.

Proof of giving any notice required to be given pursuant to the provisions of this Code may be made by the certificate of any officer or employee of the City or by the affidavit of any person over the age of 18 years, which affidavit shows service in conformity with the provisions of this Code or other provisions of law applicable to the subject matter concerned.

§ 1-3.12. Statute of limitations.

When a limitation or period of time prescribed in any existing ordinance or statute for acquiring a right or barring a remedy, or for any other purpose, has begun to run before this Code goes into effect, the time which has already run shall be deemed a part of the time prescribed as such limitation.

§ 1-3.13. Definitions.

For the purposes of this Code, unless otherwise apparent from the context, certain words and phrases used in this Code are defined as follows:

"Calendar year" shall mean from January 1 through December 31 of any given year.

"City" shall mean the City of Los Banos.

"Council" shall mean the City Council of the City of Los Banos.

"County" shall mean the County of Merced.

"Fiscal year" shall mean from July 1 of any given year through June 30 of the following year.

"Gender". The masculine gender shall include the feminine and neuter genders.

"May" shall be permissive.

"Month" shall mean a calendar month unless otherwise expressed.

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"Number". The singular number shall include the plural, and the plural number shall include the singular.

"Oath" shall include affirmation.

"Office". The use of the title of any officer, employee, office, or ordinance shall mean such officer, employee, office, or ordinance of the City, unless otherwise specified.

"Official time standard". Wherever certain hours are named in this Code, they shall mean standard time or daylight saving time as may be in current use in the City.

"Owner", applied to a building or land, shall include any part owner, joint owner, tenant, tenant in common, or joint tenant of the whole or a part of such building or land.

"Person" shall include any person, firm, company, corporation, partnership, association, public corporation, political subdivision, city (except the City of Los Banos), the County of Merced, district in the County of Merced, the State of California, or the United States of America, or any department or agency of any thereof, unless this Code expressly provides otherwise.

"Personal property" shall include money, goods, chattels, things in action, and evidences of debt.

"Property" shall include real and personal property.

"Quarterly", where used to designate a period of time, shall mean the first three calendar months of any given year or any succeeding period of three calendar months.

"Real property" shall include lands, tenements, and hereditaments.

"Shall" shall be mandatory.

"State" shall mean the State of California.

"Street" shall include all streets, highways, avenues, boulevards, alleys, courts, places, squares, or other public ways in the City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of the State.

"Tenant or occupant", applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

"Tenses". The present tense shall include the past and future tenses, and the future tense shall include the present tense.

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Chapter 4
Appeals

§ 1-4.01. Right to appeal.

Except where an appeals procedure is otherwise specifically set forth in this Code, any person excepting to the denial, suspension, or revocation of a permit applied for or held by him pursuant to any of the provisions of this Code, or to any administrative decision made by any official of the City, if the denial, suspension, or revocation of such permit or the determination of such administrative decision involves the exercise of administrative discretion or personal judgment exercised pursuant to any of the provisions of this Code, may appeal in writing to the Council by filing with the City Clerk a written notice of such appeal, setting forth the specific grounds thereof.

No appeal may be taken to any such administrative decision made by an official of the City pursuant to the provisions of this chapter unless such decision to appeal has been first taken up with the department head concerned.

No right of appeal to the Council from any administrative decision made by an official of the City pursuant to any of the provisions of this Code shall exist when such decision is ministerial and thus does not involve the exercise of administrative discretion or personal judgment exercised pursuant to any of the provisions of this Code, whether the administrative decision involves the denial, suspension, or revocation of a permit or any other administrative decision.

§ 1-4.02. Time limit for filing.

The appellant shall file a notice of appeal with the City Clerk within 14 days after the receipt of the notice of the administrative decision concerned.

§ 1-4.03. Hearings: Notices.

Upon the filing of the notice of appeal in proper form, the City Clerk shall place the matter on the Council agenda for the next regular meeting of the Council which will be held at least five days after the date of the filing of the notice of appeal. Except in cases of emergency when the Council may determine the matter immediately, the Council shall set the matter for hearing at a subsequent meeting, but in no event later than 30 days after the date of the filing of the notice of appeal with the City Clerk. The City Clerk shall cause a written notice of the hearing to be given to the appellant not less than five days prior to such hearing, unless such notice is waived in writing by the appellant.

§ 1-4.04. Hearings.

At the hearing required by the provisions of Section 1-4.03 of this chapter, the appellant shall show cause on the grounds set forth in the notice of appeal why the action appealed from should not be approved. The Council may continue the hearing from time to time, and its findings on the appeal shall be final and conclusive in the matter.

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Chapter 5
Citations

§ 1-5.01. Notices to appear: Authority.

If any person is arrested for a violation of any provision of this Code or any other law of the City, the arresting officer (who may be any peace officer, inspector, investigator, or other officer of the City charged with the duty of enforcing such provision) may, in lieu of taking such person before a magistrate as required by the provisions of the Penal Code of the State, prepare a written notice to appear as set forth in this chapter.
(§ 1, Ord. 405)

§ 1-5.02. Notices to appear: Form.

The written notice to appear authorized by the provisions of Section 1-5.01 of this chapter shall be prepared in such number and upon such form as is approved by the City Attorney and shall set forth the name and address of the person, the offense charged, and the time and place when and where such person shall appear. The time specified for appearance shall be not less than five days nor more than 15 days after the date of arrest, and the place specified shall be as set forth in Section 853.6 of the Penal Code of the State.
(§§ 2 and 3, Ord. 405)

§ 1-5.03. Promises to appear.

The arresting officer shall deliver one copy of the notice to appear authorized by the provisions of Section 1-5.01 of this chapter to the arrested person, and such person, in order to secure his release from custody, shall give his written promise to appear by signing the remaining copies of the notice. Thereupon the arresting officer shall forthwith release such person from custody. If such person shall refuse to give such written promise to appear, the arresting officer shall take the arrested person before a magistrate as required by the provisions of the Penal Code of the State.
(§ 4, Ord. 405)

§ 1-5.04. Complaints.

Within one day (excluding Saturdays, Sundays, and holidays) after the arrest of any person for violating any provision of this Code or any other law of the City, the arresting officer shall cause to be delivered to the City Attorney two copies of the notice to appear, together with two copies of a written statement of the facts relied upon to prove the commission of the offense charged. The City Attorney shall consider such documents as an application for a complaint, and if he determines that a complaint should be issued, he shall cause one to be prepared and verified. Thereafter he shall forthwith file such complaint, together with a copy of the notice to appear, with the specified magistrate. If the City Attorney determines that no complaint shall be issued, he shall so advise the arresting police officer's department head or the head of the department requesting the complaint.
(§ 5, Ord. 405)

§ 1-5.05. Promises to appear: Violations.

Any person wilfully violating his written promise to appear pursuant to a written notice to appear

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shall be deemed guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested.
(§ 6, Ord. 405)

§ 1-5.06. Warrants for arrest.

When a person who has signed a written promise to appear fails to appear as promised, and has not posted bail as set forth in Section853.6 of the Penal Code of the State, the magistrate shall issue and have delivered for execution a warrant for the arrest of such person within 20 days after his failure to so appear; provided, however, if such person promises to appear before an officer authorized to accept bail, other than a magistrate, and such person fails to appear as promised and has not posted such bail, such officer shall immediately deliver to the magistrate having jurisdiction the written notice and promise and the complaint in support thereof, and such warrant shall be so issued and delivered within 20 days after such delivery.
(§ 7, Ord. 405)

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LOS BANOS CODE

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Title 2

ADMINISTRATION

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Chapter 1
City Council

ARTICLE 1
METHOD OF ELECTION OF MAYOR AND CITY COUNCIL

§ 2-1.101. Method of election.

(a) Pursuant to California Government Code Sections 34871(c) and 34881, members of the legislative body of Los Banos shall be elected by districts in four districts with a separately-elected Mayor elected Citywide pursuant to Article 5 (commencing with Section 34900) of the Government Code.

(b) Mayor. The Mayor shall be elected by the voters of the entire City at each general municipal election, and shall serve a two year term until his or her successor is elected and qualified. The Mayor shall be a resident of the City of Los Banos. The Mayor in office at the time this article takes effect shall continue in office until the expiration of the full term to which he or she was elected and until his or her successor is elected and qualified.

(c) Councilmembers.

(1) Beginning with the general municipal election in November 2016, members of the City Council shall be elected in the electoral districts established by Section 2-1.102 and subsequently reapportioned as provided by State law. Elections shall take place on a "by-district" basis as that term is defined in California Government Code Section 34871, meaning one member of the Council shall be elected from each district, by the voters of that district alone. Each member of the Council shall serve a four year term until his or her successor is elected and qualified.

(2) Except as provided in subdivision (3) hereof, the Councilmember elected to represent a district must reside in that district and be a registered voter in that district, and any candidate for the Council must live in, and be a registered voter in, the district in which he or she seeks election. Termination of residency in a district by a Councilmember shall create an immediate vacancy for that Council district unless a substitute residence within the district is established within 30 days of the termination of residency.

(3) Transition. Notwithstanding any other provision of this article, the members of the Council in office at the time the ordinance codified in this article takes effect shall continue in office until the expiration of the full term to which he or she was elected and until his or her successor is elected and qualified. Each Councilmember's successor shall be elected on a "by-district" basis in the districts established in Section 2-1.102.

(§ 2, Ord. 1123, eff. December 4, 2014, as amended by §§ 1, 2, Ord. 1131, eff. August 1, 2015)

§ 2-1.102. Establishment of Council districts.

(a) Beginning with the general municipal election in November 2016, members of the City Council shall be elected on a "by-district" basis from the Council districts described as follows:

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(1) Council District 1 shall comprise all that portion of the City beginning at the intersection of Overland Rd. and the City's western border on the eastern border of parcel APN 081100033000; thence proceeding easterly along Overland Rd. to San Miguel St.; thence proceeding northerly along San Miguel St. to La Purisma St.; thence proceeding easterly along La Purisma St. to San Luis Obispo St.; thence proceeding northerly along San Luis Obispo St. to San Diego St.; thence proceeding westerly along San Diego St. to the parcel border between 1512 and 1516 San Diego St.; thence proceeding northerly along that parcel border and continuing northerly along the parcel borders between parcels APN 424115004000 and 424115005000 and continuing northerly along the parcel borders between parcels APN 424114009000 and 424114010000; and continuing northerly along the parcel borders between parcels APN424114016000 and 424114015000 on the west and 424114014000 on the east; and continuing northerly along the parcel borders between parcels APN 424116011000 and 424116012000; thence proceeding westerly along the northern border of parcels APN 424116010000 and 424116011000; thence proceeding northerly along the parcel borders between parcels APN 424116006000 and 424116005000 to Regency Dr.; thence proceeding westerly along Regency Dr. to Rockport Dr.; thence proceeding northerly along Rockport Dr. to Westminster Way; thence proceeding northerly along Westminster Way and its extension along the western border of parcel APN 424010002000; thence proceeding easterly along the northern border of parcel APN 424010002000 to the intersection of the City border and the San Luis Canal; thence proceeding counter-clockwise along the City border to the point of beginning.

(2) Council District 2 shall comprise all that portion of the City beginning at the intersection of Highway 165 (a.k.a. Mercey Springs Rd.) and the City's southern border just south of Pioneer Rd.; thence proceeding northerly along Mercey Springs Rd. to E. Pacheco Blvd; thence proceeding easterly along E. Pacheco Blvd. to Nickel St.; thence proceeding northerly along Nickel St. to San Luis St.; thence proceeding westerly along San Luis St. to Place Rd.; thence proceeding northerly along Place Rd. to E. B St.; thence proceeding westerly along E. B St. to Wisteria Ave.; thence proceeding northwesterly along Wisteria Ave. to Willmott Rd.; thence proceeding westerly along Willmott Rd. to Mercey Springs Rd.; thence proceeding northerly along Mercey Springs Rd. to Overland Ave.; thence proceeding easterly along Overland Rd. to San Miguel St.; thence proceeding northerly along San Miguel St. to La Purisma St.; thence proceeding easterly along La Purisma St. to San Luis Obispo St.; thence proceeding northerly along San Luis Obispo St. to San Diego St.; thence proceeding westerly along San Diego St. to the parcel border between 1512 and 1516 San Diego St.; thence proceeding northerly along that parcel border and continuing northerly along the parcel borders between parcels APN 424115004000 and 424115005000 and continuing northerly along the parcel borders between parcels APN 424114009000 and 424114010000; and continuing northerly along the parcel borders between parcels APN424114016000 and 424114015000 on the west and 424114014000 on the east; and continuing northerly along the parcel borders between parcels APN 424116011000 and 424116012000; thence proceeding westerly along the northern border of parcels APN 424116010000 and 424116011000; thence proceeding northerly along the parcel borders between parcels APN 424116006000 and 424116005000 to Regency Dr.; thence proceeding westerly along Regency Dr. to Rockport Dr.; thence proceeding northerly along Rockport Dr. to Westminster Way; thence proceeding northerly along Westminster Way and its extension along the

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western border of parcel APN 424010002000 to the northern border of parcel APN 424010002000; thence proceeding easterly along the northern border of parcel APN 424010002000 to the intersection of parcel APN 424010002000, the City border, and the San Luis Canal; thence proceeding clockwise along the City border to the point of beginning.

(3) Council District 3 shall comprise all that portion of the City beginning at the intersection of Highway 165 (a.k.a. Mercey Springs Rd.) and the City's southern border just south of Pioneer Rd.; thence proceeding northerly along Mercey Springs Rd. to E. Pacheco Blvd; thence proceeding easterly along E. Pacheco Blvd. to Nickel St.; thence proceeding northerly along Nickel St. to San Luis St.; thence proceeding westerly along San Luis St. to Place Rd.; thence proceeding northerly along Place Rd. to E. B St.; thence proceeding westerly along E. B St. to Wisteria Ave.; thence proceeding northwesterly along Wisteria Ave. to Willmott Rd.; thence proceeding westerly along Willmott Rd. to Mercey Springs Rd.; thence proceeding northerly along Mercey Springs Rd. to Overland Ave.; thence proceeding westerly along Overland Rd. to North St.; thence proceeding southerly along North St. to Willmott Rd.; thence proceeding westerly along Willmott Rd. to 2nd St.; thence proceeding southerly along 2nd St. to I St.; thence proceeding southeasterly along I St. to 3rd St.; thence proceeding southwesterly along 3rd St. to K St.; thence proceeding westerly along K St. to California Ave.; thence proceeding southerly along California Ave. to Pacheco Blvd.; thence proceeding easterly along Pacheco Blvd. to Center Ave.; thence proceeding southerly along Center Ave. to the intersection of the City border, Center Ave., and Main Canal; thence proceeding counter-clockwise along the City border to the point of beginning.

(4) Council District 4 shall comprise all that portion of the City beginning at the intersection of Overland Rd. and the City's western border on the eastern border of parcel APN 081100033000; thence proceeding easterly along Overland Rd. to North St.; thence proceeding southerly along North St. to Willmott Rd.; thence proceeding westerly along Willmott Rd. to 2nd St.; thence proceeding southerly along 2nd St. to I St.; thence proceeding southeasterly along I St. to 3rd St.; thence proceeding southwesterly along 3rd St. to K St.; thence proceeding westerly along K St. to California Ave.; thence proceeding southerly along California Ave. to Pacheco Blvd; thence proceeding easterly along Pacheco Blvd. to Center Ave.; thence proceeding southerly along Center Ave. to the intersection of the City border, Center Ave., and Main Canal; thence proceeding clockwise along the City border to the point of beginning.

(5) A map showing these districts is attached hereto as Exhibit 1 and incorporated by this reference. To the extent there is a conflict between the descriptions contained in subdivisions (1) through (4) and the map incorporated herein, subdivisions (1) through (4) shall prevail.

(6) If necessary to facilitate the implementation of this article, the City Clerk is authorized to make technical adjustments to the district boundaries that do not substantively affect the populations in the districts, the eligibility of candidates, or the residence of elected officials within any district. The Clerk shall advise the Council of any such adjustments that are found to be required in the implementation of the districts.

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(b) Councilmembers shall be elected in Council District 1 and Council District 4 beginning at the general municipal election in 2016 and every four years thereafter. Members shall be elected from Council District 2 and Council District 3 beginning at the general municipal election in 2018 and every four years thereafter.

(c) The Council districts specified in subsection (a) hereof shall continue in effect until they are repealed or amended by the voters or until they are adjusted pursuant to California Elections Code Sections 21600 through 21606, any successor statute thereto, or any other provision of State law authorizing the City Council to amend the districts without a vote of the people.

Editor's Note Subdivision (c) of this Code section, originally adopted in 2014, provides that the Council Districts described herein would "continue in effect until they are repealed or amended by the voters or until they are adjusted pursuant to California Elections Code Sections 21600 through 21606, any successor statute thereto, or any other provision of State law authorizing the City Council to amend the districts without a vote of the people." Consistent with that provision and consistent with California Elections Code Sections21600 through 21609, the districts were adjusted following the 2020 Census as reflected in Resolution No. 6460 of the City Council, adopted February 2, 2022.

(§ 2, Ord. 1123, eff. December 4, 2014, as amended by §§ 1, 2, Ord. 1131, eff. August 1, 2015)

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ARTICLE 2
MEETINGS

§ 2-1.201. Time and place of meetings.

Regular City Council meetings shall be held at 6:00 p.m. on the first and third Wednesday of each month. If such date falls upon a City holiday, the meeting shall be held at the usual hour and place on the next succeeding day which is not a City holiday, unless cancelled in advance by majority vote of the City Council. All regular and special meetings of the City Council shall be held in the City Hall Council Chambers, unless otherwise posted and noticed in advance in accordance with the Ralph M. Brown Act. The City Council, by majority vote, may cancel or adjourn any regular or special meeting.
(§§ 1—3, Ord. 145, as amended by § 1, Ord. 157, § 1, Ord. 220, § 1, Ord. 605, eff. April 19, 1978, § 1, Ord. 740, eff. December 4, 1985, § 2, Ord. 777, eff. May 22, 1988, § 1, Ord. 887, eff. August 4, 1995, § 3, Ord. 1131, eff. August 1, 2015, and § 2, Ord. 1191, effective August 6, 2021)

§ 2-1.202. (Reserved)

§ 2-1.203. (Reserved)

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ARTICLE 3
SALARIES

§ 2-1.301. Authority.

Sections 36516 and 36516.1 of the California Government Code authorizes the City Council to enact an ordinance providing that each member of the City Council receive a salary in accordance with a schedule set forth in Section 36516 and providing that the Mayor may receive compensation in addition to that which he or she receives as a council member as set forth in Section 36516.1.
(§ 1, Ord. 379, as amended by § 1, Ord. 1005, and § 4, Ord. 1131, eff. August 1, 2015)

§ 2-1.302. Population.

As of 2025, the latest estimate of population of the City made by the State Department of Finance is 48,896.
(§ 2, Ord. 379, as amended by § 1, Ord. 1005, and § 4, Ord. 1131, eff. August 1, 2015; Ord. 1215, eff. 11/3/2026)

§ 2-1.303. Salaries.

(a) Each member of the Council of the City shall receive as salary the sum of One Thousand Two Hundred Seventy-Five and No/100ths ($1,275.00) Dollars per month, as is permitted in Government Code Section 36516 for cities up to and including 50,000 population, which shall be payable at the same time and the same manner as the salaries are paid to other officers and employees of the City.

(b) The Mayor shall receive a monthly salary of Two Hundred Twenty-Five and No/100ths ($225.00) Dollars, in addition to that which he or she receives as a Councilmember as permitted by Government Code Section 36516.1.

(§ 3, Ord. 379, as amended by §§ 2, 4, Ord. 795, eff. March 31, 1989, § 1, Ord. 1005, and § 4, Ord. 1131, eff. August 1, 2015; Ord. 1215, eff. 11/3/2026)

§ 2-1.304. Salary increase or decrease.

(a) Subsequent changes in salaries of members of the City Council shall be governed by Sections 36516, 36516.1, and 36516.5 of the Government Code.

(b) For the purpose of this chapter, the population of the City shall be determined by the latest estimate of population made by the California Department of Finance.

(c) Compensation of Councilmembers may be increased beyond the amount provided in this chapter by an ordinance or amendment hereto enacted by the City Council; provided that, should the amount exceed the limitations specified in Section 36516 of the Government Code, such amount shall not exceed an amount equal to 5% for each calendar year from the operative date of the last adjustment of the salary in effect when the ordinance or amendment thereto is enacted.

(d) A change in compensation does not apply to a Councilmember during his or her term of office; however, the prohibition herein expressed shall not prevent the adjustment of the compensation of all members of the Council serving staggered terms whenever one or more members of the Council becomes eligible for a salary increase by virtue of his or her

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beginning a new term of office.
(§ 4, Ord. 379, as amended by § 1, Ord. 1005, and § 4, Ord. 1131, eff. August 1, 2015)

§ 2-1.305. Expense reimbursements.

The salaries prescribed in this article shall be exclusive of any amounts payable to any member of the Council as reimbursement for actual and necessary expenses incurred by him or her in the performance of official duties for the City.
(§ 5, Ord. 379, as amended by § 4, Ord. 1131, eff. August 1, 2015)

§ 2-1.306. Operative date.

The provisions of this article shall become operative only on and after the date upon which one or more members of the Council become eligible for the salary prescribed in this article by virtue of beginning a new term of office following the April, 1966, general municipal election.
(§ 6, Ord. 379, as amended by § 4, Ord. 1131, eff. August 1, 2015)

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Chapter 2
Commissions And Boards

ARTICLE 1
LOS BANOS PARKS AND RECREATION COMMISSION

Note: Article 1 entitled "Community Recreation Commission," consisting of Sections 2-2.101 through 2-2.106, codified from Ordinance No. 370, repealed by Section 1, Ordinance No. 459, effective December 15, 1972.

Article 1 entitled "Community Recreation Commission," consisting of Sections 2-2.101 through 2-2.115, as amended by Ordinance No. 478, effective September 14, 1973, Ordinance No. 493, effective January 6, 1974, Ordinance No. 550, effective November 20, 1976, Ordinance No. 622, effective June 21, 1978, Ordinance No. 667, effective September 19, 1980, Ordinance No. 722, effective April 6, 1984, Urgency Ordinance No. 740, effective December 4, 1985, Ordinance No. 777, effective May 22, 1988, Ordinance No. 836, effective November 16, 1990, Ordinance No. 952, effective September 17, 1999, and Ordinance No. 1069, effective April 4, 2008.

Article 1 entitled "Los Banos Parks and Recreation Commission," consisting of Sections 2-2.101 through 2-2.112, as amended by Ordinance No. 1113, effective January 1, 2014.

§ 2-2.101. Established.

There is hereby established the Los Banos Parks and Recreation Commission (hereinafter referred to in this article as Commission).
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 2, Ord. 1113, eff. January 1, 2014)

§ 2-2.102. Powers and duties.

The Commission shall have the following powers and duties:

(a) To promote and encourage and coordinate all matters of public recreation, whether specified in this article or not, in the City;

(b) To act in an advisory capacity to the City Council on the acquisition, development, operation, and maintenance of parks, playgrounds, and recreation centers and facilities for the public;

(c) To plan, program, and encourage civic beautification by public agencies and private property owners when such activities relate to recreation and parks;

(d) To make recommendations to the City Council regarding changes and improvements in the areas set forth in this section;

(e) To consider the annual budget for parks and recreation during the process of its preparation and make recommendations thereon to the City Council;

(f) To assist in the planning of recreation programs for the community, promote and stimulate public interest therein, and to that end solicit to the fullest extent possible the cooperation of the County, the Los Banos Unified School District, and other public and private agencies interested therein;

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(g) To advise and recommend to the City Council regarding the construction, acquisition, and maintenance of recreational facilities;

(h) To have all other powers granted to it by the provisions of Sections10900 through 10914.5 of the California Education Code; and

(i) To perform other related duties as directed by the City Council.

(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 3, Ord. 1113, eff. January 1, 2014)

§ 2-2.103. Members: Appointment and qualifications.

The Commission shall consist of five members. Except as set forth herein, candidate(s) for appointment shall be recommended to the City Council by the Mayor, with input from a Council Member, selected by the City Council on a rotating basis, and the Public Works Director who shall form an ad hoc committee to review applications, interview applicants, and evaluate the candidates for recommendation by the Mayor to the City Council. One of the members shall be recommended to the City Council by the Mayor, by nomination from the Los Banos Unified School District. At the time of appointment to the Commission and throughout his or her term each Commissioner shall be a resident of the City of Los Banos and a registered, qualified elector of the City.

(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 4, Ord. 1113, eff. January 1, 2014)

§ 2-2.104. Members: Terms.

Each Commissioner shall serve a term of two years. Terms of office shall be staggered and not more than three Commissioners shall have terms that end in the same year. A member's term of office shall expire on December 31st of the second year of his or her respective term.

(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 5, Ord. 1113, eff. January 1, 2014)

§ 2-2.105. Members: Reappointment and vacancies.

(a) If a Commission member ceases to reside in the City of Los Banos such Commissioner's position shall be declared vacant.

(b) If a member of the Commission is absent without cause from three successive regular meetings of the Commission, the Commission or the City Manager may request the City Council declare the position vacant. A member is not absent without cause if his or her absence is due to illness, or is unavoidable and the member gives notice to City staff before the meeting that he or she will be absent and the reason for the absence.

(c) A member of the Commission shall not automatically be reappointed to a successive term of office. A member desiring reappointment shall be required to make formal application and in the case of the Los Banos Unified School District member said member shall be required to be renominated by the Los Banos Unified School District for reappointment. If a vacancy shall occur otherwise than by the expiration of a term the vacancy shall be filled as set forth in Section 2-2.103, for the unexpired portion of the term.

(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 6, Ord. 1113, eff. January 1, 2014)

§ 2-2.106. Members: Removal from office.

Any appointive member of the Commission may be removed from the Commission by a majority vote of the City Council.

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(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 8, Ord. 1113, eff. January 1, 2014)

§ 2-2.107. Members: Resignations.

A member of the Commission may resign from the Commission by filing a written statement with the City Clerk stating that he or she resigns from the Commission. The resignation shall become effective at the time of filing such written statement, and such member shall thereupon cease to be a member of the Commission, and a vacancy shall exist.
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 9, Ord. 1113, eff. January 1, 2014)

§ 2-2.108. Compensation.

Members of the Commission shall serve without compensation.
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 10, Ord. 1113, eff. January 1, 2014)

§ 2-2.109. Organization.

The first meeting in January of each year shall be the organization meeting. Immediately after appointment and qualification, the Commission shall organize by electing one of its members as chairperson, who shall be charged with the orderly conduct of the meetings, and one as vice-chairperson, to assume such duties in the absence of the chairperson, who both shall serve for one year.
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 11, Ord. 1113, eff. January 1, 2014)

§ 2-2.110. Meetings.

Regular meetings of the Commission shall be held quarterly on the third Tuesday of January, April, July, and October at 6:00 p.m. at City Hall, located at 520 J Street in the City. If any regular meeting day falls on a City holiday, the meeting shall be held on the following regular City business day at 6:00 p.m.
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 12, Ord. 1113, eff. January 1, 2014, and § 1, Ord. 1151, eff. January 7, 2017)

§ 2-2.111. Quorum.

Three members of the Commission shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time.
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 13, Ord. 1113, eff. January 1, 2014)

§ 2-2.112. Secretary to the Commission.

The Public Works Director, or designee, shall serve as secretary to the Commission.
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 14, Ord. 1113, eff. January 1, 2014)

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ARTICLE 2
LOS BANOS PLANNING COMMISSION

Note: Article 2 entitled "Planning Commission," consisting of Sections 2-2.201 through 2-2.209, codified from Ordinance No. 239, as amended by Ordinance No. 398, effective June 20, 1973, Ordinance No. 472, effective June 20, 1973, Ordinance No. 1022, effective January 15, 2005, Ordinance No. 678, effective April 3, 1981, Urgency Ordinance No. 740, effective December 4, 1985, Ordinance No. 777, effective May 22, 1988, Ordinance No. 855, effective April 17, 1992, Ordinance No. 1069, effective April 4, 2008, and Ordinance No. 1113, effective January 1, 2014.

§ 2-2.201. Established.

Pursuant to the provisions of Chapter 3 of Title 7 of the Government Code of the State, there is hereby established the Los Banos Planning Commission (hereinafter referred to in this article as Commission).
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 16, Ord. 1113, eff. January 1, 2014)

§ 2-2.202. Powers and duties.

Except as otherwise provided in this article, the provisions of Chapter 3 of Title 7 of the Government Code of the State of California relating to the powers and duties of members of Planning Commissions, and of Planning Commissions as bodies, and the rules of procedure and other provisions in said Title 7 shall govern and control the Planning Commission of the City.
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 17, Ord. 1113, eff. January 1, 2014)

§ 2-2.203. Members: Creation of Planning Commission districts; Appointment and qualifications.

(a) The boundaries of the Planning Commission districts shall be congruent with the boundaries of the electoral districts of the City Council as identified in Section 2-1.102. The Planning Commission districts shall use the same numerical designations as the electoral districts of the City Council.

(b) The Planning Commission shall consist of five commissioners, four of whom shall be appointed from each of the four Planning Commission districts and one who shall be appointed at large. All Commissioners shall be voting members of the Planning Commission. No Commissioner shall be a member of the City Council.

(c) The Mayor, with the approval of the City Council, shall appoint the at-large Planning Commissioner as follows:

(1) The at-large Planning Commissioner position shall be advertised, seeking volunteers willing and desiring to be appointed to the Planning Commission. Any person seeking to be so appointed must complete and submit the City volunteer application, together with any other information requested by the Mayor. All such applications shall be provided to the City Council for review.

(2) The Mayor, the Mayor Pro Tem, and the Community and Economic Development Director shall form an ad hoc committee to review applications, interview applicants,

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and evaluate the candidates for nomination by the Mayor to the City Council.

(3) The Mayor shall, at a regularly scheduled City Council meeting, nominate, from among such applicants, the person whom the Mayor desires to appoint to the Planning Commission.

(4) If the nomination by the Mayor is approved by a majority vote of the City Council, the Mayor may then proceed to appoint the person to the Planning Commission.

(5) If the nomination by the Mayor is not approved by a majority vote of the City Council, the Mayor shall nominate a different candidate until someone is approved by majority vote of the City Council.

(d) The Mayor, with the approval of the City Council, shall appoint each of the district Planning Commissioners as follows:

(1) The district Planning Commissioner position shall be advertised, seeking volunteers willing and desiring to be appointed to the Planning Commission. Any person seeking to be so appointed must complete and submit the City volunteer application, together with any other information requested by the Mayor. All such applications shall be provided to the City Council for review.

(2) The Mayor, the City Council Member from the corresponding district, and the Community and Economic Development Director shall form an ad hoc committee to review applications, interview applicants, and evaluate the candidates for nomination by the Mayor to the City Council.

(3) The Mayor shall, at a regularly scheduled City Council meeting, nominate, from among such applicants, the person whom the Mayor desires to appoint to the Planning Commission.

(4) If the nomination by the Mayor is approved by a majority vote of the City Council, the Mayor may then proceed to appoint the person to the Planning Commission.

(5) If the nomination by the Mayor is not approved by a majority vote of the City Council, the Mayor shall nominate a different candidate until someone is approved by majority vote of the City Council.

(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 18, Ord. 1113, eff. January 1, 2014; § 1, Ord. 1176, eff. December 5, 2019)

§ 2-2.204. Members: Terms.

(a) Each district Planning Commissioner shall serve a term of four years. Terms of office shall be the same as the term of office for the corresponding district Council Member. The district Planning Commissioner's term of office shall expire on December 31st of the fourth year of his or her respective term.

(b) The at-large Planning Commissioner shall serve a term of two years. The term of office shall be the same as the term of office for the Mayor. The at-large Planning Commissioner's term of office shall expire on December 31st of the second year of his or her term.

(c) Notwithstanding the foregoing, all Planning Commissioners will hold office until their successors are qualified and take office.

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(d) All vacancies will be filled in accordance with Section 2-2.203 to fill the unexpired term of the vacated seat.

(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 19, Ord. 1113, eff. January 1, 2014; § 2, Ord. 1176, eff. December 5, 2019)

§ 2-2.205. Members: Qualifications: Absences; Reappointment and vacancies.

(a) All commissioners shall be registered, qualified electors of the City.

(b) Except for the at-large member, each member of the Planning Commission must be a resident of the electoral district from which the member is nominated at the time the member is nominated and appointed. If any member of the Planning Commission ceases to be a resident of the district from which the member was appointed, for any reason other than a change in district boundary lines required following the decennial census, that member's appointment will automatically terminate. The at-large member must be a resident of the City. If the at-large member ceases to be a resident of the City, that member's appointment will automatically terminate. The secretary of the Planning Commission shall immediately inform the City Council of any such termination.

(c) If a member of the Commission is absent from three successive meetings, including regular, special and or adjourned of the Commission, or four regular meetings of the Commission during a 12 month period shall be deemed an automatic resignation from the Commission and such Commissioner's position shall be declared vacant. The secretary of the Planning Commission shall immediately inform the City Council of any such resignation.

(d) A member of the Commission shall not automatically be reappointed to a successive term of office. A member desiring reappointment shall be required to make formal application. If a vacancy shall occur otherwise than by the expiration of a term, the vacancy shall be filled as set forth in Section 2-2.203, for the unexpired portion of the term.

(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 20, Ord. 1113, eff. January 1, 2014; § 3, Ord. 1176, eff. December 5, 2019)

§ 2-2.206. Members: Removal from office.

Commissioners serve at the pleasure of the City Council and may be removed prior to the expiration of their term by a vote of a majority of the members of the City Council.

(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 22, Ord. 1113, eff. January 1, 2014; § 4, Ord. 1176, eff. December 5, 2019)

§ 2-2.207. Members: Resignations.

A member of the Commission may resign from the Commission by filing a written statement with the City Clerk stating that he or she resigns from the Commission. The resignation shall become effective at the time of filing such written statement, and such member shall thereupon cease to be a member of the Commission, and a vacancy shall exist.

(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 23, Ord. 1113, eff. January 1, 2014)

§ 2-2.208. Compensation.

Members of the Commission shall serve without compensation.

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(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 24, Ord. 1113, eff. January 1, 2014)

§ 2-2.209. Organization.

The first meeting in January of each year shall be the organization meeting. Immediately after appointment and qualification, the Commission shall organize by electing one of its members as chairperson, who shall be charged with the orderly conduct of the Commission meetings, and one as vice-chairperson, to assume such duties in the absence of the chairperson, who both shall serve for one year.
(§ 25, Ord. 1113, eff. January 1, 2014)

§ 2-2.210. Time and place of meetings.

Regular Planning Commission meetings shall be held at 6:00 p.m. on the second and fourth Wednesday of each month. If such date falls upon a City holiday, the meeting shall be held at the usual hour and place on the next succeeding day which is not a City holiday, unless cancelled in advance by majority vote of the Planning Commission. All regular and special meetings of the Planning Commission shall be held in the City Hall Council Chambers, unless otherwise posted and noticed in advance in accordance with the Ralph M. Brown Act. The Planning Commission, by majority vote, may cancel or adjourn any regular or special meeting.
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 26, Ord. 1113, eff. January 1, 2014, § 2, Ord. 1192, eff. August 6, 2021)

§ 2-2.211. Quorum.

Three members of the Commission shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time.
(§ 27, Ord. 1113, eff. January 1, 2014; § 5, Ord. 1176, eff. December 5, 2019)

§ 2-2.212. Secretary to the Commission.

The Community Development Director, or designee, shall serve as secretary to the Commission.
(§ 28, Ord. 1113, eff. January 1, 2014)

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ARTICLE 3
LOS BANOS TREE COMMISSION

Note: Sections 2-3.291 through 2-2.396, as added by Ordinance No. 440, effective November 5, 1971, as amended by Ordinance No. 452, effective October 6, 1972, Ordinance No. 484, effective November 16, 1973, and 510, effective October 2, 1974, repealed by Ordinance No. 594, effective January 20, 1978.

Article 3 entitled "Los Banos Youth Assistance Commission," consisting of Sections 2-2.301 through 2-2.306, repealed by Ordinance 594, effective January 20, 1978, is as amended by Ordinance No. 1069, effective April 4, 2008, and repealed by Ordinance No. 1113, effective January 1, 2014.

Article 3 entitled "Los Banos Tree Commission," consisting of Sections 2-2.301 through 2-2.312, as added by Ordinance No. 1113, effective January 1, 2014.

§ 2-2.301. Established.

There is hereby established the Los Banos Tree Commission (hereinafter referred to in this article as Commission).
(§ 30, Ord. 1113, eff. January 1, 2014)

§ 2-2.302. Powers and duties.

The Commission shall have the following powers and duties:

(a) To develop and maintain an effective City forestry program;

(b) To develop and maintain an updated street tree list;

(c) To develop an effective maintenance and replacement program for trees;

(d) To develop a historical tree list;

(e) To develop an educational program whereby community residents understand the nature and value of trees and learn the best ways to take care of them;

(f) To develop and maintain a commercial tree canopy program that provides the required shade canopy;

(g) To recognize businesses and individuals who have been instrumental in promoting the City's urban forest;

(h) To promote the planting of trees in the community as part of the City's commitment to being designated a Tree City USA;

(i) To make recommendations to the Los Banos Parks and Recreation Commission on items regarding the City's urban forest; and

(j) To perform other related duties as directed by the City Council.
(§ 30, Ord. 1113, eff. January 1, 2014)

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§ 2-2.303. Members: Appointment and qualifications.

The Commission shall consist of five members. Candidate(s) for appointment shall be recommended to the City Council by the Mayor, with input from a Council member, selected by the City Council on a rotating basis, and the Public Works Director, who shall form an ad hoc committee to review applications, interview applicants, and evaluate the candidates for recommendation by the Mayor to the City Council. At the time of appointment to the Commission and throughout his or her term each Commission member shall be a resident of the City of Los Banos and a registered qualified elector of the City.
(§ 30, Ord. 1113, eff. January 1, 2014)

§ 2-2.304. Members: Terms.

Each Commission member shall serve a term of two years. Terms of office shall be staggered and not more than three Commission members shall have terms that end in the same year. A member's term of office shall expire on December 31st of the second year of his or her respective term.
(§ 30, Ord. 1113, eff. January 1, 2014)

§ 2-2.305. Members: Reappointment: Vacancies.

(a) If a Commission member ceases to reside in the City of Los Banos such commissioner's position shall be declared vacant.

(b) If a member of the Commission is absent without cause from three successive regular meetings of the Commission, the Commission or the City Manager may request the City Council declare the position vacant. A member is not absent without cause if his or her absence is due to illness, or is unavoidable and the member gives notice to City staff before the meeting that he or she will be absent and the reason for the absence.

(c) A member of the Commission shall not automatically be reappointed to a successive term of office. A member desiring reappointment shall be required to make formal application. If a vacancy shall occur otherwise than by the expiration of a term, the vacancy shall be filled as set forth in Section 2-2.303, for the portion of the unexpired term.
(§ 30, Ord. 1113, eff. January 1, 2014)

§ 2-2.306. Members: Removal from office.

Any appointive member of the Commission may be removed from the Commission by a majority vote of the City Council.
(§ 30, Ord. 1113, eff. January 1, 2014)

§ 2-2.307. Members: Resignations.

A member of the Commission may resign from the Commission by filing a written statement with the City Clerk stating that he or she resigns from the Commission. The resignation shall become effective at the time of filing such written statement, and such member shall thereupon cease to be a member of the Commission, and a vacancy shall exist.
(§ 30, Ord. 1113, eff. January 1, 2014)

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§ 2-2.308. Compensation.

Members of the Commission shall serve without compensation.
(§ 30, Ord. 1113, eff. January 1, 2014)

§ 2-2.309. Organization.

The meeting in February of each year shall be the organization meeting of the Commission. Immediately after appointment and qualification, the Commission shall organize by electing one of its members as chairperson, who shall be charged with the orderly conduct of the Commission meetings, and one as vice-chairperson, to assume such duties in the absence of the chairperson, who both shall serve for one year.
(§ 30, Ord. 1113, eff. January 1, 2014)

§ 2-2.310. Meetings.

Regular meetings of the Commission shall be held on the second Wednesday in February, May, August, and November at 5:00 p.m. in the City Hall Council Chambers located at 520 J Street in the City. If any regular meeting day falls on a City holiday, the meeting shall be held on the following regular City business day at 5:00 p.m.
(§ 30, Ord. 1113, eff. January 1, 2014)

§ 2-2.311. Quorum.

Three members of the Commission shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time.
(§ 30, Ord. 1113, eff. January 1, 2014)

§ 2-2.312. Secretary to the Commission.

The Public Works Director, or designee, shall serve as secretary to the Commission.
(§ 30, Ord. 1113, eff. January 1, 2014)

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ARTICLE 5
LOS BANOS AIRPORT ADVISORY COMMISSION

Note: Article 5 entitled "Los Banos Airport Advisory Commission," consisting of Sections 2-2.501 through 2-2.508, codified from Ordinance 505, effective September 6, 1974, as amended by Ordinance No. 955, effective March 31, 2000, Ordinance No. 989, effective September 4, 2002, Ordinance No. 1069, effective April 4, 2008, and Ordinance No. 1113, effective January 1, 2014.

§ 2-2.501. Established.

There is hereby established the Los Banos Airport Advisory Commission (hereinafter referred to in this article as Commission).
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 33, Ord. 1113, eff. January 1, 2014)

§ 2-2.502. Powers and duties.

The Commission shall have the following powers and duties:

(a) To study, consider, and develop long-range plans for the ultimate development of the Los Banos Municipal Airport, giving due regard to any Master Plan adopted by the City, and to Federal and State regulations;

(b) To ascertain the type of service to be rendered and keep abreast of developments in the aviation industry so as to be able to inform the City Council on all pertinent matters concerning airports, airport law, and aviation generally;

(c) To study and recommend on matters relating to airport improvements, including methods of financing and lease arrangements;

(d) To review and recommend on special permits and proposals, as required, that deviates from the airport development plan;

(e) To submit to the City Council such plans as may seem desirable for the present and future operation of the Los Banos Municipal Airport;

(f) To at least once each year report activities to the City Council and make information available to other commissions and officials of the City as required;

(g) To coordinate planned activities with other agencies not under the jurisdiction of the City; and

(h) To perform other related duties as directed by the City Council.
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 34, Ord. 1113, eff. January 1, 2014)

§ 2-2.503. Members: Appointment and qualifications.

The Commission shall consist of five members. Candidate(s) for appointment shall be recommended to the City Council by the Mayor, with input from a City Council Member, selected by the City Council on a rotating basis, and the Public Works Director, who shall form an ad hoc committee to review applications, interview applicants, and evaluate the candidates for recommendation by the Mayor to the City Council. At the time of appointment to the

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Commission and throughout his or her term each Commissioner shall be a resident of the City of Los Banos and a registered, qualified elector of the City.
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 35, Ord. 1113, eff. January 1, 2014)

§ 2-2.504. Members: Terms.

Each Commissioner shall serve a term of two years. Terms of office shall be staggered and not more than three Commissioners shall have terms that end in the same year. A member's term of office shall expire on December 31st of the second year of his or her respective term.
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 36, Ord. 1113, eff. January 1, 2014)

§ 2-2.505. Members: Reappointment and vacancies.

(a) If a Commission member ceases to reside in the City of Los Banos such Commissioner's position shall be declared vacant.

(b) If a member of the Commission is absent without cause from three successive regular meetings of the Commission, the Commission or the City Manager may request the City Council declare the position vacant. A member is not absent without cause if his or her absence is due to illness, or is unavoidable and the member gives notice to City staff before the meeting that he or she will be absent and the reason for the absence.

(c) A member of the Commission shall not automatically be reappointed to a successive term of office. A member desiring reappointment shall be required to make formal application. If a vacancy shall occur otherwise than by the expiration of a term, the vacancy shall be filled as set forth in Section 2-2.503, for the unexpired portion of the term.

(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 37, Ord. 1113, eff. January 1, 2014)

§ 2-2.506. Members: Removal from office.

Any appointive member of the Commission may be removed from the Commission by a majority vote of the City Council.
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 39, Ord. 1113, eff. January 1, 2014)

§ 2-2.507. Members: Resignations.

A member of the Commission may resign from the Commission by filing a written statement with the City Clerk stating that he or she resigns from the Commission. The resignation shall become effective at the time of filing such written statement, and such member shall thereupon cease to be a member of the Commission, and a vacancy shall exist.
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 40, Ord. 1113, eff. January 1, 2014)

§ 2-2.508. Compensation.

Members of the Commission shall serve without compensation.
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 41, Ord. 1113, eff. January 1, 2014)

§ 2-2.509. Organization.

The meeting in January of each year shall be the organization meeting. Immediately after appointment and qualification, the Commission shall organize by electing one of its members as

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chairperson, who shall be charged with the orderly conduct of the Commission meetings, and one as vice-chairperson, to assume such duties in the absence of the chairperson, who both shall serve for one year.
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 42, Ord. 1113, eff. January 1, 2014)

§ 2-2.510. Meetings.

Regular meetings of the Commission shall be held quarterly on the third Tuesday of January, April, July, and October at 5:00 p.m. at City Hall located at 520 J Street in the City. If any regular meeting day falls on a City holiday, the meeting shall be held on the following regular City business day at 5:00 p.m.
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 43, Ord. 1113, eff. January 1, 2014; Ord. 1204, 3/6/2024)

§ 2-2.511. Quorum.

Three members of the Commission shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time.
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 44, Ord. 1113, eff. January 1, 2014)

§ 2-2.512. Secretary to the Commission.

The Public Works Director, or designee, shall serve as secretary to the Commission.
(§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 45, Ord. 1113, eff. January 1, 2014)

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ARTICLE 6
LOS BANOS CULTURAL HERITAGE COMMISSION

Note: Article 6 entitled "Los Banos Cultural Heritage Commission," as added by Ordinance No. 665, as amended by Ordinance No. 1069, effective April 4, 2008, was repealed by Ordinance No. 1113, effective January 1, 2014.

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ARTICLE 7
LOS BANOS COMMISSION FOR CULTURE AND THE ARTS

Note: Article 7 entitled "Los Banos Commission for Culture and the Arts," as added by Ordinance No. 1078, effective September 19, 2008, was repealed by Ordinance No. 1113, effective January 1, 2014.

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Chapter 3
Officers And Employees

ARTICLE 1
CITY MANAGER

§ 2-3.101. Office established.

The office of City Manager is hereby established.
(§ 1, Ord. 254)

§ 2-3.102. Appointment: Qualifications: Term.

The City Manager shall be appointed by the City Council wholly on the basis of his or her administrative and executive ability and qualifications and shall hold office during the pleasure of the City Council.
(§ 1, Ord. 254, as amended by § 1, Ord. 1110, eff. July 5, 2013)

§ 2-3.103. Eligibility of former Council Member for office.

No person elected or appointed as a Council Member of the City shall, subsequent to such election, be eligible for appointment as City Manager until one year has elapsed after such Council Member shall have ceased to be a member of the City Council.
(§ 3, Ord. 254, as amended by § 2, Ord. 1110, eff. July 5, 2013)

§ 2-3.104. Residency.

Residency in the City shall not be required as a condition of the appointment to the office of City Manager.
(§ 2, Ord. 254, as amended by § 3, Ord. 1110, eff. July 5, 2013)

§ 2-3.105. Public official surety bond.

The City Manager shall furnish a public official surety bond which shall be approved by the City Council in a reasonable amount fixed by the City Council. Such bond shall be conditioned upon the faithful performance of the duties imposed upon the City Manager as set forth in this article. Any premium for such bond shall be a proper charge against the City.
(§ 4, Ord. 254, as amended by § 4, Ord. 1110, eff. July 5, 2013)

§ 2-3.106. Acting City Manager: Public official surety bond.

The City Manager shall appoint, subject to the approval of the City Council, one of the other officers or department heads of the City to serve as Acting City Manager during any temporary absence or disability of the City Manager. In the event of the absence or disability of the City Manager and his or her failure to so appoint an Acting City Manager, the City Council may designate some qualified City employee to perform the duties of the City Manager during the period of absence or disability of the City Manager, subject, however, to such person furnishing a public official surety bond, conditioned upon the faithful performance of the duties required to be performed, as set forth in Section 2-3.105 of this article.
(§ 5, Ord. 254, as amended by § 2, Ord. 564, eff. April 20, 1977, and § 5, Ord. 1110, eff. July 5, 2013)

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§ 2-3.107. Compensation: Expenses.

The City Manager shall receive such compensation and expense allowances as the City Council shall from time to time determine and fix by resolution, and such compensation and expenses shall be a proper charge against such funds of the City as the City Council shall designate.

The City Manager shall be reimbursed for all sums necessarily incurred or paid by him or her in the performance of his or her duties or incurred when traveling on business pertaining to the City under the direction of the City Council. Reimbursement shall only be made, however, when a verified itemized claim, setting forth the sums expended for such business for which reimbursement is requested, has been presented to the Mayor for approval.
(§ 6, Ord. 254, as amended by § 6, Ord. 1110, eff. July 5, 2013)

§ 2-3.108. Full-time employment.

The City Manager shall devote his or her entire time to the duties of his or her office in the interests of the City.
(§ 20, Ord. 254, as amended by § 7, Ord. 1110, eff. July 5, 2013)

§ 2-3.109. Attendance at meetings.

The City Manager may attend any or all meetings of any commission, board, or committee created by the City Council, either upon his or her own volition or upon direction of the City Council. At such meetings which the City Manager attends, he or she shall be heard by such commission, board, or committee as to all matters upon which he or she wishes to address the members thereof. He or she shall inform such members as to the status of any matter being considered by the City Council and shall cooperate to the fullest extent with the members of all commissions, boards, or committees appointed by the City Council.
(§ 24, Ord. 254, as amended by § 1, Ord. 482, eff. November 2, 1973, and § 8, Ord. 1110, eff. July 5, 2013)

§ 2-3.110. Relationship with City Council.

The City Council and its members shall deal with the administrative services of the City only through the City Manager, except for the purposes of inquiry, and neither the City Council, nor any member thereof, shall give orders to any subordinate of the City Manager. The City Manager shall take his or her orders and instructions from the City Council only when sitting in a duly held meeting of the City Council. No individual Council Member shall give orders or instructions to the City Manager.
(§ 22, Ord. 254, as amended by § 9, Ord. 1110, eff. July 5, 2013)

§ 2-3.111. Relationship with City officers.

It shall be the duty of all subordinate officers and the City Clerk, City Treasurer, and City Attorney to assist the City Manager in administering the affairs of the City efficiently, economically, and harmoniously insofar as may be consistent with their duties as prescribed by the laws of the City.
(§ 23, Ord. 254)

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§ 2-3.112. Powers and duties: Administration.

The City Manager shall be the administrative head of the government of the City under the direction and control of the City Council except as otherwise provided in this article. He or she shall be responsible for the efficient administration of all the affairs of the City which are under his or her control. In addition to his or her general powers as administrative head, and not as a limitation thereon, it shall be his or her duty and he or she shall have the specific powers and duties set forth in this article and in other portions of this Code.
(§ 7, Ord. 254, as amended by § 10, Ord. 1110, eff. July 5, 2013)

§ 2-3.113. Powers and duties: Law enforcement.

It shall be the duty of the City Manager to enforce all the laws of the City.
(§ 8, Ord. 254)

§ 2-3.114. Powers and duties: Authority over employees.

It shall be the duty of the City Manager and he or she shall have the authority to control, order, and give directions to all heads of departments and to subordinate officers and employees of the City under his or her jurisdiction through their department heads.
(§ 9, Ord. 254, as amended by § 11, Ord. 1110, eff. July 5, 2013)

§ 2-3.115. Powers and duties: Appointment, removal, promotion, and demotion of employees.

It shall be the duty of the City Manager to appoint, remove, promote, and demote any and all officers and employees of the City, except the City Clerk, City Attorney, and City Treasurer.
(§ 10, Ord. 254)

§ 2-3.116. Powers and duties: Reorganization of positions and departments.

It shall be the duty and responsibility of the City Manager to recommend to the City Council such reorganization of offices, positions, departments, or units under his or her direction as may be indicated in the interests of the efficient, effective, and economical conduct of the City's business.
(§ 11, Ord. 254, as amended by § 12, Ord. 1110, eff. July 5, 2013)

§ 2-3.117. Powers and duties: Ordinance recommendations.

It shall be the duty of the City Manager to recommend to the City Council for adoption such measures and ordinances as he or she deems necessary or expedient.
(§ 12, Ord. 254, as amended by § 13, Ord. 1110, eff. July 5, 2013)

§ 2-3.118. Powers and duties: Attendance at Council meetings.

It shall be the duty of the City Manager to attend all meetings of the City Council, unless excused therefrom, except when his or her removal is under consideration.
(§ 13, Ord. 254, as amended by § 14, Ord. 1110, eff. July 5, 2013)

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§ 2-3.119. Powers and duties: Financial reports.

It shall be the duty of the City Manager to keep the City Council fully advised at all times as to the financial conditions and needs of the City.
(§ 14, Ord. 254, as amended by § 15, Ord. 1110, eff. July 5, 2013)

§ 2-3.120. Powers and duties: Preparation of budget.

It shall be the duty of the City Manager to prepare and submit the proposed annual budget and the proposed annual salary plan to the City Council for its approval.
(§ 15, Ord. 254, as amended by § 16, Ord. 1110, eff. July 5, 2013)

§ 2-3.121. Powers and duties: Purchase of supplies.

The City Manager shall be responsible for the purchase of all supplies for all the departments of the City. No expenditures shall be submitted or recommended to the City Council except on the report and approval of the City Manager.
(§ 16, Ord. 254, as amended by § 17, Ord. 1110, eff. July 5, 2013)

§ 2-3.122. Powers and duties: Investigations.

It shall be the duty of the City Manager to make investigations into the affairs of the City, and any department thereof, and to investigate any contract or the proper performance of any obligation of the City and all complaints relating to matters concerning the administration of the City government and service maintained by public utilities in the City.
(§§ 17 and 18, Ord. 254)

§ 2-3.123. Powers and duties: Overseeing franchises, contracts, permits, and privileges.

It shall be the duty of the City Manager to ascertain that all franchises, contracts, permits, and privileges granted by the City are faithfully performed and observed.
(§§ 8 and 18, Ord. 254)

§ 2-3.124. Powers and duties: Supervision of public property.

It shall be the duty of the City Manager to exercise general supervision over all public buildings, public parks, and all other public property which is under the control and jurisdiction of the City Council.
(§ 19, Ord. 254, as amended by § 18, Ord. 1110, eff. July 5, 2013)

§ 2-3.125. Powers and duties: Council assignments.

It shall be the duty of the City Manager to perform such other duties and exercise such other powers as may be delegated to him or her from time to time by ordinance, resolution, or other action of the City Council.
(§ 21, Ord. 254, as amended by § 19, Ord. 1110, eff. July 5, 2013)

§ 2-3.126. Removal: Suspension.

(a) The removal or temporary suspension of the City Manager shall be only upon an affirmative vote of three or more members of the City Council in a regular or special City

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Council meeting, at the sole discretion of the City Council, with or without cause and without right of appeal.

(b) The removal or temporary suspension of the City Manager shall be subject to all applicable laws and ordinances and applicable provisions of the City Manager Employment Agreement.

(§ 25, Ord. 254, as amended by § 20, Ord. 1110, eff. July 5, 2013, and §§ 1, 2, Ord. 1202, eff. May 19, 2023; Ord. 1206, 2/19/2025, eff. 3/21/2025)

§ 2-3.127. Removal: Limitation.

Notwithstanding the provisions of Section 2-3.126 of this article, the City Manager shall not be removed from office, other than for gross misconduct, during or within a period of 90 days next succeeding the appointment of a new Council Member or any general municipal election held in the City at which election a member of the City Council is elected. The purpose of this provision is to permit any newly-appointed or elected member of the City Council to observe the actions and ability of the City Manager in the performance of the powers and duties of his or her office. (§ 22, Ord. 1110, eff. July 5, 2013)

§ 2-3.128. Employment agreement.

Nothing in this article shall be construed as a limitation on the power or authority of the City Council to enter into any supplemental agreement with the City Manager delineating additional terms and conditions of employment not inconsistent with any provision of this article.
(§ 23, Ord. 1110, eff. July 5, 2013)

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ARTICLE 2
DEPARTMENT OF PUBLIC SAFETY

Note: Article 2 entitled "Volunteer Fire Department", consisting of Sections 2-3.201 through 2-3.208, codified from Ordinance No. 95, repealed by Ordinance No. 789, effective December 2, 1988.

Sections 2-3.201 through 2-3.212, codified from Ordinance No. 789, as amended by Ordinance No. 807, effective September 15, 1989, amended in their entirety by Ordinance No. 808, effective September 15, 1989.

§ 2-3.201. Creation and function.

A Department of Public Safety is established for the City. The Department of Public Safety shall be responsible for the administration and provision of public safety services which shall include police protection, fire protection, and other related public safety services.
(§ 1, Ord. 808, eff. September 15, 1989)

§ 2-3.202. Director of Public Safety: Duties and responsibilities.

There is created the position of Director of Public Safety who shall serve as administrative head of the Department of Public Safety. The person selected to serve in the capacity of Director of Public Safety shall have a background as a Fire Services or Law Enforcement Administrator. In the event his or her background is that of a Fire Services Administrator, he or she shall be entitled to all rights and benefits afforded a firefighter. In the event his or her background is that of a law enforcement administrator, he or she shall be entitled to all rights and benefits afforded a law enforcement officer.
(§ 1, Ord. 808, eff. September 15, 1989)

§ 2-3.203. Department of Public Safety Divisions.

Within the Department of Public Safety the following Divisions are created:

(a) Police Services Division;

(b) Fire Services Division; and

(c) Animal Control Division.
(§ 1, Ord. 808, eff. September 15, 1989)

§ 2-3.204. Police Services Division.

The position of Chief of Police Services is created, which person shall be responsible for management, administration, and provision of the Police Services Division and Animal Control Division. The Chief of Police Services shall be selected by the Director of Public Safety and shall report to and be subject to supervision of the Director of Public Safety.
(§ 1, Ord. 808, eff. September 15, 1989)

§ 2-3.205. Fire Services Division.

The position of Chief of Fire Services is created, which person shall be responsible for

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management, administration, and provision of the Fire Services Division, which shall include the Volunteer Fire Department. The Chief of Fire Services shall report to and be supervised by the Director of Public Safety. Selection of the Chief of Fire Services shall be made by the Director of Public Safety. As part of his/her selection criterion, the Director of Public Safety shall give due consideration to the input and advice offered as to the desirability of candidates by the membership of the Los Banos Volunteer Fire Department through its then serving Assistant Fire Chiefs.
(§ 1, Ord. 808, eff. September 15, 1989)

§ 2-3.206. Establishment of a volunteer fire department.

There is hereby established a volunteer fire department which shall be known as the Los Banos Volunteer Fire Department. The Los Banos Volunteer Fire Department shall function as an integral part of the Department of Public Safety, Division of Fire Services. The Director of Public Safety shall be responsible for overall administrative control of the Los Banos Volunteer Fire Department. The Chief of Fire Services shall serve as Chief of the Los Banos Volunteer Fire Department, and under the supervision of the Director of Public Safety, shall be responsible for management, administration, and provision of the Los Banos Volunteer Fire Department.
(§ 1, Ord. 808, eff. September 15, 1989)

§ 2-3.207. Volunteer Fire Department: Members and selection process.

The Los Banos Volunteer Fire Department shall consist of 40 members. The Chief of the Los Banos Volunteer Fire Department, who shall be the person serving as Chief of Fire Services, shall be considered as one member of the Volunteer Fire Department. The remaining 39 members of the Los Banos Volunteer Fire Department shall be selected in accordance with the established selection guidelines of the Los Banos Volunteer Fire Department. Two of these members shall be designated as Assistant Volunteer Fire Chiefs; three of the members shall be designated as Volunteer Fire Captains; two of the members shall be designated as Volunteer Fire Lieutenants; and the remaining 32 members shall be designated as Volunteer Firefighters. Selection of Assistant Volunteer Chiefs, Volunteer Captains, and Volunteer Lieutenants, shall be made in accordance with established selection guidelines of the Los Banos Volunteer Fire Department.
(§ 1, Ord. 808, eff. September 15, 1989)

§ 2-3.208. Volunteer Fire Department: Rules and regulations.

The members of the Los Banos Volunteer Fire Department shall operate under the rules and regulations established by the Director of Public Safety and/or his/her deputy, the Chief of Fire Services/Volunteer Fire Chief. Additionally; the members of the Los Banos Volunteer Fire Department shall make rules and regulations regarding the selection of members, retirement of members, expelling members, performance requirements of members, and attendance requirements of members. Such rules and regulations shall be subject to approval by the Director of Public Safety before they become effective.
(§ 1, Ord. 808, eff. September 15, 1989)

§ 2-3.209. Duties of Volunteer Fire Department members.

Members of the Los Banos Volunteer Fire Department shall attend all fires in the City and perform such duties in suppressing any fire as may be directed by a Fire Services Supervisor.

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Additionally, members of the Los Banos Volunteer Fire Department shall assist with fire suppression and rescue duties in locations outside the City when directed to do so by a Fire Services Supervisor.
(§ 1, Ord. 808, eff. September 15, 1989)

§ 2-3.210. Duty of Volunteer Fire Department members to safeguard property.

Members of the Los Banos Volunteer Fire Department have a duty and responsibility to safeguard all public and private property under their control or supervision.
(§ 1, Ord. 808, eff. September 15, 1989)

§ 2-3.211. Establishment of fire lines: Prohibited passage.

It is unlawful for any person to pass beyond any fire lines established by the Los Banos Volunteer Fire Department at any fire or disaster scene, and any person passing beyond such fire lines shall be deemed guilty of a misdemeanor and upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.
(§ 1, Ord. 808, eff. September 15, 1989)

§ 2-3.212. Interfering with fire operation prohibited.

It is unlawful for any person to interfere with, molest, damage, or tamper with any fire personnel, fire apparatus or equipment, fire vehicle, or building, belonging to the Fire Department. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punishable as set forth in Chapter 2 of Title 1 of this Code.
(§ 1, Ord. 808, eff. September 15, 1989)

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ARTICLE 3
AUXILIARY POLICE FORCE

§ 2-3.301. Established.

There is hereby established a volunteer organization which shall be known as the Auxiliary Police Force.
(§ 1, Ord. 248, as amended by § 1, Ord. 884, eff. February 18, 1995)

§ 2-3.302. Members.

The Auxiliary Police Force shall be composed of citizen volunteers who donate their time and services.
(§ 1, Ord. 248, as amended by § 1, Ord. 884, eff. February 18, 1995)

§ 2-3.303. Authority of Chief of Police.

The Chief of Police shall have complete authority, control, and command over the Auxiliary Police Force, subject, however, to the provisions of this article. He/she may appoint as members thereof any person he/she may deem to be qualified, and he/she may reject any application for membership. He/she may provide for the training of candidates for membership and for the further training of members.
(§ 2, Ord. 248, as amended by § 1, Ord. 884, eff. February 18, 1995)

§ 2-3.304. Members: Registration: Oaths of office.

No person shall be deemed a member of the Auxiliary Police Force until he/she has been registered as such in a roster to be kept by the Chief of Police and until he/she has taken his/her oath that he/she will observe and obey the Constitution of the United States, the Constitution of the State, and the laws of the nation, the State, and the City, and that he/she will carry out the duties of a member of the Auxiliary Police Force of the City to the best of his/her ability.
(§ 3, Ord. 248, as amended by § 1, Ord. 884, eff. February 18, 1995)

§ 2-3.305. Members: Terminations: Resignations.

The membership of any member of the Auxiliary Police Force may be terminated by the Chief of Police, with or without cause, at any time, and any member may resign from the Auxiliary Police Force at any time, but it shall be his/her duty to notify the Chief of Police of his/her resignation.
(§ 6, Ord. 248, as amended by § 1, Ord. 884, eff. February 18, 1995)

§ 2-3.306. Members: Summary expulsion.

In addition to the penalties provided by law, any violation of law under color of the performance of his/her duties as a member of the Auxiliary Police Force, and any breach of the rules and regulations established by the Chief of Police, shall subject any member to summary expulsion, and the fact thereof may be published at the order of the Chief of Police.
(§ 11, Ord. 248, as amended by § 1, Ord. 884, eff. February 18, 1995)

§ 2-3.307. Identification cards and insignia.

An identification card and such other insignia or evidence of identity as the Chief of Police may

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prescribe shall be issued to each member of the Auxiliary Police Force. Such members shall carry the card and other identification at all times while on duty and shall surrender them upon the termination of membership.
(§ 5, Ord. 248, as amended by § 1, Ord. 884, eff. February 18, 1995)

§ 2-3.308. Duties.

The duties of the Auxiliary Police Force, subject at all times to the direction, supervision, and control of the Chief of Police, shall be to assist the regular members of the Police Department in the enforcement of law and maintenance of peace and order. The Chief of Police may, by order, establish rules and regulations to govern the Auxiliary Police Force, to fix the specific duties of its members, and to provide for the maintenance of discipline. He/she may change such orders from time to time, and he/she may command members of the Auxiliary Police Force to obey the instructions of other designees in carrying out their duties. The Chief of Police may prescribe duties other than those set forth in this section, not inconsistent with the provisions of this article, which duties shall be performed by members of the Auxiliary Police Force.
(§ 4, Ord. 248, as amended by § 1, Ord. 884, eff. February 18, 1995)

§ 2-3.309. Carrying firearms.

No member of the Auxiliary Police Force shall carry or use any firearm while on duty except upon the express written order of the Chief of Police.
(§ 7, Ord. 248, as amended by § 1, Ord. 884, eff. February 18, 1995)

§ 2-3.310. Breaking and entering.

No member of the Auxiliary Police Force shall break into or otherwise forcibly enter upon any private property or enter the dwelling or habitation of another without the consent of the owner or occupant except when immediately accompanied by a regular member of the Police Department who then and there requests the aid of the Auxiliary Police Force member in the enforcement of the law.
(§ 8, Ord. 248, as amended by § 1, Ord. 884, eff. February 18, 1995)

§ 2-3.311. Powers of arrest.

Members of the Auxiliary Police Force shall have the following powers of arrest and none other:

(a) They may arrest for a public offense committed or attempted in their presence.

(b) They may arrest a person who has in fact committed a felony, although not in their presence.

(c) When a felony has in fact been committed, they may make an arrest when they have reasonable cause for believing the person arrested to have committed it.

The Chief of Police may make it the duty of any member of the Auxiliary Police Force to lend physical aid to any regular member of the Police Department in making any lawful arrest.

(§ 9, Ord. 248, as amended by § 1, Ord. 884, eff. February 18, 1995)

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§ 2-3.312. Diminishing and expansion of membership.

The Chief of Police may, by order, diminish or expand the membership of the Auxiliary Police Force.
(§ 10, Ord. 248, as amended by § 1, Ord. 884, eff. February 18, 1995)

§ 2-3.313. False impersonations.

It is unlawful for any person to wear, carry, or display an Auxiliary Police Force identification card or insignia or otherwise deceitfully represent him or herself/herself to be connected with the Auxiliary Police Force unless he/she is in fact a member thereof.
(§ 12, Ord. 248, as amended by § 1, Ord. 884, eff. February 18, 1995)

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ARTICLE 4
TRAINING LAW ENFORCEMENT OFFICERS

§ 2-3.401. Declaration of qualification for State aid.

The City hereby declares that it desires to qualify to receive aid from the State pursuant to the provisions of Chapter 1 of Title 4 of Part 4 of the Penal Code of the State.
(§ 1, Ord. 339)

§ 2-3.402. Declaration of adherence to standards.

Pursuant to the provisions of Section 13522 of said Chapter 1, the City, while receiving aid from the State pursuant to said Chapter 1, shall adhere to the standards for recruitment and training established by the California Commission on Peace Officer Standards and Training.
(§ 2, Ord. 339)

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Chapter 4
Official Seal

§ 2-4.01. Adoption.

An official seal is hereby adopted for the City. In the center of the seal and within the inner margin shall be inscribed the words "Incorporated", "Seal", "May 8th, A.D. 1907". On the upper margin of the seal the words "City of Los Banos" shall be inscribed. On the lower margin of the seal the word "California" shall be inscribed.
(§ 1, Ord. 1)

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Chapter 5
Unclaimed Property

Note: Sections 2-5.01 through 2-5.05, codified from Ordinance No. 406, repealed by Ordinance No. 660, effective April 16, 1980.

§ 2-5.01. Disposal of unclaimed property.

Unclaimed property in the possession of the Police Department, which property remains unclaimed for a continuous period of six months, shall be disposed of by the Chief of Police by one of the following methods:

(a) Should the value of the unclaimed property be determined by the Chief of Police to be more than Five Hundred and No/100ths ($500.00) Dollars, the Council shall approve the manner of the disposition of such unclaimed property.

(b) All unclaimed cash and/or currency shall be deposited to the City Treasury.

(c) Items deemed to be of value to one of the City agencies shall be signed over to the appropriate department head for use as City-owned equipment.

(d) Items deemed to be of no value to the City, but appropriate for use or resale by a private individual or organization, shall be donated to a bona fide charitable organization.

(e) Items deemed to be dangerous or of no value to either the City or a bona fide charitable organization shall be destroyed.

(§ 2, Ord. 660, eff. April 16, 1980)

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LOS BANOS CODE

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Title 3

FINANCE

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Chapter 1
(Reserved)

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Chapter 2
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Chapter 3
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Chapter 4
Funds

ARTICLE 1
SEWER RENTAL FUND

§ 3-4.101. Established.

The City Treasurer shall establish and maintain a separate fund and account to be known as the "Sewer Rental Fund".
(§ 10, Ord. 273)

§ 3-4.102. Deposits.

All funds received from the collection of the sewer rental charges set forth in Chapter 5 of Title 6 of this Code shall be deposited in the Sewer Rental Fund.
(§ 10, Ord. 273)

§ 3-4.103. Expenditures.

The funds deposited in the Sewer Rental Fund shall be used only for the acquisition, management, operation, maintenance, and reconstruction of sanitary sewage facilities or the storm sewage system of the City; provided, however, such funds may be used to repay any Federal or State loans or advances made to the City and to repay and retire any bonds duly authorized and issued by the City for the construction, improvement, replacement, or repair of any of the sewage facilities of the City.
(§ 10, Ord. 273)

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ARTICLE 2
SPECIAL FUND FOR CAPITAL OUTLAYS

§ 3-4.201. Established.

Pursuant to the provisions of Article 4 of Chapter 4 of Part 1 of Division 2 of Title V of the Government Code of the State (Section 53730 et seq.), there is hereby established the "Special Fund for Capital Outlays."
(§§ 1 and 2, Ord. 164)

§ 3-4.202. Purpose.

The Special Fund for Capital Outlays shall remain inviolate for the making of any capital outlays, and moneys shall be disbursed therefrom for such purposes only, except upon the consent of the electors obtained as set forth in said provisions of the Government Code.
(§ 2, Ord. 164)

§ 3-4.203. Levy of taxes.

Taxes may be levied upon the taxable property in the City to raise money for the Special Fund for Capital Outlays, but no levy so made shall exceed the limitation imposed by the general laws of the State upon the right of the City to impose taxes without the consent of the qualified electors of the City voting at any general or special election at which such proposition may be submitted.
(§ 3, Ord. 164)

§ 3-4.204. Transfer of funds.

The Council may transfer to the Special Fund for Capital Outlays any unencumbered surplus funds remaining on hand in the City at the end of any fiscal year.
(§ 4, Ord. 164)

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ARTICLE 3
SPECIAL FUND FOR PUBLICITY AND ADVERTISING

§ 3-4.301. Established.

There is hereby established the "Special Fund for Publicity and Advertising."
(§ 1, Ord. 166)

§ 3-4.302. Deposits and expenditures.

The amount of Ten ($0.10) Cents on each One Hundred and No/100ths ($100.00) Dollars of assessed valuation is hereby appropriated for the purpose of providing funds for the Special Fund for Publicity and Advertising, and such funds shall be used only for publicity or advertising purposes.
(§ 1, Ord. 166)

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ARTICLE 4
SPECIAL GAS TAX STREET IMPROVEMENT FUND

§ 3-4.401. Established.

To comply with the provisions of Section 2113 of Chapter 3 of Division 3 of the Streets and Highways Code of the State, there is hereby established in the City treasury a special fund to be known as the "Special Gas Tax Street Improvement Fund."
(§ 1, Ord. 149)

§ 3-4.402. Deposits.

All moneys received by the City from the State pursuant to the provisions of the Streets and Highways Code of the State for the acquisition of real property, or interests therein, or for the construction, maintenance, or improvement of streets or highways, other than State highways, shall be paid into the Special Gas Tax Street Improvement Fund.
(§ 2, Ord. 149)

§ 3-4.403. Expenditures.

All moneys in the Special Gas Tax Street Improvement Fund shall be expended exclusively for the purposes authorized by, and subject to the provisions of Sections 2100 through 2112 of Chapter 3 of Division 3 of the Streets and Highways Code of the State.
(§ 3, Ord. 149)

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Chapter 5
(Reserved)

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Chapter 6
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Chapter 7
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Chapter 8
(Reserved)

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Chapter 9
Property Taxes

§ 3-9.01. Transfer of assessment and collection to County.

Pursuant to the provisions of Sections 51500 through 51521 of the Government Code of the State, assessment and tax collection duties and the collection of assessments levied for municipal improvements are hereby transferred to the Assessor and Tax Collector of the County for the purpose of the assessment and collection of ad valorem property taxes which become a lien on and after October 26, 1966, and the collection of assessments for municipal improvements becoming due and payable on and after July 1, 1967.
(§ 2, Ord. 383)

§ 3-9.02. Transfer of other duties to the City Clerk.

All duties performed by the City Assessor, other than the assessing of property in the City, and all duties performed by the City Tax Collector, other than the collection of ad valorem property taxes which become a lien on and after October 26, 1966, and the collection of assessments for municipal improvements becoming due and payable on and after July 1, 1967, are hereby transferred to, and shall be performed by, the City Clerk.
(§ 3, Ord. 383)

§ 3-9.03. Abolition of offices.

The offices of City Assessor and City Tax Collector shall be abolished as of July 1, 1967.
(§ 3, Ord. 383)

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Chapter 10
Purchasing System

Note: Sections 3-10.01 through 3-10.11, codified from Ordinance No. 246, as amended by Ordinance No. 506, effective September 20, 1974, Ordinance No. 864, effective March 5, 1995, Ordinance No. 902, effective August 16, 1996 and Ordinance No. 944, effective July 31, 1998, repealed and replaced by Ordinance No. 1068, effective February 1, 2008.

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ARTICLE 1
GENERAL

§ 3-10.010. Purpose.

The purpose of this chapter is to:

(a) Establish efficient procedures for the purchase of commodities, equipment, and general services at the lowest possible cost commensurate with the quality needed;

(b) Establish procedures for contracting for professional services;

(c) Exercise positive financial control over purchases;

(d) Clearly define authority for the purchasing function;

(e) Assure the quality of purchases;

(f) Provide for the authority of City officers to enter into contracts.

(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.020. Definitions.

For the purposes of this chapter, the following definitions shall apply:

"Change order" shall mean change, or modification, or addendum to a contract after it has been executed.

"City employee" shall mean an individual who performs services for the City in the capacity of an elected or appointed official, or as a compensated employee of the City or of a temporary services agency retained by the City. "City employee" does not include independent contractors.

"Commodities" shall mean any tangible goods or items such as supplies, parts and materials. Generally, they are consumable in City operations, become part or a component of City equipment or City facilities and/or have a useful life of one year or less.

"Contract" shall mean any agreement to do or not do a certain thing. "Contract" and "agreement" are synonymous. The term "contract" includes, among other things, a purchase order, a contract for services, and an addendum or change order.

"Emergency" shall mean and includes,

(1) The existence or threatened existence of conditions of extreme peril to the safety of persons and property within the City caused by fire, flood, storm, epidemic, riot, earthquake, drought, energy shortage, or other causes, the existence or threatened existence of which has been proclaimed by the City Council or the Director of Emergency Services;

(2) The existence of an immediate need to prepare for national or local defense;

(3) The existence of a breakdown in machinery, equipment or essential governmental services which requires the immediate purchase of materials, supplies or equipment to protect the public health, safety or general welfare of the residents of the City; or

(4) Where an essential governmental operation affecting the public health, safety or general welfare could be greatly hampered or disrupted by following the standard purchasing procedures.

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"Equipment" shall mean tangible personal property with a useful life of more than one year. It may be mobile, portable or fixed; and is an independent functioning unit, as opposed to parts which are components. It would include office equipment, furniture, field equipment, shop, lab, and plant equipment, vehicles and rolling stock.

"Financial interest" shall mean and includes,

(1) Ownership of any interest or involvement in any relationship from which, or as a result of which, a person has received compensation within the past year, or is entitled to, or is currently receiving compensation;

(2) Ownership, whether wholly or in part, of any property or business; or

(3) Status as an officer, director, trustee, partner, employee, or manager of a business.

"General services" shall mean and includes,

(1) Any work performed or services rendered by an independent contractor, with or without the furnishing of materials, including, but not limited to, the following:

(A) Maintenance or nonstructural repair of City buildings, structures or improvements which does not require engineering plans, specifications or design, including, but not limited to, unscheduled replacement of broken window panes, fire extinguisher maintenance, minor roof repairs, plumbing, electrical, mechanical, elevator maintenance, custodial services, and pest control;

(B) Installation, repair, modifications, and maintenance of City equipment;

(C) Cleaning, analysis, testing, moving, removal or disposal (other than by sale) of City supplies, equipment, and waste products;

(D) Providing other technical services to facilitate City operations such as communications, transportation, utilities;

(E) Performing repair, demolition or other work required to abate nuisances under this Code.

(2) Leasing or rental of equipment (personal property) for use by the City.

(3) A maintenance agreement for equipment owned or leased by the City. General services does not include work defined as a public project under the Public Contract Code or services that are considered consultants or professional services.

"Gratuity" shall mean a gift, payment, loan, advance, deposit of money, or service, presented or promised in return for or in anticipation of favorable consideration in the procurement process. "Gratuity" does not include the compensation paid by or due from the City or from a temporary service agency under contract with the City to an employee in connection with the employee's services for the City.

"Immediate family" shall mean any spouse, child, stepchild, parent or stepparent of a City employee. The relationship of parent to child includes both natural and adoptive relationships.

"Local business" shall mean a person or legal entity which has a place of business (other than a post office box) within the City and has a valid, current business license issued by the City.

"Professional services" shall mean services which involve the exercise of professional discretion

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and independent judgment based on an advanced or specialized knowledge, expertise or training gained by formal studies or experience. Such services include, but are not limited to, those provided by appraisers, architects, attorneys, auditors, engineers, financial advisors, instructors, insurance advisors, physicians, planning, environmental and traffic consultants, and other specialized consultants.

"Recycled products" shall mean products manufactured with waste material that have been recovered or diverted from the waste stream. Recycled material may be derived from post-consumer recovered material (material that has served its intended end use and been discarded by a final consumer), pre-consumer recovered material (material that has not reached the end use consumer but would otherwise be discarded) industrial scrap, manufacturing waste and/or other waste that otherwise would not have been utilized.

"Sole source" shall mean contracts for which the City's Purchasing Officer has determined, after conducting a good faith review of available products and sources, that the City's requirements can be met solely by a single patented, copyrighted or proprietary article or process available from a single source. Examples of acceptable sole source purchases are equipment for which there is no comparable competitive product, a component or replacement part for which there is no commercially available substitute and which can be obtained only from the manufacturer, and an item where compatibility with items in use by the City is the overriding consideration.

"Specifications" shall mean a description of the physical or functional characteristics or of the nature of the required goods and/or services.

"Surplus personal property" shall mean goods owned by the City which are no longer needed or which are obsolete or unserviceable or, property that is a by-product (scrap metal, used tires and oil, etc.).

"Technology product" shall mean hardware, software, or communications equipment, or related equipment and goods which incorporate any such items.
(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.030. Purchasing officer powers and duties.

As provided in Section 2-3.121 of this Code, the City Manager shall be responsible for the purchase of all supplies for all of the departments of the City. No expenditures shall be submitted or recommended to the City Council except on the report and approval of the City Manager. As Purchasing Officer, the City Manager shall have the authority to:

(a) Purchase or contract for commodities, equipment, and services required by any using department in accordance with purchasing procedures prescribed in this chapter;

(b) Negotiate and recommend execution of contracts for the procurement of commodities, equipment, and services;

(c) Act to procure for the City the needed quality in commodities and equipment at least expense to the City;

(d) Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases;

(e) Prepare and recommend to the City Council amendments to ordinances governing the procurement of commodities, equipment, and services;

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(f) Keep informed of current development in the field of purchasing, prices, market conditions and new products;

(g) Prescribe and maintain such forms as are reasonably necessary to the operation of this chapter and other administrative rules and regulations;

(h) Supervise the inspection of all commodities and equipment purchased to ensure conformance with specifications;

(i) Transfer surplus or unused commodities and equipment between departments as needed, and sell or dispose of surplus or unused commodities and equipment which have become unsuitable for City use;

(j) Maintain records needed for the efficient operation of the purchasing program.

(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.040. Decentralized purchasing.

The Purchasing Officer may, by written authorization grant authority to any Department Head to purchase, or contract for specific supplies and equipment independently of the Purchasing Officer; but shall require that such purchases or contracts be made in conformity with the procedures established by this chapter and may further require periodic reports from the Department Head regarding the purchases and contracts made pursuant to such authority.

(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.050. Availability of funds.

A purchase or contract may be initiated only if sufficient funds have been appropriated and for which there is an unexpended and unencumbered remaining balance, sufficient to pay for the purchase or contract. The only exception to this provision is in cases of emergency as defined in this chapter.

(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.060. Ethics.

(a) Conflict of interest. No City employee shall participate in the award or administration of a purchase contract if a conflict of interest, real or apparent would be involved. Such a conflict would arise when the employee, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the above, has a financial or other interest in the firm selected for award.

(b) Gratuities. No City employee may accept, directly or indirectly, any gift, rebate, money, or anything else of value whatsoever from any person or entity if the gift, rebate, money or item of value is intended as a reward or inducement for conducting business, placing orders with, or otherwise using the employee's position to favor the contributor.

(c) Interference with bidding. No City employee shall aide or assist a bidder in securing a contract to furnish commodities, equipment or services, or, favor one bidder over another, or give or withhold information from any bidder not given or withheld from all other bidders, or willfully mislead any bidder in regard to the bid specification, or knowingly certify to a greater level of service performed, or commodities or equipment furnished, than has respectively been performed or received.

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(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.070. Record keeping.

A record of all informal and formal bid quotations, bids and proposals shall be kept for a period of three years after audit of the fiscal year in which the purchase of contract was made. This record, while so kept, shall be open to public inspection.
(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.080. Voidability.

Any transaction failing to comply with this chapter in any respect is voidable at the discretion of the City Council.
(§ 1, Ord. 1068, eff. February 1, 2008)

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ARTICLE 2
CONTRACT AUTHORITY

§ 3-10.100. City Council authority.

City Council approval is required for each contract regulated by this chapter unless authority to sign the contract is granted to another City officer. Such authority shall be exercised consistent with this chapter.
(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.110. City Manager authority.

The City Manager is authorized to enter into and sign on behalf of the City, without the prior approval of the City Council, a contract:

(a) Which contains an initial maximum compensation figure of Thirty Thousand and No/100ths ($30,000.00) Dollars. As to a change order, the limit of authority may not exceed 10% of the original contract without additional authority at the time of awarding the contract;

(b) For City-managed professional services in an amount up to One Hundred Thousand and No/100ths ($100,000.00) Dollars if the following criteria are met:

(1) A City Council approved reimbursement agreement exists,

(2) An applicant for development entitlements has deposited the full amount of the contract with the City, and

(3) The funds are to be used for development related studies, such as an environment impact report; and

(c) In an emergency, as defined in this chapter, the City Manager may authorize the expenditure of any unencumbered moneys, notwithstanding the fact that such moneys may not have been appropriated for such purpose, to the extent that other moneys have not been appropriated or are otherwise unavailable.

(d) Approve monthly progress payments, release contract retention.
(§ 1, Ord. 1068, eff. February 1, 2008)

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ARTICLE 3
METHODS OF PROCUREMENT—COMMODITIES, EQUIPMENT AND GENERAL SERVICES

§ 3-10.200. Purchases of Five Thousand and No/100ths ($5,000.00) Dollars or less—Small purchases.

Procurements, the cost of which are Five Thousand and No/100ths ($5,000.00) Dollars or less in any one transaction, shall be made using simplified and cost-effective operational procedures without the required use of formal or informal bids. However, if there is a benefit to the City, competitive bidding should be used whenever practical.
(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.210. Purchases of more than Five Thousand and No/100ths ($5,000.00) Dollars, to Thirty Thousand and No/100ths ($30,000.00) Dollars or less—Informal bid process.

(a) Informal bid procedure. The purchase of commodities equipment and general services greater than Five Thousand and No/100ths ($5,000.00) Dollars to Thirty Thousand and No/100ths ($30,000.00) Dollars or less, may be made in the open market, following the procedure prescribed below:

(1) Minimum number of quotations. Open-market purchases shall, whenever possible, be based on at least three quotations and shall be awarded to the lowest responsible quotation;

(2) Notice inviting quotations. The department making the purchase shall solicit quotations by written (including e-mail) or verbal request to prospective vendors;

(3) Quotations. Quotations shall be submitted in writing (including facsimile and e-mail) to the department, which shall keep a record of all open-market orders and quotes for a period specified in Section 3-10.070. This record is open for public inspection;

(4) Award of contracts. The City Manager is authorized to award a contract of Thirty Thousand and No/100ths ($30,000.00) Dollars or less when the City Council has budgeted funds for the item(s) and the amount of the award is not more than the budgeted amount.

(b) Exceptions. The open-market procedure may be dispensed with in accordance with provisions set forth in Section 3-10.250.
(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.220. Purchases of more than Thirty Thousand and No/100ths ($30,000.00) Dollars—Formal bid process.

(a) Formal contract procedures. The City shall purchase commodities, equipment and general services of a value greater than Thirty Thousand and No/100ths ($30,000.00) Dollars following the formal bid procedure prescribed below:

(1) Notice inviting bids. The notice inviting bids shall include a general description of the articles or general services to be purchased, and shall state where bid forms and specifications may be secured and the time and place for opening bids.

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(A) Published notice. The notice inviting bids shall be published at least 10 days before the date of the opening of the bids. Notice shall be published at least once in a newspaper of general circulation.

(B) Bidders' list. The City shall also solicit sealed bids from responsible prospective suppliers whose names are on a bidders' list.

(2) Bidders' security. When deemed necessary, the City shall require bidders' security. Bidders' security shall be in accordance with the provisions of the California Public Contract Code.

(3) Bid opening procedure. Bidders shall submit sealed bids to the City Clerk and shall identify them as bids on the envelope. Bids shall be opened in public at the time and place stated in the public notices. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than 30 calendar days after the bid opening.

(4) Rejection of bids. At its discretion, the City Council may reject any and all bids presented, and may re-advertise for bids.

(5) Award of contracts. The City Council shall award a contract for the purchase of commodities or equipment or general services with a value more than Thirty Thousand and No/100ths ($30,000.00) Dollars. A contract shall be awarded to the lowest responsible bidder, except as otherwise provided here. A contract may be awarded to the next lowest responsible bidder if the successful bidder refuses or fails to execute the contract.

(6) Tie bids. If two or more bids received are for the same total amount of unit price and quality, service and delivery being equal, and if the public interest will not permit the delay of re-advertising for bids, the City Manager or City Council may accept the one it chooses, or accept the lowest good faith offer by negotiation with the tie bidders.

(7) Performance bonds. The City has the authority to require a performance bond before entering a contract, in such amount as is reasonably necessary to protect the best interest of the City. If a performance bond is required, the form and amount of the bond shall be described in the notice inviting bids.

(b) Exceptions. Bidding under this section may be dispensed with in accordance with provisions set forth in Section 3-10.250.

(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.230. Competitive and non-competitive negotiations.

(a) Applicability. A purchase may be had by negotiations when the purchase is for:

(1) A technology product as defined in Section 3-10.020;

(2) An addition to, repair to, or, maintenance of existing equipment which can be more efficiently added to, repaired or maintained by a particular company or manufacture;

(3) Equipment which must be compatible with existing equipment, by reason of the training of the personnel or, an inventory of existing replacement parts kept by the City.

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The affected Department Head shall state in writing the basis for determination that this section applies. Before any negotiations take place, that determination and the method of negotiation (competitive or noncompetitive) must be first approved by the City Manager when the purchase is Five Thousand and No/100ths ($5,000.00) Dollars or more.

(b) Competitive negotiation.

(1) Request for Proposals. Proposals are requested from a minimum of three vendors. The notice inviting proposals shall be published at least 10 days before the date of the opening of the bids if the value of the product is expected to reach more than Thirty Thousand and No/100ths ($30,000.00) Dollars. Notice shall be published at least once in a newspaper of general circulation. The request for proposals must identify all of the significant evaluation factors, including cost and their relative importance.

(2) Receipt of proposals. Sealed proposals must be submitted by the date and time specified on the notice inviting proposals and shall be identified by the Request for Proposal number.

(3) Negotiation. The most qualified and responsive proposer will be selected for contract negotiations. If agreement cannot be reached with the first proposer, the second choice proposer (and then the third and so on) will be contacted with the first choice proposer (or other proposers, in order) dismissed from further consideration on that particular project. All elements of the negotiation process shall be documented by the negotiating department and submitted to the City Manager. Responsible proposers shall be accorded fair and equal treatment with respect to opportunity for discussion and revision of proposals. Any revisions are permitted after submission in writing and prior to the award of a contract.

(4) Award and notification. A contract award in accordance with Article 2 of this chapter may be made to the responsible proposer whose proposal will be best for the City considering evaluation factors outlined in Section 3-10.240 of this chapter. All proposers participating in the process shall be notified in writing of the successful award.

(c) Noncompetitive negotiations. When there is only one source, purchase can be made through solicitation and negotiation directly with that source. The affected department head shall state in writing that basis for the determination that this subsection applies, and before any purchase is made, that determination must be approved in writing by the City Manager.

(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.240. Determination of the lowest responsible bidder.

In determining the lowest responsible bidder, the following shall be considered in addition to price:

(a) Quality of the materials, supplies and/or equipment offered;

(b) The ability, capacity and skill of the bidder to perform the contract or provide the materials, supplies or equipment;

(c) Whether the bidder can perform the contract or provide the materials, supplies or equipment promptly or within the time specified, without delay or interference;

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(d) The sufficiency of the bidder's financial resources to perform the contract or provide the materials, supplies or equipment;

(e) The ability of the bidder to provide future maintenance and services if essential to adequate performance;

(f) The compatibility of the materials, supplies and/or equipment with the City's existing inventory of same;

(g) The quality and timeliness of the bidder's performance on previous orders or contracts for the City;

(h) Litigation by the bidder on previous orders or contracts with the City;

(i) The ability of the bidder to provide future maintenance and service where such maintenance and service is essential;

(j) The character, integrity, reputation, judgment, experience and efficiency of the bidder.

(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.250. Exceptions to the bidding process.

Contracts for goods and/or services for which the cost to the City in one transaction will be more than Five Thousand and No/100ths ($5,000.00) Dollars, shall be let by either informal or formal competitive bidding or proposals pursuant to this chapter. Procurement requirements shall not be artificially divided so as to avoid the competitive bidding requirement. Nothing in this section shall preclude the solicitation of competitive bids or proposals, when possible. The following are exemptions to the competitive bidding requirements:

(a) Professional or specialized services;

(b) Emergency procurements, as defined in Section 3-10.270;

(c) Situations where solicitations of bids or proposals would for any reason be impractical, unavailing or impossible;

(d) Cooperative procurements as defined in Section 3-10.290;

(e) Sole source goods or services;

(f) Insurance and bonds;

(g) Procurements funded by grants, donations or gifts when the special conditions attached to the grants, donations or gifts require the procurement of particular goods and/or services;

(h) Goods and/or services obtained from or through agreement with any governmental, public or quasi-public entity;

(i) Works of art, entertainment or performance;

(j) Surplus personal property owned by another governmental, public or quasi-public entity;

(k) Membership dues, conventions, training, and travel arrangements;

(l) Advertisements in magazines, newspapers, or other media;

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(m) Where competitive bids or proposals have been solicited and no bid or proposal has been received. In such a situation the City Manager may proceed to have the services performed or the goods procured without further competitive bidding.

(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.260. Splitting orders.

It is unlawful to split into smaller orders the purchases of commodities, equipment or general services for the purpose of evading the competitive bidding provisions of this article.

(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.270. Emergency purchases.

The City Manager, or designee, may make or authorize others to make emergency procurements, regardless of the cost, if there is an urgent necessity to do so for the preservation of life, health or property as defined in this chapter. Such emergency procurements shall be made with such competition as is practical under the circumstances and shall be limited to those goods and services necessary to satisfy the emergency need. In such circumstances, a written report of the procurement will be given to the City Manager including a description of the emergency and the basis for selection of the particular contractor; and a copy of this report shall be included in the procurement records. In the event that such emergency action is necessary and the procurement cost is more than Thirty Thousand and No/100ths ($30,000.00) Dollars in any one transaction, the City Manager shall make a full and complete report to the City Council at its next regularly scheduled meeting.

(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.280. Pre-bid conferences or site inspections.

When deemed necessary for an adequate understanding of requirements, the City is authorized to require bidders or proposers to attend pre-bid conferences or site inspections prior to the time and date set for receipt of bids or proposals and to consider non-responsive bidders or proposers not in attendance.

(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.290. Cooperative procurement.

(a) Cooperative purchasing agreements. Nothing in this article prohibits the voluntary participation by the City in any cooperative purchasing agreement(s) or programs entered into between the City and the State, County, or other cities or public agencies situated within the State. The City Manager is authorized to act under the provisions of this article to procure for the City commodities, equipment and/or services in conjunction with such voluntary cooperative purchasing agreement(s) or programs as may be entered into by the City. All formal contract and bidding procedures to be followed in such cases shall be those specifically enumerated in the voluntary cooperative purchasing agreement or program.

(b) Use of another entity's contract. The City Manager may authorize the procurement of commodities, equipment and/or services through the use of a contract initiated by another governmental, public agency, provided that the original parties to the contract agree, the contract was awarded within 12 months of the date of authorization, the contract is for identical or nearly identical goods and/or services, and the contract resulted from a competitive bid using methods similar to those required by this chapter.

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(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.300. Equipment leasing.

(a) Leasing of purchasable or nonpurchasable equipment shall be in accordance with the authority limits set forth in Article 2, depending upon the annual cost of the lease.

(b) Each contract for the leasing or rental of equipment for the City shall contain a provision permitting the City to terminate the contract at the end of any fiscal year during the term of the contract upon not less than 30 days' written notice to the other party.

(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.310. Inspection and testing.

The City may inspect supplies, equipment and general services delivered, and determine their conformance with the specifications set forth in the order or contract. A Department Head has the authority to require chemical and physical tests of samples submitted with bids, and samples of deliveries which are necessary to determine their quality and conformance with specifications.
(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.320. Local business preference.

In evaluating competitive bids, the City Council shall determine the lowest responsible bidder, and any local bidder shall be granted a preference in an amount equal to 5% of the lowest responsible bid, if that low bid has been submitted by a non-local bidder. If, after deduction of the 5% preference from a local bidder's bid, it is equal to or less than the lowest bid, the bid shall be awarded to the local bidder.

To qualify as a local bidder, firms or individuals must submit written proof of the address of their principal place of business and a copy of their current City business license with each bid for which a preference is claimed. Proof of address is normally the address to which contract and payments will be sent.

Local preference only applies to supplies, materials and/or equipment, and will not apply to bids conducted with other public agencies nor when prohibited by State or Federal statutes or regulations to be awarded to the lowest responsible bidder, or otherwise exempted from local preferences. A total amount of such a preference granted in a single bid shall not exceed Five Thousand and No/100ths ($5,000.00) Dollars over a non-local bidder.
(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.330. Recycled products procurement.

The City of Los Banos promotes and supports the use of recycled products and will support the development of stable markets for recyclables by purchasing recycled products whenever such products perform satisfactorily and are available at a reasonably competitive price. Each City Department shall:

(a) Procure recycled products whenever practical, including: recycled paper; other office paper products; janitorial supplies; corrugated products, toner cartridges; lubricating and hydraulic oils; outdoor wood substitutes; recycled construction, building and maintenance products; re-crushed or recycled cement concrete, aggregate and asphalt products; recycled rubber products; compost, mulch and other recycled bio-solid products; re-manufactured

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paint and other products that may be identified by the City.

(b) Identify, evaluate and maintain information about recycled products containing the maximum practical amount of recycled materials.

(c) Develop specifications used in public bidding aimed at eliminating barriers to recycled content products.

(d) Encourage contractors and grantees to participate in the City's Recycle and Buy Recycled Program as feasible.

(e) Ensure that procurement documents issued by the Department require recycled or waste reducing alternatives whenever practical.

(§ 1, Ord. 1068, eff. February 1, 2008)

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ARTICLE 4
METHODS OF PROCUREMENT—PROFESSIONAL SERVICES

§ 3-10.400. Professional services with a value of Five Thousand and No/100ths ($5,000.00) Dollars or less.

Professional services valued at Five Thousand and No/100ths ($5,000.00) Dollars or less, shall be contracted using simplified and cost effective operational procedures without the requirement of soliciting request for proposals from multiple professional service providers.
(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.410. Professional services with a value of more than Five Thousand and No/100ths ($5,000.00) Dollars to Thirty Thousand and No/100ths ($30,000.00) Dollars.

(a) Informal request for proposal (RFP) procedure. The procurement of services with a value greater than Five Thousand and No/100ths ($5,000.00) Dollars up to Thirty Thousand and No/100ths ($30,000.00) Dollars shall be made following the procedure prescribed below:

(1) Solicitation of proposals. The department may solicit proposals by written (including e-mail) or verbal request to prospective consultants. Informal requests for proposals shall, whenever possible, be based on at least three written proposals and shall be awarded to the best qualified and most responsible proposer. The dollar amount of the proposal shall be considered but the award need not be made to the lowest dollar proposal;

(2) Award of contracts. The City Manager is authorized to award a contract in accordance with the authorization granted in Section 3-10.110.

(b) Exceptions. The request for informal proposal procedure may be dispensed with in an emergency or when the City Manager in his or her best judgment makes a written finding that compliance with these procedures is not in the best interest of the City.
(§ 1, Ord. 1068, eff. February 1, 2008)

§ 3-10.420. Professional services with a value of more than Thirty Thousand and No/100ths ($30,000.00) Dollars.

(a) Formal request for proposal (RFP) procedures. The City shall procure services with a value of more than Thirty Thousand and No/100ths ($30,000.00) Dollars following the procedure prescribed below:

(1) Request for proposals. The request for proposal (RFP) shall include a general description of the services to be procured, shall include a proposed professional services agreement, and the time and place for submission of proposals. A notice inviting proposals shall be distributed to at least three consultant firms and shall be posted on the City bulletin board at least 10 days prior to the deadline for submission of proposals. Proposers shall submit sealed proposals and shall identify them as proposals on the envelope;

(2) Evaluation of proposals. All responsive proposals shall be reviewed and evaluated by the City in order to determine which proposer best meets the City's needs by demonstrating the competence and professional qualifications necessary for the satisfactory performance of the required services. The criteria by which the City shall

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evaluate proposals will be set forth in the request for proposals. The City reserves the right to reject any and all proposals or waive any irregularities in any proposal or the proposal process;

(3) Award of contract. The City Manager shall award a contract for the services with a value of Thirty Thousand and No/100ths ($30,000.00) Dollars or less. The City Council shall award a contract for services with a value, or greater than Thirty Thousand and No/100ths ($30,000.00) Dollars.

(b) Exceptions. Formal requests for proposals under this section may be dispensed with:

(1) In an emergency;

(2) When the services can be obtained from only one source which has been reviewed and approved in writing by the City Manager;

(3) When processed through a cooperative purchasing agreement with another public agency whose procurement process is consistent with the provisions of this chapter;

(4) Contracts for City-managed professional services in an amount up to One Hundred Thousand and No/100ths ($100,000.00) Dollars if the following criteria are met: (a) a City Council approved reimbursement agreement exists, (b) an applicant for development entitlements has deposited the full amount of the contract with the City, and (c) the funds are to be used for development related studies, such as an environmental impact report;

(5) When, in the determination of the City Council, compliance with the procedure is not in the best interest of the City for those professional services, the costs of which are Thirty Thousand and No/100ths ($30,000.00) Dollars or more.

(§ 1, Ord. 1068, eff. February 1, 2008)

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ARTICLE 5
DISPOSITION OF SURPLUS PERSONAL PROPERTY

§ 3-10.500. Disposition of surplus personal property.

(a) Authority. The City Manager is authorized to sell or dispose of surplus personal property having a salvage value in the open market, by public auction, by competitive sealed bids or by exchange or trade-in for new goods. The sale or lease of surplus personal property to a governmental, public or quasi-public agency may be without advertisement for, or, receipt of bids.

(b) Property with no salvage value. Surplus personal property with no salvage value shall be disposed of in a manner that salvages recyclable components, if practical.

(c) Records. The City will keep records which indicate surplus personal property disposed of, the method of disposal, and the amounts recovered from its disposal and shall maintain records for public inspection relative to the disposal of surplus personal property for a period of time in compliance with the recordkeeping provisions of this chapter.

(d) Donations. Surplus personal property may be donated to governmental, public or quasi-public agencies, charitable or nonprofit organizations.

(e) Proceeds of sale. Proceeds from the sale of surplus personal property shall be deposited into the appropriate City fund.

(§ 1, Ord. 1068, eff. February 1, 2008)

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Chapter 11
Real Property Transfer Taxes

§ 3-11.01. Title.

This chapter shall be known as the "Real Property Transfer Tax Law" of the City. It is adopted pursuant to the authority set forth in Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code of the State.
(§ 1, Ord. 392)

§ 3-11.02. Tax imposed.

There is hereby imposed on each deed, instrument, or writing by which any lands, tenements, or other realty sold within the City shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or any other person, by his or her direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds One Hundred and No/100ths ($100.00) Dollars, a tax at the rate of twenty-seven and one-half (27 1/2¢) cents for each Five Hundred and No/100ths ($500.00) Dollars, or fractional part thereof.
(§ 2, Ord. 392)

§ 3-11.03. Persons responsible for payment.

Any tax imposed pursuant to the provisions of Section 3-11.02 of this chapter shall be paid by any person who makes, signs, or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed, or issued.
(§ 3, Ord. 392)

§ 3-11.04. Exemptions: Debt security instruments.

Any tax imposed pursuant to the provisions of this chapter shall not apply to any instrument in writing given to secure a debt.
(§ 4, Ord. 392)

§ 3-11.05. Exemptions: Governmental agencies.

The United States, or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, or the District of Columbia shall not be liable for any tax imposed pursuant to the provisions of this chapter with respect to any deed, instrument, or writing to which it is a party, but the tax may be collected by assessment from any other party liable therefor.
(§ 5, Ord. 392)

§ 3-11.06. Exemptions: Bankruptcies, receiverships, and reorganizations.

Any tax imposed pursuant to the provisions of this chapter shall not apply to the making, delivering, or filing of conveyances to make effective any plan of reorganization or adjustment:

(a) Confirmed under the Federal Bankruptcy Act, as amended;

(b) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subsection (m) of Section 205 of Title 11 of the United States Code, as

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amended;

(c) Approved in an equity receivership proceeding in a court involving a corporation, as defined in subsection (3) of Section 506 of Title 11 of the United States Code, as amended; or

(d) Whereby a mere change in identity, form, or place of organization is effected.

The provisions of this section shall only apply if the making, delivery, or filing of instruments of transfer or conveyance occurs within five years from the date of such confirmation, approval, or change.

(§ 6, Ord. 392)

§ 3-11.07. Exemptions: Securities and Exchange Commission orders.

Any tax imposed pursuant to the provisions of this chapter shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subsection (a) of Section 1083 of the Internal Revenue Code of 1954, but only if:

(a) The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code relating to the Public Utility Holding Company Act of 1935;

(b) Such order specifies the property which is ordered to be conveyed; and

(c) Such conveyance is made in obedience to such order.

(§ 7, Ord. 392)

§ 3-11.08. Exemptions: Partnerships.

(a) In the case of any realty held by a partnership, no levy shall be imposed pursuant to the provisions of this chapter by reason of any transfer of an interest in a partnership or otherwise if:

(1) Such partnership (or another partnership) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954; and

(2) Such continuing partnership continues to hold the realty concerned.

(b) If there is a termination of any partnership within the meaning of Section 708 of the Internal Revenue Code of 1954, for the purposes of this chapter, such partnership shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by such partnership at the time of such termination.

(c) Not more than one tax shall be imposed pursuant to the provisions of this chapter by reason of a termination described in subsection (b) of this section, and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination.

(§ 8, Ord. 392)

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§ 3-11.09. Administration.

The County Recorder shall administer the provisions of this chapter in conformity with the provisions of Part 6.7 of Division 2 of the Revenue and Taxation Code of the State and the provisions of any County ordinance adopted pursuant thereto.
(§ 9, Ord. 392)

§ 3-11.10. Claims for refunds.

Claims for the refund of taxes imposed pursuant to the provisions of this chapter shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code of the State.
(§ 10, Ord. 392)

§ 3-11.11. Operative date.

The provisions of this chapter shall become operative upon the operative date of any ordinance adopted by the County pursuant to the provisions of Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code of the State, or on December 20, 1967, whichever is later.
(§ 11, Ord. 392)

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Chapter 12
Sales And Use Taxes

Note: Sections 3-12.01 through 3-12.08, codified from Ordinance No. 233A, as amended by Ordinance No. 285 and Ordinance Nos. 453, effective October 20, 1972, and 454, effective September 27, 1972, superseded by Ordinance No. 485, effective December 21, 1973, operative January 1, 1974. Sections 3-12.01 through 3-12.20, as added by said Ordinance No. 485, repealed by Section 1, Ordinance No. 500, effective June 5, 1974, operative October 1, 1974. Sections 3-12.01 through 3-12.20, as added by said Ordinance No. 500, repealed by Section 1, Ordinance No. 503, effective October 1, 1974. Sections 3-12.01 through 3-12.20, as added by said Ordinance No. 503, repealed by Section 1, Ordinance No. 512, effective October 30, 1974.

§ 3-12.01. Short title.

This chapter shall be known as the "Uniform Local Sales and Use Tax Law".
(§ 2, Ord. 512, eff. October 30, 1974)

§ 3-12.02. Rate.

The rate of the sales tax and use tax imposed by the provisions of this chapter shall be as follows:

(a) For the year 1975, effective October 1, 1974, ninety-two and one-half one-hundredths (.92 1/2) of one percent; and

(b) For the year 1976, effective July 1, 1975, ninety-five one-hundredths (.95) of one percent.

The Council from time to time, in its discretion, and by ordinance and/or resolution, may fix, alter, change, amend, or revise the rate of the sales and use tax.

(§ 2, Ord. 512, eff. October 30, 1974, as amended by § 1, Ord. 614, eff. June 21, 1978)

§ 3-12.03. Operative date.

The provisions of this chapter shall be operative on October 1, 1974.
(§ 2, Ord. 512, eff. October 30, 1974)

§ 3-12.04. Purpose.

The Council hereby declares that the provisions of this chapter are adopted to achieve the following, among other, purposes and directs that the provisions of this chapter be interpreted in order to accomplish those purposes:

(a) To adopt a sales and use tax law which complies with the requirements and limitations set forth in Part 1.5 of Division 2 of the Revenue and Taxation Code of the State;

(b) To adopt a sales and use tax law which incorporates provisions identical to those of the Sales and Use Tax Law of the State insofar as those provisions are not inconsistent with the requirements and limitations set forth in Part 1.5 of Division 2 of the Revenue and Taxation Code of the State;

(c) To adopt a sales and use tax law which imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that

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adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the Sales and Use Taxes of the State; and

(d) To adopt a sales and use tax law which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code of the State, minimize the cost of collecting City sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

(§ 2, Ord. 512, eff. October 30, 1974)

§ 3-12.05. Contract with State Board of Equalization.

Prior to the operative date of this chapter, the City shall contract with the State Board of Equalization to perform all the functions incident to the administration and operation of this sales and use tax law. If the City shall not have contracted with the State Board of Equalization prior to such operative date, the City shall nevertheless so contract, and, in such a case, the operative date shall be the first day of the first calendar quarter following the execution of such contract rather than the first day of the first calendar quarter following the adoption of this chapter.

(§ 2, Ord. 512, eff. October 30, 1974)

§ 3-12.06. Sales taxes.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the City at the rate set forth in Section 3-12.02 of this chapter of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the City on and after the operative date of this chapter.

(§ 2, Ord. 512, eff. October 30, 1974)

§ 3-12.07. Place of sale.

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his or her agent to an out-of-State destination or to a common carrier for delivery to an out-of-State destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the State sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

(§ 2, Ord. 512, eff. October 30, 1974)

§ 3-12.08. Use taxes.

An excise tax is hereby imposed on the storage, use, or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this chapter for the storage, use, or other consumption in the City at the rate set forth in Section 3-12.02 of this chapter of the sales price of the property. The sales price shall include delivery charges when such charges are subject to State sales or use tax, regardless of the place to which delivery is made.

(§ 2, Ord. 512, eff. October 30, 1974)

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§ 3-12.09. Adoption of State law provisions.

Except as otherwise provided in this chapter, and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code of the State, all of the provisions of Part 1 of Division 2 of said Code are hereby adopted and made a part of this chapter as though fully set forth in this chapter.
(§ 2, Ord. 512, eff. October 30, 1974)

§ 3-12.10. Limitations on adoption of State law.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code of the State, wherever the State is named or referred to as the taxing agency, the name of the City shall be substituted therefor. Such substitution, however, shall not be made when the word "State" is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, the State Treasury, or the Constitution of the State; the substitution shall not be made when the result of that substitution would require action to be taken by or against the City, or any agency thereof, rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of the provisions of this chapter; the substitution shall not be made in those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State, where the result of the substitution would be to provide an exemption from this tax with respect to certain sales, storage, use, or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use, or other consumption remains subject to tax by the State under the provisions of Part 1 of Division 2 of said Code, or to impose this tax with respect to certain sales, storage, use, or other consumption of tangible personal property which would not be subject to tax by the State under the said provisions of said Code; the substitution shall not be made in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797, or 6828 of the Revenue and Taxation Code of the State; and the substitution shall not be made for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 of said Code or in the definition of that phase in said Section 6203.
(§ 2, Ord. 512, eff. October 30, 1974)

§ 3-12.11. Permits not required.

If a seller's permit has been issued to a retailer pursuant to the provisions of Section 6067 of the Revenue and Taxation Code of the State, an additional seller's permit shall not be required by the provisions of this chapter.
(§ 2, Ord. 512, eff. October 30, 1974)

§ 3-12.12. Exclusions and exemptions.

There shall be excluded from the measure of tax:

(a) The amount of any sales or use tax imposed by the State upon a retailer or consumer;

(b) The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to sales tax under a sales and use tax ordinance enacted in accordance with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code of the State by any city and county, county, or city in the State;

(c) The gross receipts from sales to, and the storage, use, or other consumption of property

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purchased by, operators of common carriers and waterborne vessels to be used or consumed in the operation of such common carriers or waterborne vessels principally outside the City; and

(d) The storage or use of tangible personal property in the transportation or transmission of persons, property, or communications, or in the generation, transmission, or distribution of electricity, or in the manufacture, transmission, or distribution of gas in intrastate, interstate, or foreign commerce by public utilities which are regulated by the Public Utilities Commission of the State.

(§ 2, Ord. 512, eff. October 30, 1974)

§ 3-12.13. Exclusions and exemptions (operative January 1, 1984).

(a) The amount subject to tax shall not include any sales or use tax imposed by the State upon a retailer or consumer.

(b) The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to tax under a sales and use tax ordinance enacted in accordance with Part1.5 of Division 2 of the Revenue and Taxation Code of the State by any city and county, county, or city in the State, shall be exempt from the tax due under this chapter.

(c) There shall be exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of the State, the United States, or any foreign government.

(d) In addition to the exemptions set forth in Sections 6366 and 6366.1 of said Revenue and Taxation Code, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of the State, the United States, or any foreign government shall be exempted from the use tax.

(§ 1, Ord. 721, eff. December 7, 1983)

§ 3-12.14. Exclusions and exemptions (operative on the operative date of any act of the Legislature of the State which amends Section 7202 of the Revenue and Taxation Code of the State or which repeals and reenacts said Section 7202 to provide an exemption from city sales and use taxes for operators of waterborne vessels in the same, or substantially the same, language as that existing in subsections (7) and (8) of subsection (i) of said Section 7202 as said subsections read on October 1, 1983).

(a) The amount subject to tax shall not include any sales or use tax imposed by the State upon a retailer or consumer.

(b) The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to tax under a sales and use tax ordinance enacted in accordance with Part1.5 of Division 2 of the Revenue and Taxation Code of the State by any city and county, county, or city in the State, shall be exempt from the tax due under

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this chapter.

(c) There shall be exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.

(d) The storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property of such vessels for commercial purposes shall be exempted from the use tax.

(e) There shall be exempted from the computation of the amount of sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of the State, the United States, or any foreign government.

(f) In addition to the exemptions set forth in Sections 6366 and 6366.1 of said Revenue and Taxation Code, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of the State, the United States, or any foreign government shall be exempted from the use tax.

(§ 2, Ord. 512, eff. October 30, 1974, as amended by § 2,Ord. 721, eff. December 7, 1983)

§ 3-12.15. Application of provisions relating to exclusions and exemptions.

(a) The provisions of Section 3-12.14 of this chapter shall become operative on October 1 of the year following the year in which the State Board of Equalization adopts an assessment ratio for State-assessed property which is identical to the ratio which is required for local assessments by the provisions of Section 401 of the Revenue and Taxation Code of the State, at which time the provisions of Section 3-12.12 of this chapter shall be inoperative.

(b) In the event the provisions of Section 3-12.14 of this chapter become operative, and the State Board of Equalization subsequently adopts an assessment ratio for the State-assessed property, which ratio is higher than the ratio which is required for local assessments by the provisions of said Section 401 of the Revenue and Taxation Code, the provisions of Section 3-12.12 of this chapter shall become operative on the first day of the month next following the month in which such higher ratio is adopted, at which time the provisions of said Section 3-12.14 shall be inoperative until the first day of the month following the month in which said Board again adopts an assessment ratio for State assessed property, which ratio is identical to the ratio required for local assessments by the provisions of said Section 401, at which time the provisions of said Section 3-12.14 shall again become operative and the provisions of said Section 3-12.12 shall become inoperative.

(§ 2, Ord. 512, eff. October 30, 1974)

§ 3-12.16. Amendments.

All subsequent amendments of the Revenue and Taxation Code of the State, which amendments

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relate to the sales and use tax and which are not inconsistent with the provisions of Part 1.5 of Division 2 of said Code, shall automatically become a part of this chapter.
(§ 2, Ord. 512, eff. October 30, 1974)

§ 3-12.17. Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against the State or the City, or against any officer of the State or City, to prevent or enjoin the collection of any tax or any amount of tax required to be collected under this chapter or Part 1.5 of Division 2 of the Revenue and Taxation Code of the State.
(§ 2, Ord. 512, eff. October 30, 1974)

§ 3-12.18. Penalties.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not more than Five Hundred and No/100ths ($500.00) Dollars, or by imprisonment for a period of not more than six months, or by both such fine and imprisonment.
(§ 2, Ord. 512, eff. October 30, 1974)

§ 3-12.19. Severability.

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.
(§ 2, Ord. 512, eff. October 30, 1974)

§ 3-12.20. Existing sales and use tax ordinances suspended.

At the time this chapter goes into operation, the provisions of Ordinance Nos. 200, 202, 232, 233A, 234, 285, 453, 454, and 485 shall be suspended and shall not again be of any force or effect until and unless for any reason the State Board of Equalization ceases to perform the functions incident to the administration and operation of the sales and use tax hereby imposed; provided, however, if for any reason it is determined that the City is without the power to adopt this chapter, or that the State Board of Equalization is without the power to perform the functions incident to the administration and operation of the taxes imposed by this chapter, the provisions of Ordinance Nos. 200, 202, 232, 233A, 234, 285, 453, 454, and 485 shall not be deemed to have been suspended but shall be deemed to have been in full force and effect at the rate of one percent continuously from and after July 1, 1956. Upon the ceasing of the State Board of Equalization to perform the functions incident to the administration and operation of the taxes imposed by this chapter, the provisions of Ordinance Nos. 200, 202, 232, 233A, 234, 285, 453, 454, and 485 shall again be in full force and effect at the rate of one percent. Nothing in this chapter shall be construed as relieving any person of the obligation to pay to the City any sales or use tax accrued and owing by reason of the provisions of Ordinance Nos. 200, 202, 232, 233A, 234, 285, 453, 454, and 485 in force and effect prior to and including June 30, 1956.
(§ 2, Ord. 512 eff. October 30, 1974)

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Chapter 12.1
Los Banos Police, Fire, Public Safety/911 Special Transactions (Sales) And Use Tax

§ 3-12.1.01. Chapter title.

This chapter shall be known as the "Los Banos Police, Fire, Public Safety/911 Special Transactions (Sales) and Use Tax" (the 'Act'). This chapter shall be applicable in the incorporated territory of the City.
(§ 1, Ord. 1020, eff. November 27, 2004)

§ 3-12.1.02. Purposes.

The people of the City of Los Banos declare that this chapter is adopted for the special purpose of funding additional public safety personnel, supplies and services, capital outlay items, equipment, facilities and technology improvements over the term of the tax imposed under this chapter and paying for all incidental costs of operating this special transactions (sales) and use tax program, including administration and collections costs reimbursable to the State Board of Equalization, with any unused revenue committed to police and firefighting equipment and services.
(§ 1, Ord. 1020, eff. November 27, 2004)

§ 3-12.1.03. Operative date.

This chapter shall be effective 10 days after certification by the City Council of the returns of the election indicating approval by voters by a 2/3 margin of the ordinance enacting this chapter, and the special transactions (sales) and use tax imposed hereunder shall be operative the first day of the first calendar quarter commencing more than 110 days after the adoption of this chapter. Based on a November 2, 2004 election, the special transactions (sales) and use tax imposed hereunder shall be operative April 1, 2005. Upon notice to the State Board of Equalization as required by law, this chapter may be suspended, and all funding related thereto stopped, if the revenue generated under this chapter is diverted by the State of California for purposes other than those specifically enumerated herein.
(§ 1, Ord. 1020, eff. November 27, 2004)

§ 3-12.1.04. Special transactions (sales) tax.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one-half of one (0.50%) percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after April 1, 2005.
(§ 1, Ord. 1020, eff. November 27, 2004)

§ 3-12.1.05. Special use tax.

An excise tax is hereby imposed on the storage, use, or other consumption in the City of tangible personal property purchased from any retailer for storage, use, or other consumption in the City at the rate of one-half of one (0.50%) percent of the sales price of the property sold on and after April 1, 2005. The sales price shall include delivery charges when such charges are subject to the State sales or use tax regardless of the place to which delivery is made.
(§ 1, Ord. 1020, eff. November 27, 2004)

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§ 3-12.1.06. Citizens Oversight Committee.

(a) Pursuant to the Act, there is hereby created a Los Banos Police, Fire, Public Safety/911 Special Transactions (Sales) and Use Tax Citizens Oversight Committee to review the revenues and expenditures generated and spent under this chapter.

(b) Said Committee shall consist of seven members. The Police and Fire Chiefs shall together nominate each committee member. Nominees shall be appointed by motion of the City Council adopted by majority vote.

(c) Membership to the Committee shall be restricted to individuals who are registered voters within the City of Los Banos. Elected officials at any level of government and employees of the City of Los Banos are ineligible to serve as members of the Committee.

(d) The members so appointed shall serve without compensation for a term of three years. Except that members of the first/original Committee shall have staggered tenures. Two members will be appointed to a one-year term, two members will be appointed to a two year term and three members will be appointed to a three year term. All subsequent appointments will be for a three year term.

(e) The Committee shall review the revenues and expenditures generated and spent under this chapter, and provide its findings to the City Council for approval, in the form of two semi-annual reports, one report (including fourth quarter information), shall be submitted no later than October 1st of each year. Unless modified by City Council Resolution, the Committee shall not have any function, power, or authority other than those expressly provided herein.

The Committee shall meet semiannually or as often as it deems necessary to accomplish the objectives stated in this chapter.

(§ 1, Ord. 1020, eff. November 27, 2004)

§ 3-12.1.07. Account and report.

Prior to the adoption of the City budget in June of each year, the City Manager and the Finance Officer shall present to the City Council an account of the tax revenues received and expenditures made under this chapter, and the funds remaining in the accounts established for their respective purposes hereunder. Concurrent with the annual account presentation, the City Manager and Finance Officer shall also report to the City Council that no funds received under this chapter were spent for purposes other than those authorized by this chapter.
(§ 1, Ord. 1020, eff. November 27, 2004)

§ 3-12.1.08. Maintenance of effort.

Notwithstanding any provision to the contrary, revenues received under this chapter shall not be used to replace general fund expenditures for normal operations at the previous years' levels, nor shall revenues received under this chapter be used to fund, supplant, or supplement the salaries and benefits of existing personnel or other positions not created under this chapter.
(§ 1, Ord. 1020, eff. November 27, 2004)

§ 3-12.1.09. Revenue distribution.

Net revenues received under Section 3-12.1.10 shall be distributed as follows:

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(a) Tax proceeds sufficient to hire three additional firefighter/EMTs in year one and three additional firefighter/EMTs in year two for a total of six firefighter/EMTs which shall include start up equipment and protective gear not to exceed Four Thousand and No/100ths ($4,000.00) Dollars per firefighter, salaries and benefits, merit based wage increases, and up to a 2% annual cost of living adjustment as negotiated per labor agreements and rank adjustments in year two, transitioning three (3) firefighters to the rank of Captain to accommodate span of control and training needs.

(b) Tax proceeds sufficient to hire two additional sworn police officers in year one and one additional sworn police officer in year 12 for a total of three sworn police officers which shall include start up equipment and protective gear not to exceed Four Thousand and No/100ths ($4,000.00) Dollars per officer, salaries and benefits, merit based wage increases, and up to a 2% annual cost of living adjustment as negotiated per labor agreements and two police cruisers.

(c) Tax proceeds sufficient to hire additional support police staff as follows; one additional community services officer in year one and one additional community services officer in year 18 and one additional police crime analyst in year three which shall include salaries and benefits, merit based wage increases, and up to a 2% annual cost of living adjustment as negotiated per labor agreements.

(d) Tax proceeds will be collected for police and fire facility upgrades and new construction of police, jail, fire and related training facilities. Police facility funding starts at Four Hundred Fifty Thousand and No/100ths ($450,000.00) Dollars per year in year two, and increases by a 2% cost of living adjustment annually. Fire facility funding starts at Two Hundred Thousand and No/100ths ($200,000.00) Dollars per year in year three, and increases by a 2% cost of living adjustment annually.

(1) Notwithstanding any other provision of this chapter and specifically Section 3-12.1.08, tax proceeds which: (A) were collected by the City on and after April 1, 2005; and (B) are collected on and after the effective date of City Ordinance No. 1114 for police and fire facility upgrades and new construction of police, jail, fire and related training facilities pursuant to this subsection (d) may be used instead to fund sworn police officers and firefighter/EMTs salaries and benefits whether or not said positions are currently funded by general fund revenues.

(2) Subsection (d)(1) shall expire on November 30, 2021 and be of no further force and effect from and after that date.

(e) Tax proceeds not to exceed Ninety Thousand and No/100ths ($90,000.00) Dollars in year one and Ninety Thousand and No/100ths ($90,000.00) Dollars in year two will be utilized for specialty fire safety equipment including, but not limited to, upgrades to "SCBA" breathing apparatus.

(f) Tax proceeds will be utilized to acquire and support 911/dispatch capabilities to dispatch emergency and routine police and fire calls through a mobile display computerized process. After initial acquisition of the mobile display dispatch system One Hundred Thousand and No/100ths ($100,000.00) Dollars will be allocated in year two and each year thereafter with a 2% cost of living adjustment to support this process and to fund additional technology, equipment, and vehicle upgrades.

(§ 1, Ord. 1020, eff. November 27, 2004, as amended by Ord. No. 1088, § 2, eff. 11-28-2009,

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and § 2, Ord. No. 1114, eff. November 18, 2013)

§ 3-12.1.10. Disposition of monies collected; Expenditure plan.

After deduction of all incidental costs of operating this special transactions (sales) and use tax program, including, but not limited to, administration and collection costs reimbursable to the State Board of Equalization, and in accordance with the distribution allocation set forth in Section 3-12.1.09, all remaining monies collected under and pursuant to the provisions of this chapter shall not be deposited into the City's general fund, but shall, instead, be deposited and paid into a special account of the City, which is hereby established, and earmarked for the purposes as outlined in Section 3-12.1.09, and which shall be paid only from the revenues of this account and not from the City's general fund.

Additional funds (after allocating funds as outlined in Section 3-12.1.09) will be allocated to augment public safety services. Additional manpower, equipment, services and supplies, capital outlay items and facility needs will be submitted by the Police and Fire Chiefs to the Oversight Committee and the Committee will make funding suggestions to the City Manager and City Council. The City Council will then approve and authorize additional expenditures to the benefit of public safety services.

The balance on this special account shall earn interest, which shall be deposited back into the account.
(§ 1, Ord. 1020, eff. November 27, 2004)

§ 3-12.1.11. Advancement of funds.

The City Council, at its sole and complete discretion, may advance funds from the City's general fund into the special account, established in Section 3-12.1.10, in order to accomplish the objectives of this chapter. Any advancement from the City shall be reimbursed by the special account, to the City, with interest calculated at the same rate the City receives in its investment portfolio during the time of the advancement, within 24 months of the date of the advance.
(§ 1, Ord. 1020, eff. November 27, 2004)

§ 3-12.1.12. Specially-funded personnel and purchases authorization.

Pursuant to the purposes and intent of this chapter, the hiring of additional personnel and purchases necessary to accomplish the goals of this chapter are hereby authorized. The City Manager is directed to create a system to designate and classify the employees hired and supplies and services and capital outlay purchases made from the tax revenue generated under this chapter, as specially-funded personnel, supplies and services, and capital outlay items, so that City general fund expenditures for public safety are not reduced or avoided.
(§ 1, Ord. 1020, eff. November 27, 2004)

§ 3-12.1.13. State requirements.

Pursuant to the requirements of the State Board of Equalization, this chapter is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

(a) To impose a retail transactions (sales) and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and

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Section 7285.91 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a 2/3 majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

(b) To adopt a retail transactions (sales) and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part1.6 of Division 2 of the Revenue and Taxation Code.

(c) To adopt a retail transactions (sales) and use tax ordinance that imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

(d) To adopt a retail transactions (sales) and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions (sales) and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

(§ 1, Ord. 1020, eff. November 27, 2004)

§ 3-12.1.14. Contract with State.

Prior to the operative date of this chapter, as required by State law, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of the special transactions (sales) and use tax imposed under this chapter; provided, however, that if the City shall not have contracted with the State Board of Equalization prior to the operative date of this chapter, the City shall nevertheless so contract and in such case the operative date of the special sales tax shall be the first day of the first calendar quarter following the execution of such contract.

(§ 1, Ord. 1020, eff. November 27, 2004)

§ 3-12.1.15. Place of sale.

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer, or his or her agent, to an out-of-State destination or to a common carrier for delivery to an out-of-State destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the State sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State, or has more than one place of business, the place or places at which retail sales are consummated shall be determined under the rules and regulations to be prescribed and adopted by the State Board of Equalization.

(§ 1, Ord. 1020, eff. November 27, 2004)

§ 3-12.1.16. Additional permit not required.

If a seller's permit has been issued to a retailer under Section6067 of the Revenue and Taxation Code, an additional seller's permit shall not be required by this chapter.

(§ 1, Ord. 1020, eff. November 27, 2004)

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§ 3-12.1.17. Adoption of provisions of State law—Generally.

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of the ordinance codified in this chapter as though fully set forth herein.
(§ 1, Ord. 1020, eff. November 27, 2004)

§ 3-12.1.18. Adoption of provisions of State law—Limitations.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

(a) Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

(1) The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

(2) The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this chapter.

(3) In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

(i) Provide an exemption from this special sales tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code; or

(ii) Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the said provision of that code.

(4) In Sections 6701, 6702 (except in the last sentence thereof), 6711,6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

(b) The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203 of the Revenue and Taxation Code.
(§ 1, Ord. 1020, eff. November 27, 2004)

§ 3-12.1.19. Exemptions and exclusions.

(a) There shall be excluded from the measure of the special transactions (sales) and use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any State-administered transactions or use tax.

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(b) There are exempted from the computation of the amount of the special transactions (sales) tax the gross receipts from:

(1) Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

(2) Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his or her agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this section, delivery to a point outside the City shall be satisfied:

(i) With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

(ii) With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

(3) The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this chapter.

(4) A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this chapter.

(5) For the purposes of subsections (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(c) There are exempted from the special use tax imposed by this chapter, the storage, use, or other consumption in this City of tangible personal property:

(1) The gross receipts from the sale of which have been subject to a transactions tax under any State-administered transactions and use tax ordinance.

(2) Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the

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United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

(3) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this chapter.

(4) If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this chapter.

(5) For the purposes of subsections (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(6) Except as provided in subsection (7) of this section, a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

(7) A retailer engaged in business in the City shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

(d) Any person subject to use tax under this chapter may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

(§ 1, Ord. 1020, eff. November 27, 2004)

§ 3-12.1.20. Amendments to State law.

All amendments subsequent to the effective date of this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter.

(§ 1, Ord. 1020, eff. November 27, 2004)

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§ 3-12.1.21. Nonexclusivity.

The special sales tax levied under this chapter is in addition to, not in lieu of, any and all other applicable taxes already in existence.
(§ 1, Ord. 1020, eff. November 27, 2004)

§ 3-12.1.22. Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this chapter, of any tax or any amount of tax required to be collected hereunder.
(§ 1, Ord. 1020, eff. November 27, 2004)

§ 3-12.1.23. Authority to amend.

In order to further the purposes and intent of this chapter, the City Council is authorized to amend this chapter in the following areas without a further vote of the people:

(a) The composition of the Citizens Oversight Committee;

(b) Any change required by the State of California as a precondition to the collection of the special tax authorized hereunder; and

(c) The appropriateness to raise and increase, but not to decrease, the number of specially-funded personnel supplies and services and capital outlay items authorized under Section 3-12.1.12.

Notwithstanding any provision to the contrary, any proposed change to the tax rate or the disposition of the revenue generated under this chapter shall be submitted to the "vote of the people."

(§ 1, Ord. 1020, eff. November 27, 2004)

§ 3-12.1.24. Termination date.

The authority to levy the tax imposed by this ordinance shall not expire except upon repeal by the City Council. The City Council shall consider repeal of the special transactions (sales) and use tax at public hearings in year 20 and every 10 years thereafter held for that purpose.
(§ 1, Ord. 1020, eff. November 27, 2004)

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Chapter 12.2
Los Banos Essential City Services Measure

§ 3-12.2.01. Title.

This chapter shall be known as the "Los Banos Essential City Services Measure." The City of Los Banos hereinafter shall be called "City." This chapter shall be applicable in the incorporated territory of the City.
(§ 1, Ord. 1166, eff. December 12, 2018)

§ 3-12.2.02. Operative date.

"Operative date" means the first day of the first calendar quarter commencing more than 110 days after the effective date of this chapter, December 12, 2018.
(§ 1, Ord. 1166, eff. December 12, 2018)

§ 3-12.2.03. Purpose.

This chapter is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

(a) To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Cal. Revenue and Taxation Code and § 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax chapter which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

(b) To adopt a retail transactions and use tax chapter that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Cal. Revenue and Taxation Code.

(c) To adopt a retail transactions and use tax chapter that imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

(d) To adopt a retail transactions and use tax chapter that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Cal. Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.
(§ 1, Ord. 1166, eff. December 12, 2018)

§ 3-12.2.04. Contract with State.

Prior to the operative date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax chapter; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall

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nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.
(§ 1, Ord. 1166, eff. December 12, 2018)

§ 3-12.2.05. Transactions tax rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one-half percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this chapter.
(§ 1, Ord. 1166, eff. December 12, 2018)

§ 3-12.2.06. Place of sale.

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his or her agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.
(§ 1, Ord. 1166, eff. December 12, 2018)

§ 3-12.2.07. Use tax rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this chapter for storage, use or other consumption in said territory at the rate of one-half percent of the sales price of the property. The sales price shall include delivery charges when such charges are subject to State sales or use tax regardless of the place to which delivery is made.
(§ 1, Ord. 1166, eff. December 12, 2018)

§ 3-12.2.08. Adoption of provisions of State law.

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Cal. Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Cal. Revenue and Taxation Code are hereby adopted and made a part of this chapter as though fully set forth herein.
(§ 1, Ord. 1166, eff. December 12, 2018)

§ 3-12.2.09. Limitations on adoption of State law and collection of use taxes.

In adopting the provisions of Part 1 of Division 2 of the Cal. Revenue and Taxation Code:

(a) Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

(1) The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Equalization, State Treasury, or theConstitution of the State of

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California.

(2) The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this chapter.

(3) In those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

(A) Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Cal. Revenue and Taxation Code; or

(B) Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the said provision of that Code.

(4) In Section 6701, 6702 (except in the last sentence thereof), 6711,6715, 6737, 6797 or 6828 of the Cal. Revenue and Taxation Code.

(b) The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 of the Cal. Revenue and Taxation Code and in the definition of that phrase in Section 6203.

(§ 1, Ord. 1166, eff. December 12, 2018)

§ 3-12.2.10. Permit not required.

If a seller's permit has been issued to a retailer under Section6067 of the Cal. Revenue and Taxation Code, an additional transactor's permit shall not be required by this chapter.

(§ 1, Ord. 1166, eff. December 12, 2018)

§ 3-12.2.11. Exemptions and exclusions.

(a) There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

(b) There are exempted from the computation of the amount of transactions tax the gross receipts from:

(1) Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the County in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

(2) Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his

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agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this subsection (b)(2), delivery to a point outside the City shall be satisfied:

(A) With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Cal. Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Cal. Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

(B) With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

(3) The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this chapter.

(4) A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this chapter.

(5) For the purposes of subsections (b)(3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(c) There are exempted from the use tax imposed by this chapter, the storage, use or other consumption in this City of tangible personal property:

(1) The gross receipts from the sale of which have been subject to a transactions tax under any State-administered transactions and use tax ordinance.

(2) Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Cal. Revenue and Taxation Code.

(3) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this chapter.

(4) If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this chapter.

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(5) For the purposes of subsections (c)(3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(6) Except as provided in subsection (c)(7) of this section, a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

(7) "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Cal. Vehicle Code, aircraft licensed in compliance with Section21411 of the Cal. Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Cal. Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

(d) Any person subject to use tax under this chapter may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Cal. Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

(§ 1, Ord. 1166, eff. December 12, 2018)

§ 3-12.2.12. Citizens' oversight and accountability.

In order to provide for citizens' oversight, transparency and accountability in connection with expenditures of tax revenues generated under the terms of this chapter, the City shall do the following:

(a) Citizens' Oversight Committee. Prior to the operative date, the City Council shall: (1) adopt a resolution establishing the composition of a committee of no more than five residents of the City to review, make recommendations, and annually report on the revenue and expenditure of the funds from the tax adopted by the ordinance codified in this chapter; (2) define the scope of the committee's responsibilities; and (3) appoint at least a quorum of the members of the committee. City employees, consultants, or vendors are expressly precluded from serving as members of the committee. The committee's reports shall be presented to the City Council and made available to the public.

(b) Annual Audit. By no later than December 31 of each year, the City shall cause an independent auditor to complete a "Los Banos Essential City Services Measure Report." Such report shall review whether the tax revenues collected pursuant to this ordinance are collected, managed and expended in accordance with the requirements of this chapter.

(c) Accounting. All revenue generated by the tax ("Los Banos Essential City Services Measure

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Revenues") shall be accounted in the General Fund as a separate line item entitled "Los Banos Essential City Services Measure Revenues." Measure revenues and expenditures will be tracked and accounted for by City Finance Department staff in accordance with Generally Accepted Accounting Principles (GAAP), and presented annually in a report to the Citizens' Oversight Committee.

(§ 1, Ord. 1166, eff. December 12, 2018)

§ 3-12.2.13. Amendments of the Revenue And Taxation Code.

All amendments subsequent to the effective date of this chapter to Part 1 of Division 2 of the Cal. Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Cal. Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Cal. Revenue and Taxation Code, shall automatically become a part of this chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter.

(§ 1, Ord. 1166, eff. December 12, 2018)

§ 3-12.2.14. Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this chapter, or Part 1.6 of Division 2 of the Cal. Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

(§ 1, Ord. 1166, eff. December 12, 2018)

§ 3-12.2.15. Amendments by City Council.

The following amendments to this Ordinance must be approved by the voters of the City: increasing the tax rate; revising the methodology for calculating the tax, such that a tax increase would result; imposing the tax on transactions and uses not previously subject to the tax (unless such amendment occurs automatically by operation of law); or terminating the tax. The City Council may otherwise amend this chapter without submitting the amendment to the voters for approval in any manner which does not constitute a tax "increase" as that term is defined in Government Code Section 53750(h).

(§ 1, Ord. 1166, eff. December 12, 2018)

§ 3-12.2.16. Use of proceeds.

The proceeds from the tax imposed by this chapter shall be for unrestricted general revenue purposes of the City and shall be received into the general fund of the City. Nothing in this chapter shall constitute the tax imposed under this chapter as a special tax, or bind the City to use the proceeds for any specific purpose or function; the City Council shall retain discretion to expend the proceeds of the tax for any lawful purpose of the City.

(§ 1, Ord. 1166, eff. December 12, 2018)

§ 3-12.2.17. Termination date.

The authority to levy the tax imposed by this chapter shall automatically expire on 15 years from the effective date of this chapter, without further action by the City Council or the voters of the City. After said date, the tax imposed by this chapter can only be continued or reestablished by a majority vote of Los Banos voters pursuant to California Proposition 218.

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Chapter 13
Transient Occupancy Taxes

§ 3-13.01. Title.

This chapter shall be known as the "Uniform Transient Occupancy Tax Law" of the City.
(§ 1, Ord. 354)

§ 3-13.02. Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Hotel" shall mean any structure, or any portion of any structure, which is occupied, or intended or designed for occupancy, by transients for dwelling, lodging, or sleeping purposes and shall include any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure, or portion thereof.

"Occupancy" shall mean the use or possession, or the right to the use or possession, of any room, or portion thereof, in any hotel for dwelling, lodging, or sleeping purposes.

"Operator" shall mean the person who is the proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this chapter by either the principal or the managing agent, however, shall be considered to be compliance by both.

"Person" shall mean any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

"Rent" shall mean the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor, or otherwise, including all receipts, cash, credits, property, and services of any kind or nature, without any deduction therefrom whatsoever.

"Tax Administrator" shall mean the City Manager.

"Transient" shall mean any person who exercises occupancy or is entitled to occupancy by reason of a concession, permit, right of access, license, or other agreement for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of 30 days has expired, unless there is an agreement in writing between the operator and the occupant providing for a long period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the provisions of this chapter may be considered.
(§ 2, Ord. 354, as amended by § 1, Ord. 684, eff. July 31, 1981, and § 1, Ord. 686, eff. August 5, 1981)

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§ 3-13.03. Tax imposed.

For the use and privilege of occupancy in any hotel, each transient shall be subject to and shall pay a tax in the amount of 10% of the rent charged by the operator. Such tax shall constitute a debt owed by the transient to the City, which debt shall be extinguished only by payment to the operator or to the City. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the Tax Administrator may require that such tax be paid directly to the Tax Administrator.
(§ 3, Ord. 354, as amended by § 1, Ord. 437, eff. May 21, 1971, tax operative July 1, 1971, § 1, Ord. 477, eff. August 31, 1973, § 1, Ord. 613, eff. June 21, 1978, and § 1, Urgency Ord. 790, eff. November 16, 1988, and § 1, Ord. 886, eff. June 3, 1995)

§ 3-13.04. Exemptions.

No tax shall be imposed upon:

(a) Any person as to whom, or any occupancy as to which, it is beyond the power of the City to impose the tax provided for in this chapter; or

(b) Any officer or employee of a foreign government, which officer or employee is exempt by reason of express provisions of Federal laws or international treaties.

No exemption shall be granted except upon a claim therefor, made at the time the rent is collected and under penalty of perjury, upon a form prescribed by the Tax Administrator.

(§ 4, Ord. 354, as amended by § 1, Ord. 373)

§ 3-13.05. Operator's duties.

Each operator shall collect the tax imposed by the provisions of this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax, or any part thereof, will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded, except in the manner provided in this chapter.
(§ 5, Ord. 354)

§ 3-13.06. Registration.

On or before November 16, 1964, or within 30 days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register such hotel with the Tax Administrator and obtain from him or her a "Transient Occupancy Registration Certificate" which shall at all times be posted in a conspicuous place upon the hotel premises. The certificate issued by the Tax Administrator shall be personal to each operator and shall not be transferable from person to person or from place to place. Such certificate, among other things, shall set forth the following information:

(a) The name of the operator;

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(b) The address of the hotel;

(c) The date upon which the certificate was issued; and

(d) A statement as follows: "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Law by registering with the Tax Administrator for the purpose of collecting from transients the Transient Occupancy Tax and remitting such tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including, but not limited to, those requiring a permit from any board, commission, department, or office of this City. This certificate does not constitute a permit. THIS CERTIFICATE IS NOT TRANSFERABLE. A new proprietor of this hotel must obtain a new Transient Occupancy Registration Certificate from the Tax Administrator within 30 days. A new proprietor is liable for all accrued and unpaid transient occupancy taxes."

Such "Transient Occupancy Registration Certificate" shall be valid for a period of one year, unless revoked by the Tax Administrator prior to the conclusion of the one-year period. Prior to the conclusion of one year from the date of the issuance of the certificate, each operator of such hotel shall apply to the Tax Administrator for a new certificate to cover the following year.
The Tax Administrator shall have the power to revoke the certificate of any operator for failure to make prompt payment of any taxes or security or for the failure of any operator to abide by any provision of this Code.

(§ 6, Ord. 354, as amended by § 2, Ord. 684, eff. July 31, 1981, and § 2, Ord. 686, eff. August 5, 1981)

§ 3-13.07. Reporting and remitting.

Each operator, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the Tax Administrator, shall make a return to the Tax Administrator, on a form provided by him or her, of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the Tax Administrator. The Tax Administrator may establish shorter reporting periods for any certificate holder if he deems it necessary in order to insure collection of the tax, and he may require further information on the return. Returns and payments shall be due immediately upon the cessation of business for any reason. All taxes collected by operators pursuant to the provisions of this chapter shall be held in trust for the account of the City until payment thereof is made to the Tax Administrator.
(§ 7, Ord. 354)

§ 3-13.08. Penalties and interest.

(a) Original delinquency. Any operator who shall fail to remit any tax imposed by the provisions of this chapter within the time required shall pay a penalty in the amount of 10% of the tax in addition to the amount of the tax.

(b) Continued delinquency. Any operator who shall fail to remit any delinquent remittance on or before each period of 30 days following the date on which the remittance first became

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delinquent shall pay an additional delinquency penalty in the amount of 10% of the tax for each additional period of 30 days.

(c) Fraud. If the Tax Administrator shall determine the nonpayment of any remittance due pursuant to the provisions of this chapter is due to fraud, a penalty of 25% of the amount of the tax shall be added thereto in addition to the penalties set forth in subsections (a) and (b) of this section.

(d) Interest. In addition to the penalties imposed, any operator who shall fail to remit any tax imposed by the provisions of this chapter shall pay interest at the rate of 1/2 of one percent per month, or fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(e) Penalties and interest merged with tax. Every penalty imposed, and such interest as accrues, pursuant to the provisions of this section shall become a part of the tax required to be paid by the provisions of this chapter.

(§ 8, Ord. 354, as amended by § 3, Ord. 684, eff. July 31, 1981, and § 3, Ord. 686, eff. August 5, 1981)

§ 3-13.09. Failure to collect and report tax: Determination of tax by Tax Administrator.

If any operator shall fail or refuse to collect such tax and to make, within the time provided in this chapter, any report and remittance of such tax, or any portion thereof, required by the provisions of this chapter, the Tax Administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base his or her estimate of the tax due. As soon as the Tax Administrator shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by the provisions of this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, the Tax Administrator shall proceed to determine and assess against such operator the tax, interest, and penalties provided for by the provisions of this chapter. In the event such determination is made, the Tax Administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his or her last known place of address. Such operator may, within 10 days after the service or mailing of such notice, make an application in writing to the Tax Administrator for a hearing on the amount assessed. If an application by the operator for a hearing is not made within the time prescribed, the tax, interest, and penalties, if any, determined by the Tax Administrator shall become final and conclusive and immediately due and payable. If such an application is made, the Tax Administrator shall give not less than five days' written notice in the manner prescribed in this section to the operator to show cause at a time and place fixed in such notice why the amount specified therein should not be fixed for such tax, interest, and penalties. At such hearing the operator may appear and offer evidence why such specified tax, interest, and penalties should not be so fixed. After such hearing the Tax Administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed in this section of such determination and the amount of such tax, interest, and penalties. The amount determined to be due shall be payable after 15 days unless an appeal is filed as provided in Section 3-13.10 of this chapter.

(§ 9, Ord. 354)

§ 3-13.10. Appeals.

Any operator aggrieved by any decision of the Tax Administrator with respect to the amount of

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such tax, interest, and penalties, if any, may appeal to the Council by filing a notice of appeal with the City Clerk within 15 days of the service or mailing of the determination of the tax due. The Council shall fix a time and place for hearing such appeal, and the City Clerk shall give notice in writing to such operator at his or her last known place of address. The findings of the Council shall be final and conclusive and shall be served upon the appellant in the manner prescribed in this chapter for service of a notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.
(§ 10, Ord. 354)

§ 3-13.11. Records.

It shall be the duty of every operator liable for the collection and payment to the City of any tax imposed by the provisions of this chapter to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the City, which records the Tax Administrator shall have the right to inspect at all reasonable times.
(§ 11, Ord. 354)

§ 3-13.12. Refunds.

(a) Whenever the amount of any tax, interest, or penalty has been overpaid, or paid more than once, or erroneously or illegally collected or received by the City pursuant to the provisions of this chapter, such amount may be refunded as provided in subsections (b) and (c) of this section provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Tax Administrator within three years after the date of payment. The claim shall be on forms furnished by the Tax Administrator.

(b) An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once, or erroneously or illegally collected or received when it is established in a manner prescribed by the Tax Administrator that the person from whom the tax has been collected was not a transient; provided, however, neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

(c) A transient may obtain a refund of taxes overpaid, or paid more than once, or erroneously or illegally collected or received by the City by filing a claim in the manner provided in subsection (a) of this section but only when the tax was paid by the transient directly to the Tax Administrator, or when the transient, having paid the tax to the operator, establishes to the satisfaction of the Tax Administrator that the transient has been unable to obtain a refund from the operator who collected the tax.

(d) No refund shall be paid pursuant to the provisions of this section unless the claimant establishes his or her right thereto by written records showing entitlement thereto.
(§ 12, Ord. 354)

§ 3-13.13. Actions to collect.

Any tax required to be paid by any transient pursuant to the provisions of this chapter shall be deemed a debt owed by the transient to the City. Any such tax collected by an operator which has

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not been paid to the City shall be deemed a debt owed by the operator to the City. Any person owing money to the City pursuant to the provisions of this chapter shall be liable to an action brought in the name of the City for the recovery of such amount.
(§ 13, Ord. 354)

§ 3-13.14. Violations: Penalties.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.

Any operator or other person who fails or refuses to register as required, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the Tax Administrator, or who renders a false or fraudulent return or claim shall be guilty of a misdemeanor and punishable as set forth in this section. Any person required to make, render, sign, or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by the provisions of this chapter to be made shall be guilty of a misdemeanor and punishable as provided in this section.
(§ 14, Ord. 354)

§ 3-13.15. Schedule of rates: Amendments.

The Council from time to time, in its discretion, and by ordinance and/or resolution, may fix, alter, change, amend, or revise the rate of the tax imposed for the use and occupancy of any hotel.
(§ 2, Ord. 613, eff. June 21, 1978)

§ 3-13.16. Security for collection of tax.

(a) To insure compliance with transient occupancy tax payment requirements, the Tax Administrator may require each person subject to such requirements to deposit with the City such security in the form of cash, bond, or other security in the amount required by the terms of this subsection. The required security shall be equal to an amount not greater than the person's estimated average liability for a period of one year, or the sum of Fifteen Thousand and No/100ths ($15,000.00) Dollars, whichever is the lesser.

(b) If any person is delinquent in the payment of the amount required to be paid, or in the event a determination has been made that any amount due remains unpaid, the Tax Administrator, not later than three years after the payment became delinquent, may give notice thereof by certified mail to all persons in the County having in their possession or under their control any credits or other personal property belonging to the delinquent or owing any debts to the delinquent. After receiving the notice, the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the Tax Administrator consents to a transfer or disposition or until 20 days elapse after the receipt of the notice. All persons so notified, within five days after the receipt of the notice, shall advise the Tax Administrator of all such creditors, other personal property, or debts in their possession, under their control, or owing by them.

(c) At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, or at any time within three years after any determination becomes final, the Tax Administrator may bring an action in the courts of the State, or of

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any other state or of the Untied States, in the name of the City to collect the amount delinquent, together with penalties and interest.

(d) To recover transient occupancy taxes, including penalties and interest, remittable by the depositor, the Tax Administrator may apply or sell at public auction the security deposited with him or her. Security deposits in the form of bearer bonds issued by the United States of America or by the State may be sold by the Tax Administrator at private sale for the current market price. At least 10 days prior to the application or sale of a security deposit, the Tax Administrator shall serve upon the depositing operator notice of intent to apply or sell the security deposit. Service of the notice may be made by placing the notice in the United States mail, postage prepaid, addressed to the depositing operator at his or her hotel. Any portion of the proceeds from the sale of the security remaining after the satisfaction of the outstanding transient occupancy taxes, penalties, interest, and costs of sale may be retained by the Tax Administrator for security or may be paid over by him or her to the depositing operator.

(e) If any operator liable for any amount under this chapter sells out a business or quits a business, whether voluntarily or involuntarily, the successors or assigns of such person shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Tax Administrator showing that payment has been made or a certificate stating that no amount is due. If the purchaser of a business fails to withhold the tax from the purchase price as required, such person shall become personally liable for the payment of the amount required to be withheld to the extent of the purchase price, valued in money. Within 30 days after receiving a written request from the purchaser for a certificate, the Tax Administrator shall either issue the certificate or mail a notice to the purchaser at the address as it appears on the records of the Tax Administrator of the amount that must be paid as a condition of issuing the certificate. Failure of the Tax Administrator to mail the notice will release the purchaser from any further obligation to withhold the purchase price as provided in this subsection. The time within which the obligation of a successor may be enforced shall start to run at the time the operator sells out a business or at the time the determination against the operator becomes final, whichever event occurs later.

(§ 1, Ord. 666, eff. September 19, 1980, as amended by §§ 4 and 5, Ord. 684, eff. July 31, 1981, § 4, Ord. 686, eff. August 5, 1981 and § 1, Ord. 866, eff. March 19, 1993)

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Chapter 14
Industrial Development Authority

§ 3-14.01. Purposes.

The California Industrial Development Financing Act, Title 10 (commencing with Section 91500) of the Government Code of the State ("the Act"), has established an Industrial Development Authority for the City for the achievement of specified public purposes. The public purposes are to increase opportunities for useful employment or otherwise contribute to economic development. The need for the establishment of an Industrial Development Authority in the achievement of such purposes is based upon findings that industry requires the new and alternative method of capital finance which such authorities can provide in order for the Authority to undertake the acquisition, construction, or rehabilitation of facilities, the use of which will serve those public purposes.
(§ 1, Ord. 692, eff. October 16, 1981)

§ 3-14.02. Findings.

There is a need in the City for the acquisition, construction, or rehabilitation of facilities for the use of industry which will increase employment opportunities or otherwise contribute to economic development, and, further, the new and alternative method of capital finance which industrial development authorities can provide will aid in satisfying that need.
(§ 2, Ord. 692, eff. October 16, 1981)

§ 3-14.03. Declarations.

(a) Need. There is a need in the City for an Industrial Development Authority to provide industry with an alternative and additional method of finance in accordance with State policy as set forth in the Act.

(b) Organization. The Industrial Development Authority of the City established by the Act is hereby declared organized and shall function under the name "Industrial Development Authority of the City of Los Banos" and be authorized to transact business and exercise all of the powers and other authority conferred upon industrial development authorities by the Act.

(§ 3, Ord. 692, eff. October 16, 1981)

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Chapter 15
Franchise Fees

§ 3-15.01. Franchise fees.

The Director of Finance is authorized to collect a franchise fee of up to 10% based on gross receipts from all municipally owned or municipally contracted utilities as payment of a consideration for the privilege of using City streets and other public property within their franchise areas.
(§ 1, Ord. 853, eff. February 1, 1992)

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Chapter 16
Contracting For Public Works Projects

Note: Chapter 15, Contracts Awarded by Cities, as added by Ordinance No. 865, renumbered by codifier to Chapter 16 as Chapter 15 is in use. Sections 3-16.01 through 3-16.14, codified from Ordinance No. 865, repealed and replaced by Ordinance No. 1067, effective February 1, 2008.

§ 3-16.010. Application.

The provisions of this chapter shall apply only to contracts for public projects as defined in the California Public Contract Code Section 22002.
(§ 1, Ord. 1067, eff. February 1, 2008)

§ 3-16.020. Election to be subject to the Uniform Construction Cost Accounting Procedures.

The City Council of the City of Los Banos has elected to become subject to the Uniform Construction Cost Accounting Procedures set forth in Article 2 of the California Public Contract Code (commencing with Section 22010) by adoption of Resolution No. 4971.
(§ 1, Ord. 1067, eff. February 1, 2008)

§ 3-16.030. Public projects—General bid limits.

(a) Public projects of Seventy-Five Thousand and No/100ths ($75,000.00) Dollars or less may be performed by the employees of the City by force account, by negotiated contract, or by purchase order.

(b) Public projects of Two Hundred Twenty Thousand and No/100ths ($220,000.00) Dollars or less may be let to contract by the informal procedures prescribed in Section 3-16.040.

(c) Public projects of more than Two Hundred Twenty Thousand and No/100ths ($220,000.00) Dollars shall, except as otherwise provided in this chapter, be let to contract by the formal bidding procedures prescribed in Section 3-16.050 of this chapter.

(§ 1, Ord. 1067, eff. February 1, 2008, as amended by § 1, Ord. 1168, eff. March 8, 2019; Ord. 1210, eff. 11/14/2025)

§ 3-16.040. Public projects—Informal bidding procedures.

The following shall govern the selection of contractors when a public project which is anticipated to fall within the monetary limits on informal bids described in Section 3-16.030(b) is to be performed:

(a) The City shall prepare a notice of the opportunity to bid which describes the project in general terms, states the time and place for the submission of bids and describes how to obtain more detailed information about the project.

(b) The City shall mail the notice to all contractors for the category of the work to be bid, as shown on the list of contractors developed and maintained by the Department of Public Works in accordance with criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission ("Commission").

(c) The City may also mail the notice to all construction trade journals specified by the

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Commission for the County of Merced. Additional contractors and/or construction trade journals may also be notified at the discretion of the Director of Public Works; provided, however: (1) if the City has not prepared a list of qualified contractors for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the Commission; and (2) if the product or service is proprietary in nature such that it can be legally obtained only from a certain contractor(s), the notice inviting informal bids may be sent exclusively to such contractor(s).

(d) All mailings of notices to contractors and construction trade journals pursuant to this section shall be completed not less than 10 calendar days before bids are due.

(e) The City Manager shall have the authority to award informal contracts pursuant to this section with a value of Seventy-Five Thousand and No/100ths ($75,000.00) Dollars or less pursuant to the findings and recommendations presented by the Director of Public Works. Such contracts shall have the prior approval of, and be executed by, the City Manager and shall be approved as to form by the City Attorney. All contracts with a value in excess of Seventy-Five Thousand and No/100ths ($75,000.00) Dollars to be awarded pursuant to this section shall require the approval of the City Council and shall be executed by the Mayor and approved as to form by the City Attorney. Unless the agreement provides otherwise, the City Manager may approve dollar increases to contracts that have been approved by the City Council. The extent of the City Manager's authority to approve such increases shall be in the amount of 10% of the original contract amount, unless otherwise modified by City Council at the time of the award of the contract.

(f) If all informal bids received exceed Two Hundred Twenty Thousand and No/100ths ($220,000.00) Dollars and the City Council determines that the cost estimate was reasonable, the City Council may award the contract to the lowest responsible bidder at up to Two Hundred Thirty-Five Thousand and No/100ths ($235,000.00) Dollars by resolution approved by a four-fifths vote of the City Council. Such contracts shall be executed by the Mayor and approved as to form by the City Attorney. Otherwise, such work shall be awarded to the lowest responsible bidder pursuant to the formal bid procedures prescribed in Section 3-16.050 of this chapter.

(§ 1, Ord. 1067, eff. February 1, 2008, as amended by § 2, Ord. 1168, eff. March 8, 2019; Ord. 1210, eff. 11/14/2025)

§ 3-16.050. Public projects—Formal bid procedure.

Except as otherwise provided herein, public projects exceeding the amount specified in subsection (b) of Section 3-16.030 shall be awarded to the lowest responsible bidder pursuant to the formal bid procedure as hereinafter prescribed.

(a) The City Council shall authorize advertisement of all public projects which are anticipated to exceed the amount specified in subsection (b) of Section 3-16.030.

(b) The Director of Public Works shall prepare for advertisement a notice inviting formal bids, stating the time and place for the receiving and opening of sealed bids and distinctly describing the public project. The Director of Public Works shall publish each and every notice inviting bids in accordance with the following requirements:

(1) The notice shall be published at least 14 calendar days before the date of opening the bids in a newspaper of general circulation, printed and published in the City; or, if

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there is no newspaper of general circulation which is circulated within the City, publication shall be by posting the notice in at least three places within the City as have been designated by ordinance or regulation of the City as places for the posting of its notices;

(2) The notice inviting formal bids shall also be mailed to all construction trade journals specified by the Commission for the County of Merced at least 30 calendar days prior to the date of opening the bids; and

(3) In addition to notice required by this section the Public Works Director may give such other notice as he or she deems proper.

(c) All bids shall be presented under sealed cover and accompanied by one of the following forms of bidder's security:

(1) Cash;

(2) Cashier's check made payable to the City;

(3) A certified check made payable to the City; or

(4) A bidder's bond executed by an admitted surety insurer, made payable to the City.

(d) The security shall be in an amount equal to at least 10% of the amount bid. A bid shall not be considered unless one of the forms of bidder's security is enclosed with it. If the bidder to whom the contract is awarded shall for 10 days after the award fail or neglect to enter into the contract and file the required securities, the City shall deposit in its treasury the bid security if the security is in the form of cash or its equivalent.

(e) Provisions shall be included in any invitation for bid and in any contract documents for the furnishing of securities and/or the withholding of retentions earned to ensure performance under a contract in an amount and type as determined proper by the Director of Public Works. Provisions shall be included in any invitation for bid and in any contract documents for insurance coverage in an amount, type and term as may be specified by the City.

(f) The contractor shall not pay less than the general prevailing rates of wages, as determined by the Director of the Department of Industrial Relations, to all workers employed on a public project.

(§ 1, Ord. 1067, eff. February 1, 2008)

§ 3-16.070. Public projects—Rejection of formal bids.

In its discretion, the City Council may reject any and all bids presented if the Public Works Director, prior to rejecting all bids, furnishes a written notice to an apparent low bidder, informing the bidder of the City's intention to reject the bid at least two business days prior to the hearing at which the City Council intends to reject the bid. If after the first invitation of bids all bids are rejected, after reevaluating its cost estimates of the project, the City Council may: (a) abandon the project; (b) re-advertise for bids in the manner prescribed by this chapter; or (c) perform the work with City employees, after passing a resolution by a four-fifths vote of the City Council declaring that the project can be performed more economically by City employees.

(§ 1, Ord. 1067, eff. February 1, 2008)

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§ 3-16.080. Public projects—Award of formal bid contracts.

All contracts for public work with a value of more than Two Hundred Twenty Thousand and No/100ths ($220.000.00) Dollars shall require the approval of the City Council and shall be executed by the Mayor and approved as to form by the City Attorney. Unless the agreement provides otherwise, the City Manager may approve dollar increases to contracts that have been approved by the City Council. The extent of the City Manager's authority to approve such increases shall be in the amount of 10%, or as otherwise modified by City Council at the time of the award. If a contract is awarded, it shall be awarded by the City Council to the lowest responsible bidder. The determination of the "lowest responsible bidder" shall be at the discretion of the City Council pursuant to the findings and recommendations presented by the Director of Public Works at the time of award of contract. In determining the lowest responsible bidder, the following shall be considered by the City Council, in addition to price:

(a) The ability, capacity and skill of the bidder to perform the contract or provide the services required;

(b) Whether the bidder can perform the contract or provide the services promptly, or within the time specified, without delay or interference;

(c) The sufficiency of the bidder's financial resources to perform the contract or provide the service;

(d) The ability of the bidder to provide future maintenance and services where such maintenance and service is essential;

(e) The quality and timeliness of the bidder's performance on previous contracts for the City;

(f) Litigation by the bidder on previous contracts with the City;

(g) The character, integrity, reputation, judgment, experience and efficiency of the bidder;

(h) The bidder is licensed under the Contractors' State License Law (commencing with Section 7000 of the Business and Professions Code of the State of California, as the same may be amended from time to time) to perform the work for which it submitted a bid proposal.

(§ 1, Ord. 1067, eff. February 1, 2008, as amended by § 3, Ord. 1168, eff. March 8, 2019; Ord. 1210, eff. 11/14/2025)

§ 3-16.090. Public projects—No formal bids.

If no bids are received through the formal or informal procedure, the project may be performed by the employees of the City by force account or through a negotiated contract without further complying with this chapter.

(§ 1, Ord. 1067, eff. February 1, 2008)

§ 3-16.100. Public projects—Emergencies.

(a) In cases of emergency when repairs or replacements are necessary, the City Council, pursuant to a four-fifths vote, may replace or repair any public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services and supplies for those purposes without giving notice for bids to let contracts.

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(b) Before the City Council takes any action pursuant to subsection (a) of this section, it shall make a finding, based on substantial evidence set forth in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency.

(c) If the City Council orders any action specified in subsection (a) of this section, it shall review the emergency action at its next regularly scheduled meeting and at every regularly scheduled meeting thereafter until the action is terminated to determine, by a four-fifths vote, that there is a need to continue the action. When the City Council reviews the emergency action, it shall terminate the action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed by giving notice for bids to let contracts.

(d) Notwithstanding the authority of the City Council to order any action specified in subsection (a) of this section, the City Manager is authorized, in case of an emergency, to order repairs or replacements of a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes. The City Manager shall report to the City Council at its next regularly scheduled meeting the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency. The City Council shall initially review the emergency action not later than seven days after the action, or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action, and at least every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action, unless the City Manager has terminated that action prior to the City Council reviewing the emergency action and making a determination that there is no longer a need to continue the action.

(e) The work authorized under this section may be done by day labor under the direction of the Director of Public Works, by contractor, or by a combination of the two.

(§ 1, Ord. 1067, eff. February 1, 2008)

§ 3-16.110. Subsequent modification of Public Contract Code.

Should any sections of the California Public Contract Code referred to in this chapter be amended, modified or replaced by the State Legislature, the sections amended, modified or replaced shall govern the provisions of this chapter.

(§ 1, Ord. 1067, eff. February 1, 2008)

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Chapter 17
(Reserved)

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Chapter 18
Regional Transportation Impact Fee (RTIF)

§ 3-18.00.

Editor's Note: Indefinite Suspension of Regional Transportation Impact Fee. The collection of fees charged pursuant to Title 3 Chapter 18 of the Los Banos Municipal Code (Regional Transportation Impact Fee (RTIF)) for the following land use categories is suspended indefinitely from the effective date of Ordinance 1121:

Residential, single-family

Residential, multifamily

Retail commercial, general

Retail commercial, high turnover

Retail commercial, low turnover

Retail commercial, over 50,000 sq. ft.

Office commercial

Industrial/Ag processing

Relationship to Prior Ordinances. Ordinance 1121 does not repeal Ordinance 1031 as amended by Ordinance 1073 and Ordinance 1086, amend the rates set forth by said prior ordinances, alter any finding by said prior ordinances, or otherwise affect the operation of said prior ordinances except as specifically set forth herein.

Effect. No provision of Ordinance 1121 shall entitle any person who has already paid regional transportation impact fees to receive a refund, credit or reimbursement of such payment.

§ 3-18.01. Intent.

(a) The City Council of the City of Los Banos finds that future development within the County of Merced to the year 2030 will result in traffic volumes in excess of capacity on the regional system of arterials, highways, and freeways as designated in the ordinance codified in this chapter.

(b) The City Council of the City of Los Banos finds that failure to expand the capacity of the existing circulation system will result in new development causing unacceptable levels of congestion on the arterials, highways, and freeways of the regional system.

(c) The City Council also finds and declares that, in the absence of this chapter imposing a fair-share traffic fee upon new development, existing and future sources of revenue are inadequate to fund substantial portions of the regional transportation system improvements needed to avoid unacceptable levels of congestion and related adverse impacts caused by new development.

(§ 1, Ord. 1031, eff. June 18, 2005, as amended by § 1, Ord. 1073, eff. October 30, 2008; Ord. 1086, § 1, eff. 5-15-2009)

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§ 3-18.02. Purpose.

(a) The City Council of the City of Los Banos finds and determines that adoption of this regional transportation impact fee ordinance will raise additional revenues needed to construct improvements to accommodate traffic that will be generated by new development within the County and City of Los Banos.

(b) The City Council also finds and declares that the Regional Transportation Impact Fee Study (MCAG, January 18, 2008) has determined the extent to which the new development of land will generate traffic volumes impacting the roadway system and that this chapter establishes a fair and equitable method for distributing unfunded costs of transportation improvements necessary to accommodate traffic volumes generated by such development.

(§ 2, Ord. 1031, eff. June 18, 2005, as amended by § 1, Ord. 1073, eff. October 30, 2008; Ord. 1086, § 1, eff. 5-15-2009)

§ 3-18.03. Specific findings.

The need for regional transportation improvements and for the regional transportation impact fee established by the ordinance codified in this chapter are based on the finding of the Regional Transportation Impact Fee Study prepared by the Merced County Association of Governments whose Governing Board is composed of City Council members and County Supervisors from the County's six cities and the County Board of Supervisors. The study has established that growth to the year 2030 will affect the entire regional transportation system and therefore that the area of impact for future development is appropriately the entire County of Merced. The study made the following additional findings:

(a) Population and employment within the County of Merced is anticipated to increase by 98% and 82%, respectively by the year 2030 and will result in Levels of Service E and F (as defined in the Highway Capacity Manual, 6th edition) on existing arterials, highways, and freeways.

(b) The Regional Transportation Plan (MCAG, 2007) modeled and evaluated the effect of projected growth to the year 2030 on all major arterials, highways, and freeways in Merced County and found that without expansion, the transportation system would suffer severe congestion. Further, the plan showed that the recommended transportation improvements would accommodate the traffic anticipated in the year 2030 at the desired Level of Service D.

(c) Existing and future sources of public revenues are insufficient to fund all the needed transportation improvements.

(d) The revenues generated by this regional transportation impact fee will provide additional funds necessary to construct the transportation improvements and will help provide the additional capacity needed in the year 2030 to accommodate the traffic generated by new development in the Cities and County of Merced.

(e) The regional transportation impact fee is a fair and equitable method of distributing the cost of transportation improvements among the development that will generate the increased traffic.

(§ 3, Ord. 1031, eff. June 18, 2005, as amended by § 1, Ord. 1073, eff. October 30, 2008; Ord. 1086, § 1, eff. 5-15-2009)

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§ 3-18.04. Definitions.

"Merced County" means the unincorporated areas of the County of Merced and the incorporated areas of the six cities within Merced County.

"Regional system" means the following street, road, and highway segments:

(1) State Highways: the portions of Interstate 5 and State Routes 33, 59, 99, 140, 152, 165 that lie within Merced County;

(2) Bradbury Rd. from Hwy. 165 to Hwy. 99;

(3) Bloss Ave. from Hwy. 165 to Hwy. 99;

(4) Westside Blvd. from Hwy. 165 to Hwy. 99;

(5) Lincoln Blvd. from Hwy. 140 to Peach Ave. in Livingston;

(6) Main St. in Livingston from Peach Ave. to Hwy. 99;

(7) Livingston-Cressey Rd. from Hwy. 99 to Santa Fe Ave.;

(8) Olive Ave. from Livingston-Cressey Rd. in Livingston to Santa Fe Ave. in Winton;

(9) Santa Fe Ave. from the Stanislaus County line to Hwy. 59/Olive Ave. in Merced;

(10) Santa Fe Ave. from Plainsburg Rd. in Planada to the Madera County line;

(11) Applegate Rd. from Hwy. 140 to Hwy. 99 in Atwater;

(12) Winton Way from Hwy. 99 in Atwater to Santa Fe Ave. in Winton;

(13) Buhach Rd. from Hwy. 140 to Santa Fe Ave.;

(14) Bellevue Rd. from Hwy. 99 to Lake Rd. or the Campus Parkway, including gaps;

(15) Olive Ave. in Merced from Hwy. 59 to Campus Parkway;

(16) G St. in Merced from Hwy. 99 to Bellevue Rd.;

(17) Mission Ave. from Hwy. 59 to Campus Parkway;

(18) Plainsburg Rd. from Hwy. 99 to Hwy. 140;

(19) Sandy Mush Rd. from Hwy. 59 to Hwy. 99;

(20) Henry Miller Avenue—east from Interstate 5 in Santa Nella, across State Route 165 to Turner Island Road;

(21) Los Banos to Gustine Route—along Volta Road, Ingomar Grade, Cottonwood Road and Hunt Road to Gustine;

(22) Sandy Mush Road/Turner Island Road—west from State Route 99, across State Route 59 to Turner Island Road and south to State Route 152;

(23) Washington Road—from Indiana Avenue to Highway 59;

(24) Hutchins Road—from Carlucci Road to Indiana Avenue;

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(25) Indiana Avenue—from Highway 152 to Washington Road;

(26) Walnut Avenue—in the County, from Livingston to Santa Fe Drive;

(27) Le Grand Road—in the County, from Hwy 99 to Santa Fe Avenue;

(28) Minturn Road—in the County, from Le Grand Road to the Madera County line;

(29) Oakdale Road—in the County, from Highway 59 to the Stanislaus County line;

(30) La Grange Road—in the County, from Highway 59's termination in Snelling to the Stanislaus County line;

(31) Merced Falls Road—in the County, from Highway 59's termination in Snelling to the Mariposa County line;

(32) The future Campus Parkway—from Highway 99 to end of route at Yosemite Avenue or UC Merced County;

(33) Gurr Road—from State Route 140 near the McSwain area to Sandy Mush Road.

"Regional transportation plan" means the document adopted by the Merced County Association of Governments on May 17, 2007.

"Average weekday peak-hour trips" mean the average number of peak-hour vehicle trips to or from a designated land use Monday through Friday.

"Peak-hour" means the one-hour long period during which the maximum amount of traffic occurs. Often the peak-hour is a rush period when commuters travel to and from work.

"Trip generation rate" means the number of average weekday peak-hour trips generated by a particular land use. The land use categories correspond to those used in the regional travel model maintained by MCAG. The trip generation rate for each land-use category is the rate published by the Institute of Transportation Engineers, 6th Edition. The land use categories and peak-hour trip generation rates are as follows:

Residential, single-family (ITE Code 210)	1.00 trips per dwelling unit
Residential, multi-family (ITE Code 220)	0.61 trips per dwelling unit
Retail commercial, general (ITE Codes 800-912 except those listed below)	1.86 trips per 1,000 sq. ft. floor area
Retail commercial, high turnover (ITE Codes 831-837, 844-847, 851-853, 911-912)	10.86 trips per 1,000 sq. ft. floor area
Retail commercial, low turnover (ITE Codes 814, 823, 848, 860, 862, 890)	1.25 trips per 1,000 sq. ft. floor area
Retail commercial, over 50,000 sq. ft. gross floor area (ITE Code 820, and any 800-999 with 50,000+ sq. ft.)	3.58 trips per 1,000 sq. ft. floor area
Office commercial (ITE Codes 710-770)	1.79 trips per 1,000 sq. ft. floor area
Industrial (ITE Code 110-170)	0.75 trips per 1,000 sq. ft. floor area

"Development" means any discretionary or ministerial action by the City resulting in the

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issuance of grading, building, plumbing, mechanical, or electrical permits, conditional use permits or certificates of occupancy issued by the City to construct, to change the use of, a building or property.
Where development applies to a change in use of, or enlargement of an existing building, the average weekday peak-hour trips shall be only the additional trips in excess of those associated with the existing use.

"Merced County Association of Governments" means the joint powers agency delegated to manage and administer the regional transportation impact fee and whose members are the incorporated Cities and the County of Merced.

"Merced County Association of Governments Regional Transportation Impact Fee Trust Fund" or "trust fund" means the account to which regional transportation impact fees collected under this chapter are deposited with the Merced County Treasurer by the Cities and County for any lawful use as provided in this chapter.

"Regional Transportation Impact Fee Policy Board" (RTIF Policy Board) means those members of the MCAG Governing Board whose appointing jurisdiction has adopted the ordinance codified in this chapter.
(§ 4, Ord. 1031, eff. June 18, 2005, as amended by § 1, Ord. 1073, eff. October 30, 2008; Ord. No. 1086, § 1, eff. 5-15-2009)

§ 3-18.05. Applicability.

This chapter shall apply only to new development and to any reconstruction of existing buildings that will generate additional vehicular trips. The provisions of this chapter shall take effect May 15, 2009.
(§ 5, Ord. 1031, eff. June 18, 2005, as amended by § 1, Ord. 1073, eff. October 30, 2008; Ord. No. 1086, § 1, eff. 5-15-2009)

§ 3-18.06. Establishment of regional transportation impact fee.

(a) The regional transportation impact fee is not intended to be the sole source of funding for construction of the regional system. Furthermore, the total amount of fees collected pursuant to this chapter shall not exceed the cost of construction of the regional system.

(b) The Merced County Association of Governments has calculated the regional transportation impact fee according to the following procedure:

(1) MCAG determined the total costs of the regional transportation improvements.

(2) MCAG established a capital improvements program. This will include each regional transportation improvement project with its total project cost, and sources of funds to pay for the project, specifically showing the amount for each project to be funded through the regional transportation impact fee.

(3) MCAG determined the total amount to be funded by the fee by summing the fee shares of each project in the capital improvements program.

(4) MCAG determined the total number of peak-hour trips associated with new development, for each land use category listed in Section 3-18.04(f) of this chapter, by using the MCAG traffic model and subtracting the number of peak-hour trips generated in Merced County by each category in the year 2005 from the number of

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such trips generated by the same category in the year 2030.

(5) MCAG determined a per-trip cost by dividing the total amount to be funded by the fee by the total number of trips associated with new development.

(6) MCAG determined a cost per unit of development for the land use categories listed in Section 3-18.04(f) of this chapter. This cost will be calculated by multiplying the per-trip cost by the average peak-hour trips per unit of development. Units of development will be dwelling units for residential land uses, and 1,000 square feet of floor area for commercial, industrial, and other land uses.

(7) The fee for each new development is calculated by multiplying the cost per unit of development by the number of units being developed.

(c) As shown in the regional transportation impact fee study, MCAG has determined that the cost per peak-hour trip is Three Thousand One Hundred Fifteen and No/100ths ($3,115.00) Dollars.

(d) The regional transportation impact fee study has calculated the following transportation impact fee schedule for these land use categories:

Residential, single-family	$3,115 per dwelling unit
Residential, multi-family	$1,892 per dwelling unit
Retail commercial, general	$4,146 per 1,000 sq. ft. floor area
Retail commercial, high turnover	$12,082 per 1,000 sq. ft. floor area
Retail commercial, low turnover	$2,780 per 1,000 sq. ft. floor area
Retail commercial, over 50,000 sq. ft.	$7,161 per 1,000 sq. ft. floor area
Office commercial	$3,337 per 1,000 sq. ft. floor area
Industrial/Ag processing	$1,409 per 1,000 sq. ft. floor area

(e) Should the applicant believe the land use category in subsection (d) of this section is not appropriate for their application, the applicant may propose a more appropriate development category, subject to the approval of the City Manager or their designee, and alternative trip generation rate from the ITE Trip Generation Code noted in this chapter for use in calculation of the appropriate trip generation rate, or;

(f) Should the applicant believe the land use category in subsection (d) of this section is not appropriate for their application, the applicant may have prepared, at their own expense, a trip generation study conducted by a licensed traffic engineer that forecasts the anticipated peak-hour trips for the proposed development. The study procedure and results shall require the approval of the City Manager or their designee.

(§ 6, Ord. 1031, eff. June 18, 2005, as amended by § 1, Ord. 1073, eff. October 30, 2008; Ord. No. 1086, § 1, eff. 5-15-2009)

§ 3-18.07. Findings.

The City Council finds that the RTIFS:

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(a) Identifies the purpose of the RTIF;

(b) Identifies the use to which the fee will be put, including specific facilities;

(c) Demonstrates a reasonable relationship between the fee's use and the type of development project on which the fee is imposed;

(d) Demonstrates a reasonable relationship between the need for the public facility and type of development project on which the fee is imposed; and

(e) Shows a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

(§ 7, Ord. 1031, eff. June 18, 2005, as amended by § 1, Ord. 1073, eff. October 30, 2008; Ord. No. 1086, § 1, eff. 5-15-2009)

§ 3-18.08. Exemptions.

The following developments are exempted from payment of the fee required by this chapter:

The reconstruction of any building that has been destroyed by fire, flood, or natural disaster so as the reconstructed building both continues the prior use and generates the same or fewer trips as the original building.

(§ 8, Ord. 1031, eff. June 18, 2005, as amended by § 1, Ord. 1073, eff. October 30, 2008; Ord. No. 1086, § 1, eff. 5-15-2009)

§ 3-18.09. Credits.

(a) Where an applicant, otherwise subject to this chapter dedicates and/or improves those regional roads, highways, or freeways identified in Exhibit A of this chapter beyond the requirements established in subsection (b) of this section, the applicant shall receive a credit against his or her regional transportation impact fee. That credit shall be an amount equal to the land value of dedicated land and/or the actual engineering and construction costs incurred at the time of the development to the extent that the MCAG has included those costs in its estimated cost of constructing the regional system.

(b) The fee required by this chapter shall be supplementary to any fees and conditions imposed upon projects under the provisions of the Subdivision Map Act, California Environmental Quality Act, and other State and local laws, ordinances, or administrative policy which may authorize the imposition of conditions or contributions on development and the applicant shall not be entitled to any credits for such contributions or conditions.

(c) The in-lieu-of-fee credit for any land dedications shall be based on the fair market value of the land dedicated as determined by an appraisal process with consultation with MCAG.

(d) Should the in-lieu-of-fee credit exceed the applicant's total fee, the difference may be credited against any of the applicant's future development which would be subject to the fee, or a reimbursement agreement may be entered into.

(e) Should a developer be required to provide improvements which benefit adjacent undeveloped land, the developer may be reimbursed for a proportionate share of the cost of such improvements under special agreements with MCAG and contingent upon future fees contributed from other benefited developments. In all cases, however, reimbursements

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under such special agreements must be timed to coincide with construction of the transportation project as scheduled in the Capital Improvement Plan adopted by MCAG.

(§ 9, Ord. 1031, eff. June 18, 2005, as amended by § 1, Ord. 1073, eff. October 30, 2008; Ord. No. 1086, § 1, eff. 5-15-2009)

§ 3-18.10. Collection of fee.

The RTIF shall be collected at the time when the City grants an occupancy permit for residential structures or at the time of the issuance of a building permit for nonresidential structures.

For a change of use or other development subject to this chapter, that would not require a building permit, the fee shall be collected at the time of the issuance of a use, development, or business license permit, whichever occurs first.

(§ 10, Ord. 1031, eff. June 18, 2005, as amended by § 1, Ord. 1073, eff. October 30, 2008; Ord. No. 1086, § 1, eff. 5-15-2009)

§ 3-18.11. Regional transportation impact fee fund.

(a) All monies collected from payments of the regional transportation impact fee shall be deposited with the County Treasurer of Merced County in the trust fund.

(b) All monies in the trust fund shall be used solely for the delivery of the regional transportation projects identified in this chapter. Project delivery includes preparation of environmental and engineering documents, right-of-way acquisition, construction, project support, and fund administration. All interest or other earnings of the trust fund shall be credited to the trust fund.

(§ 11, Ord. 1031, eff. June 18, 2005, as amended by § 1, Ord. 1073, eff. October 30, 2008; Ord. No. 1086, § 1, eff. 5-15-2009)

§ 3-18.12. Appeal process.

An applicant who disputes the amount of impact fee may file a written notice of appeal with the City Manager or their designee. Within 15 days of the appeal, the City Manager or their designee shall provide written notification of his/her decision. If unsatisfied with the decision of the City Manager or their designee, the applicant may resubmit a written appeal to the City Council. Thereafter, the City Council shall render its decision by a majority vote of those members present within 60 days of the filing of the appeal.

(§ 12, Ord. 1031, eff. June 18, 2005, as amended by § 1, Ord. 1073, eff. October 30, 2008; Ord. No. 1086, § 1, eff. 5-15-2009)

§ 3-18.13. Annual fee and program review.

(a) The City Council shall annually review, pursuant to Government Code Section66006, and if necessary amend the Regional Transportation Impact Fee Program to ensure that it continues to be a fair and equitable method to distribute the costs of improvements necessary to accommodate traffic volumes generated by future growth. This review will coincide with the adoption of the five year Capital Improvement Program pursuant to Government Code Section 66006(d). In adjusting the fee program, the following shall be considered:

(1) Adding new transportation projects that meet program criteria;

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(2) Deleting projects that have been completed;

(3) Adjust the average per trip cost to reflect changes in construction costs;

(4) Adjust the average per-trip cost to reflect changes in land values as indicated in an annual survey of local government costs for land subject to right-of-way acquisition;

(5) Revise the average per-trip cost to reflect changes in the list of regional projects as that list may be amended from time to time by the RTIF Policy Board.

(b) Unless otherwise as amended by the City Council, the fees listed in Section 3-18.06(d) of this chapter shall be adjusted on July 1 of each year based upon the Engineering Construction Cost Index as published by the Engineering News Record.

(c) Changes in the regional transportation impact fee resulting from the annual review will have no effect on fees already paid into the trust fund.

(d) At the time of the annual review, the City Council shall make findings for any fees remaining unexpended and uncommitted in the trust fund for five or more years after deposit demonstrating a reasonable relationship between the fee and the purpose for which it was charged. Unless a need for such fees can be demonstrated, the unexpended or uncommitted portion including interest that has accrued, shall be refunded to the current record owner of the development project on a prorated basis.

(§ 13, Ord. 1031, eff. June 18, 2005, as amended by § 1, Ord. 1073, eff. October 30, 2008; Ord. No. 1086, § 1, eff. 5-15-2009)

§ 3-18.14. Severability.

If any one or more of the terms, provisions, or sections of this chapter shall to any extent be adjudged invalid, unenforceable, or void, by a court of competent jurisdiction, each and all of the remaining terms, provisions, and sections of this chapter shall not be affected thereby and shall be valid and enforceable.

(§ 14, Ord. 1031, eff. June 18, 2005, as amended by § 1, Ord. 1073, eff. October 30, 2008; Ord. No. 1086, § 1, eff. 5-15-2009)

§ 3-18.15. Effective date.

The ordinance codified in this chapter shall go into effect and be in full force and operation 30 days after its final passage and adoption. The City Clerk shall certify to the adoption of the ordinance codified in this chapter and cause the same to be posted and published once within 15 days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this chapter and a certified copy of the text of this chapter shall be posted in the Office of the City Clerk five days prior to the date of adoption of the ordinance codified in this chapter; and, within 15 days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this chapter, together with the vote for and against the same, in the Office of the City Clerk.

(§ 15, Ord. 1031, eff. June 18, 2005, as amended by § 1, Ord. 1073, eff. October 30, 2008; Ord. No. 1086, § 1, eff. 5-15-2009)

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Chapter 19
State Video Service Franchises

§ 3-19.01. General provisions.

(a) Purpose. This section is applicable to video service providers who have been awarded a state video franchise under the California Public Utilities Code Section 5800 et seq. (the Digital Infrastructure and Video Competition Act of 2006 ["DIVCA"]), to provide cable or video services in any location(s) within the incorporated boundaries of the City. It is the purpose of this section to implement within the incorporated boundaries of the City the provisions of DIVCA and the rules of the California Public Utilities Commission promulgated there under that are applicable to a "local franchising entity" or a "local entity" as defined in DIVCA.

(b) Rights reserved.

(1) The rights reserved to the City under this Section 3-19.01 are in addition to all other rights of the City, whether reserved by this Section 3-19.01 or authorized by law, and no action, proceeding or exercise of a right shall affect any other rights which may be held by the City.

(2) Except as otherwise provided by DIVCA, a state franchise shall not include, or be a substitute for:

(i) Compliance with applicable requirements for the privilege of transacting and carrying on a business within the City, including, but not limited to, compliance with the conditions that the City may establish before facilities may be constructed for, or providing, non-video services;

(ii) Any permit or authorization required in connection with operations on or in public rights-of-way or public property, including, but not limited to, encroachment permits, street work permits, pole attachment permits and street cut permits; and

(iii) Any permit, agreement or authorization for occupying any other property of the City or any private person to which access is not specifically granted by the state franchise.

(3) No permit issued by the City to a state franchise holder is itself a franchise, nor shall any permit create a vested right that would prohibit the City from revoking or amending the permit.

(c) Compliance with City ordinances. Nothing contained in this Section 3-19.01 shall be construed so as to exempt a state franchise holder from compliance with all ordinances, rules or regulations of the City now in effect or which may be hereafter adopted which are consistent with this Section 3-19.01 or California Public Utilities Code section 5800 et seq., or any obligations under any franchise issued by the City insofar as those obligations may be enforced under California Public Utilities Code Section 5800 et seq.

(d) Compliance with DIVCA. When a video service provider holding a state franchise provides notice to the City pursuant to 5840(m) of DIVCA that it is commencing to provide video service to the City, all holders of local franchises shall seek a state franchise pursuant to

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5930(c) and upon issuance of the state franchise by the California Public Utilities Commission for the entire franchise area served by the holder of the local franchise and the provision of notice to the City by the holder of the local franchise that it will begin providing video service under the state franchise, the local franchise shall terminate.

(Ord. No. 1087, § 1, eff. 6-5-2009)

§ 3-19.02. Definitions.

(a) Definitions generally—Interpretation of language. For purposes of Chapter 19, the following terms, phrases, words, and their derivations shall have the meaning given in this Section 3-19.02. Words not defined in this Section 3-19.02 shall have the same meaning as established in: (1) DIVCA; and if not defined therein, (2) California Public Utilities Commission rules implementing DIVCA; and if not defined therein, (3) Title VI of Title 47 of the Communications Act of 1934, as amended, 47 USC § 521 et seq.; and if not defined therein, (4) their common and ordinary meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and "including" and "include" are not limiting. The words "shall" and "will" are always mandatory, but the use of those terms grants no private rights to any person with respect to the City. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority. If specific provisions of law referred to herein are renumbered, then the reference shall be read to refer to the renumbered provision. References to laws, ordinances or regulations shall be interpreted broadly to cover government actions, however nominated, and include laws, ordinances and regulations now in force or hereinafter enacted or amended.

"Gross revenues" means all revenues actually received by the holder of a state franchise or its affiliates that are derived from the operation of the holder's network to provide cable service or video service within the incorporated areas of the City.

"PEG access," or "PEG" means the availability of a cable or state franchise holder's system for public, educational, or governmental use by various agencies, institutions, organizations, groups, and individuals, including organizations, groups, or individual members of the general public, educational institutions, and the City and its designated access providers, to acquire, create, and distribute programming not under a state franchise holder's editorial control.

"State franchise holder" means a cable operator or video service provider that has been issued a franchise by the California Public Utilities Commission to provide cable service or video service, as those terms are defined in California Public Utilities Code section 5830, within any portion of the incorporated limits of the City.

(Ord. No. 1087, § 1, eff. 6-5-2009)

§ 3-19.03. Franchise fees.

(a) State franchise fees. Any state franchise holder operating within the incorporated areas of the City shall pay to the City a state franchise fee equal to 5% of gross revenues that may be subject to a franchise fee under California Public Utilities Code section 5860.

(b) Payment of franchise fees. The state franchise fee required pursuant to this Section 3-19.03 shall be paid quarterly, in a manner consistent with California Public Utilities Code Section 5860. The state franchise holder shall deliver to the City, by check or other means, which

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shall be agreed to by the City, a separate payment for the state franchise fee not later than 45 days after the end of each calendar quarter. Each payment made shall be accompanied by a report, detailing how the payment was calculated, and shall include such additional information on the appropriate form as designated by the City.

(c) Examination of business records. The City may examine the business records of the holder of a state franchise in a manner consistent with California Public Utilities Code Section 5860(i).

(d) Late payments. In the event a state franchise holder fails to make payments required by this Section 3-19.03 on or before the due dates specified herein, the City shall impose a late charge at the rate per year equal to the highest prime lending rate during the period of delinquency, plus 1%.

(Ord. No. 1087, § 1, eff. 6-5-2009)

§ 3-19.04. Customer service.

(a) Customer service standards. A state franchise holder shall comply with Sections53055, 53055.1, 53055.2 and 53088.2 of the California Government Code; the FCC customer service and notice standards set forth in Sections76.309, 76.1602, 76.1603, and 76.1619 of Title 47 of the Code of Federal Regulations; Section 637.5 of the California Penal Code; the privacy standards of Section 551 of Title 47 of the United States Code; and, to the extent consistent with DIVCA, all other applicable state and federal customer service and consumer protection standards pertaining to the provision of video service, include any such standards hereafter adopted. In case of a conflict, the stricter standard shall apply. All customer service and consumer protection standards under this paragraph shall be interpreted and applied to accommodate newer or different technologies while meeting or exceeding the goals of the standards.

(b) Penalties for violations of standards. The City shall enforce the compliance of state franchise holders with respect to the state and federal customer service and consumer protection standards set forth in this Section 3-19.04. The City will provide a state franchise holder with a written notice of any alleged material breaches, as defined in California Public Utilities Code Section 5900, of applicable customer service or consumer protection standards, and will allow the state franchise holder 30 days from the receipt of the notice to remedy the specified material breach. Material breaches not remedied by a state franchise holder within the 30 day time period, irrespective of the number of customers affected, will be subject to the following penalties to be imposed by the City:

(1) For the first occurrence of a material breach, a fine of Five Hundred and No/100ths ($500.00) Dollars may be imposed for each day the violation remains in effect, not to exceed One Thousand Five Hundred and No/100ths ($1,500.00) Dollars for each violation.

(2) For a second material breach of the same nature within 12 months, a fine of One Thousand and No/100ths ($1,000.00) Dollars may be imposed for each day the violation remains in effect, not to exceed Three Thousand and No/100ths ($3,000.00) Dollars for each violation.

(3) For a third material breach of the same nature within 12 months, a fine of Two Thousand Five Hundred and No/100ths ($2,500.00) Dollars may be imposed for each

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day the violation remains in effect, not to exceed Seven Thousand Five Hundred and No/100ths ($7,500.00) Dollars for each violation.

(c) Any penalties imposed by the City shall be imposed in a manner consistent with California Public Utilities Code section 5900.

(Ord. No. 1087, § 1, eff. 6-5-2009)

§ 3-19.05. Permits and construction.

(a) Except as expressly provided in this Chapter 19, all provisions of Title 7, Chapter 2 (Public Works), of the Los Banos City Code, and all City administrative rules and regulations developed to any of these provisions, as now existing or as hereafter amended, shall apply to all work performed by or on behalf of a state franchise holder on any City public rights-of-way, public property, or City easement.

(b) Permits. Prior to commencing any work for which a permit is required by Title 7, a state franchise holder shall apply for and obtain a permit in accordance with the provisions of Title 7 and shall comply with all other applicable laws and regulations, including but not limited to all applicable requirements of Division 13 of the California Public Resources Code, section 21000, et seq. (the California Environmental Quality Act).

(c) The Director of Public Works shall either approve or deny a state franchise holder's application for any permit required under Title 7, Chapter 2 within 60 days of receiving a completed permit application from the state franchise holder.

(d) If the Director of Public Works denies a state franchise holder's application for a permit, the Director of Public Works shall, at the time of notifying the applicant of denial, furnish to the applicant a detailed explanation of the reason or reasons for the denial.

(e) A state franchise holder that has been denied a permit by final decision of the Director of Public Works may appeal the denial to the City Council. Upon receiving a notice of appeal, the City Council shall take one of the following actions:

(1) Affirm the action of the Director of Public Works without any further hearing; or

(2) Refer the matter back to the Director of Public Works for further review with or without instructions; or

(3) Set the matter for a de novo hearing before the City Council.

(f) In rendering its decision on the appeal, the City Council shall not hear or consider any argument or evidence of any kind other than the record of the matter received from the Director of Public Works unless the City Council is itself conducting a public hearing on the matter.

(g) The issuance of a permit is not a franchise, and does not grant any vested rights in any location in the public rights-of-way, or in any particular manner of placement within the rights-of-way. Without limitation, a permit to place cabinets and similar appurtenances aboveground may be revoked and the permittee required to place facilities underground, in accordance with applicable law.

(Ord. No. 1087, § 1, eff. 6-5-2009)

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§ 3-19.06. Emergency alert system.

Each state franchise holder shall comply with the emergency alert system requirements of the Federal Communications Commission in order that emergency messages may be distributed over the state franchise holder's network. To the extent consistent with Public Utilities Code Section 5880, each state franchise holder shall install and maintain an audio override on all channels for transmission of emergency messages and alerts, and shall provide for character generated "crawl" information to be superimposed on all channels for the hearing impaired, as such capability was required under local franchises in effect in the City on January 1 to December 30, 2006.
(Ord. No. 1087, § 1, eff. 6-5-2009)

§ 3-19.07. Public, educational, and government access channel capacity, support, interconnection, and signal carriage.

(a) PEG channel capacity.

(1) A state franchise holder shall designate a sufficient amount of capacity on its network to allow the provision of at least three PEG channels to satisfy the requirement of section 5870 of the California Public Utilities Code, within the time limits specified therein.

(2) A state franchise holder shall provide an additional PEG channel when the standards set forth in section 5870(d) of the California Public Utilities Code are satisfied by the City or any entity designated by the City to manage one or more of the PEG channels.

(b) PEG support.

(1) Amount of PEG support fee. Any state franchise holder shall pay to the City—or if directed by the City, to the City's designated PEG provider—a PEG fee equal to 1% of gross revenues.

(2) The PEG support fee shall be used for PEG purposes in a manner that is consistent with state and federal law.

(3) A state franchise holder shall remit the PEG support fee quarterly, within 45 days after the end of each calendar quarter. Each payment made shall be accompanied by a summary, detailing how the PEG support fee was calculated.

(4) In the event that a state franchise holder fails to pay the PEG support fee when due, or underpays the proper amount due, the state franchise holder shall pay interest at the rate per year equal to the highest prime lending rate during the period of delinquency, plus 1%, or the maximum rate specified by state law.

(c) PEG carriage and interconnection.

(1) As set forth in sections 5870(b) and 5870(g)(3) of the California Public Utilities Code, state franchise holders shall ensure that all PEG channels are receivable by all subscribers, whether they receive digital or analog service, or a combination thereof, without the need for any equipment other than that needed to receive the lowest cost tier of service. PEG access capacity provided by a state franchise holder shall be of similar quality and functionality to that offered by commercial channels (unless the PEG signal is provided to the state franchise holder at a lower quality or with less

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functionality), shall be capable of carrying a National Television System Committee (NTSC) television signal, and shall be carried on the state franchise holder's lowest cost tier of service. To the extent feasible, the PEG channels shall not be separated numerically from other channels carried on the lowest cost tier of service and the channel numbers for the PEG channels shall be the same channel numbers used by any incumbent cable operator, unless prohibited by federal law. After the initial designation of the PEG channel numbers, the channel numbers shall not be changed without the agreement of the City unless federal law requires the change.

(2) Where technically feasible, each state franchise holder and each incumbent cable operator shall negotiate in good faith to interconnect their networks for the purpose of providing PEG programming. Interconnection may be accomplished by any means authorized under Public Utilities Code section 5870(h). Each state franchise holder and incumbent cable operator shall provide interconnection of PEG channels on reasonable terms and conditions and may not withhold the interconnection. If a state franchise holder and an incumbent cable operator cannot reach a mutually acceptable interconnection agreement for PEG carriage, the City may require the incumbent cable operator to allow each state franchise holder to interconnect its network with the incumbent cable operator's network at a technically feasible point on the state franchise holder's network as identified by the state franchise holder. If no technically feasible point of interconnection is available, each state franchise holder shall make interconnection available to each PEG channel originator programming a channel in the City and shall provide the facilities necessary for the interconnection. The cost of any interconnection shall be borne by each state franchise holder requesting the interconnection unless otherwise agreed to by the parties.

(Ord. No. 1087, § 1, eff. 6-5-2009)

§ 3-19.08. Notices.

(a) Each state franchise holder or applicant for a state franchise shall file with the City a copy of all applications or notices that the state franchise holder or applicant is required to file with the California Public Utilities Commission.

(b) Unless otherwise specified in this section, all notices or other documentation that a state franchise holder is required to provide to the City under this section or the California Public Utilities Code shall be provided to both the City Manager and the City staff person in charge of cable and telecommunications, or their successors or designees.

(Ord. No. 1087, § 1, eff. 6-5-2009)

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LOS BANOS CODE

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Title 4

PUBLIC SAFETY

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Chapter 1
Bicycles

§ 4-1.01. Licenses: Required.

It is unlawful for any person to operate or use a bicycle propelled wholly or in part by muscular power upon any of the streets, alleys, or public highways in the City without first obtaining from the Police Department a license therefor.
(§ 1, Ord. 250)

§ 4-1.02. Licenses: Issuance.

The Police Department shall issue, upon a written application, bicycle licenses which, when issued, shall entitle the licensee or his or her nominee to operate such bicycle for which the license has been issued upon all the streets, alleys, and public highways, exclusive of sidewalks, in the City as long as the licensee is the owner of such bicycle.
(§ 2, Ord. 250, as amended by § 1, Ord. 263)

§ 4-1.03. Licenses: Issuance: Records.

The Police Department shall keep a record of the date of issuance of each bicycle license, to whom issued, and the number thereof.
(§ 3, Ord. 250, as amended by § 2, Ord. 263)

§ 4-1.04. Licenses: Plates, seals, and registration cards.

The City shall provide licenses and registration cards for bicycles licensed pursuant to the provisions of this chapter. The license shall be suitable for attachment upon the frame of a bicycle, and the Police Department shall attach one such license plate to the frame of each bicycle and issue a corresponding registration card to the licensee upon the payment of the license fee set forth in Section 4-1.06 of this chapter. Such license shall remain attached during the existence of such license.
(§ 3, Ord. 250, as amended by § 2, Ord. 263, § 1, Ord. 516, eff. January 17, 1975, and § 1, Ord. 762, eff. June 19, 1987)

§ 4-1.05. Licenses: Plates, seals, registration cards, and numbers: Removal, destruction, mutilation, and alteration.

It is unlawful for any person to wilfully or maliciously remove, destroy, mutilate, or alter the number of any bicycle frame licensed pursuant to the provisions of this chapter. It shall also be unlawful for any person to remove, destroy, mutilate, or alter any license plate, seal, or registration card during the time such license plate, seal, or registration card is operative; provided, however, the provisions of this section shall not prohibit the Police Department from stamping numbers on the frames of bicycles on which no serial number can be found or on which the number is illegible or insufficient for identification purposes.
(§ 6, Ord. 250)

§ 4-1.06. Licenses: Fees.

The license fee for each bicycle shall be One and No/100ths ($1.00) Dollar, which shall be paid at the time the bicycle license is applied for. Such license may be transferred as set forth in

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Section 4-1.07 of this chapter, and a fee of One and No/100ths ($1.00) Dollar shall be paid for the registration of such transfer. All license fees collected pursuant to the provisions of this chapter shall be paid into the General Fund of the City.
(§ 7, Ord. 250, as amended by § 3, Ord. 263, § 2, Ord. 516, eff. January 17, 1975, and § 2, Ord. 762, eff. June 19, 1987)

§ 4-1.07. Transfer of ownership: Registration.

Every person who sells or transfers the ownership of any bicycle shall report such sale or transfer by returning to the Police Department the registration card issued to such person as the licensee thereof, together with the name and address of the person to whom the bicycle was sold or transferred. Such report shall be made within five days after the date of such sale or transfer. It shall be the duty of the purchaser or transferee of such bicycle to apply for a transfer of registration therefor within five days after such sale or transfer. The fee for the registration of such transfer shall be as set forth in Section 4-1.06 of this chapter.
(§ 5, Ord. 250)

§ 4-1.08. Dealers: Reports.

All persons engaged in the business of buying secondhand bicycles shall make a report to the Police Department of all purchases of secondhand bicycles made by such dealers, which report shall include the name and address of each person from whom a bicycle is purchased, the description of each bicycle purchased, the frame number thereof, and the number of the license tag found thereon, if any. All persons engaged in the business of selling new or secondhand bicycles shall make a report to the Police Department of all sales made by such dealers, which report shall include the name and address of each person to whom a bicycle is sold, the kind of bicycle sold, a description thereof, the frame number thereof, and the number of the license tag attached thereto, if any. The reports required by this section shall be made within five days after each such purchase or sale.
(§ 4, Ord. 250)

§ 4-1.09. Riding on sidewalks prohibited.

It is unlawful for any person to ride a bicycle on any public sidewalk in a business district within the City.
(§ 8, Ord. 250, as amended by § 4, Ord. 762, eff. June 19, 1987)

§ 4-1.10. Business district defined.

For the purposes of this chapter, "business district" shall be defined as any public sidewalk which borders any commercial building.
(§ 5, Ord. 762, eff. June 19, 1987)

§ 4-1.11. Violations: Penalties.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code. In addition to such penalties, any member of the Police Department may impound and retain possession of any bicycle operated in violation of any of the provisions of this chapter until the license provided for in this chapter is obtained by the owner of the bicycle.
(§ 6, Ord. 762, eff. June 19, 1987)

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Chapter 2
Civil Defense

§ 4-2.01. Purposes.

The declared purposes of this chapter are to provide for the preparation and carrying out of plans for the protection of persons and property within the City in the event of a disaster and to provide for the coordination of the civil defense and disaster functions of the City with all other public agencies and affected private persons, corporations, and organizations. Any expenditures made in connection with such civil defense and disaster activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the City.
(§ 1, Ord. 403)

§ 4-2.02. Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Civil defense" shall mean the preparation for the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize, and repair injuries and damages resulting from disasters. "Civil defense" shall not include, nor does any provision of this chapter apply to, any condition relating to a labor controversy.

"Disaster" shall mean actual or threatened enemy attack, sabotage, extraordinary fire, flood, storm, epidemic, riot, earthquake, or other similar public calamity.
(§ 2, Ord. 403)

§ 4-2.03. Civil Defense and Disaster Council: Membership.

The Los Banos Civil Defense and Disaster Council is hereby created and shall consist of the following:

(a) The Mayor, who shall be chairman;

(b) The Director of Civil Defense and Disaster, who shall be vice-chairman;

(c) The Assistant Director, appointed by the Mayor with the advice and consent of the City Council, who, under the supervision of the Director, shall develop civil defense and disaster plans and organize the civil defense and disaster program of the City and have such other duties as may be assigned by the Director;

(d) Such deputy directors and chiefs of civil defense and disaster departments, services, or divisions as are provided for by resolution pursuant to the provisions of this chapter; and

(e) Such representatives of civic, business, labor, veterans, professional, or other organizations having an official group or organization civil defense and disaster responsibility as may be appointed by the Mayor with the advice of the City Council.
(§ 3, Ord. 403)

§ 4-2.04. Civil Defense and Disaster Council: Powers and duties: Meetings.

It shall be the duty of the Los Banos Civil Defense and Disaster Council, and it is hereby

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empowered, to review and recommend for adoption by the City Council civil defense and disaster and mutual aid plans and agreements and such ordinances, resolutions, rules, and regulations as are necessary to implement such plans and agreements. The Civil Defense and Disaster Council shall meet upon call of the chairman or, in his or her absence from the City or inability to call such meeting, upon the call of the vice-chairman.
(§ 4, Ord. 403)

§ 4-2.05. Director of Civil Defense and Disaster: Powers and duties.

There is hereby created the office of Director of Civil Defense and Disaster. Such officer shall be appointed by the Mayor with the advice and consent of the City Council. The Director is hereby empowered:

(a) To request the City Council to proclaim the existence or threatened existence of a disaster or an emergency and the termination thereof, if the City Council is in session, or to issue such proclamation if the City Council is not in session, subject to confirmation by the City Council at the earliest practicable time;

(b) To request the Governor to proclaim a state of disaster or a state of extreme emergency when, in the opinion of the Director, the resources of the area or region are inadequate to cope with the disaster;

(c) To control and direct the efforts of the Civil Defense and Disaster Organization of the City for the accomplishment of the purposes of this chapter;

(d) To direct coordination and cooperation between the divisions, services, and staff of the Civil Defense and Disaster Organization of the City and to resolve questions of authority and responsibility which may arise between them; and

(e) To represent the Civil Defense and Disaster Organization of the City in all dealings with public or private agencies pertaining to civil defense and disaster.
(§ 5, Ord. 403)

§ 4-2.06. Director of Civil Defense and Disaster: Powers and duties during emergencies.

In the event of the proclamation of a disaster or emergency or the proclamation of a state of disaster or a state of extreme emergency by the Governor or the State Director of Civil Defense, the Director is hereby empowered:

(a) To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such disaster; provided, however, such rules and regulations shall be confirmed at the earliest practicable time by the City Council;

(b) To obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of the life and property of the people, and to bind the City for the fair value thereof, and, if required immediately, to commandeer the same for public use;

(c) To require the emergency services of any City officer or employee and, in the event of the proclamation of a state of disaster or a state of extreme emergency by the Governor in the region in which the City is located, to command the aid of as many citizens of the community as the Director thinks necessary in the execution of his or her duties. Such persons shall be entitled to all the privileges, benefits, and immunities as are provided by

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State law for registered civil defense and disaster service volunteers;

(d) To requisition the necessary personnel or materials of any City department or agency; and

(e) To execute all of the special powers conferred upon him or her by the provisions of this chapter or by resolution adopted pursuant to the provisions of this chapter, all powers conferred upon him or her by any statute, agreement approved by the City Council, or by any other lawful authority, and, in conformity with the provisions of Section38791 of the Government Code of the State, to exercise complete authority over the City and to exercise all police powers vested in the City by the Constitution and general laws of the State.

(§ 6, Ord. 403)

§ 4-2.07. Civil Defense and Disaster Organization.

All officers and employees of the City, together with those volunteer forces enrolled to aid them during a disaster, and all groups, organizations, and persons who may by agreement or operation of law, including persons pressed into service pursuant to the provisions of subsection (c) of Section 4-2.06 of this chapter, be charged with duties incident to the protection of life and property in the City during such disaster, shall constitute the Civil Defense and Disaster Organization of the City.

(§ 7, Ord. 403)

§ 4-2.08. Civil Defense and Disaster Organization: Divisions, services, and staff.

The functions and duties of the Civil Defense and Disaster Organization shall be distributed among such divisions, services, and special staff as the City Council shall prescribe by resolution.

The City Council shall, concurrently with the adoption of this chapter, adopt a resolution setting forth the form of organization, the establishment and designation of divisions and services, the assignment of functions, duties, and powers, and the designation of officers and employees. Insofar as possible, the form of organization, titles, and terminology shall conform to the recommendations of the civil defense and disaster agencies of the Federal government and the State.

(§ 8, Ord. 403)

§ 4-2.09. Violations: Penalties.

It shall be a misdemeanor, punishable as set forth in Chapter 2 of Title 1 of this Code, for any person during a disaster:

(a) Wilfully to obstruct, hinder, or delay any member of the Civil Defense and Disaster Organization in the enforcement of any lawful rule or regulation issued pursuant to the provisions of this chapter or in the performance of any duty imposed upon him or her by virtue of the provisions of this chapter;

(b) To do any act forbidden by any lawful rules or regulations issued pursuant to the provisions of this chapter if such act is of such a nature as to give, or be likely to give, assistance to the enemy, or to imperil the lives or property of the inhabitants of the City, or to prevent, hinder, or delay the defense or protection thereof; and

(c) To wear, carry, or display, without authority, any means of identification specified by the

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Civil Defense and Disaster Agency of the State.
(§ 9, Ord. 403)

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Chapter 3
Fire Prevention Code

Note: Prior ordinance history: Ords. 433, 558, 668, 748, 804, 843, 895, 947, 996 and 1066.

§ 4-3.01. Adoption of the California Fire Code 2025 Edition.

For the purpose of prescribing regulations governing conditions hazardous to life and property from fire, hazardous materials or explosion, that certain Code known as the 2025 California Fire Code (Part 9 of Title 24 of the California Code of Regulations), as published by the International Code Council, together with all Appendices and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Fire Prevention Code of the City of Los Banos.
(§ 1, Ord. 1066, eff. February 1, 2008, as amended by § 1, Ord. 1099, eff. August 20, 2011, § 1, Ord. 1117, eff. March 19, 2014, § 1, Ord. 1149, eff. December 16, 2016, § 1, Ord. 1180, eff. February 15, 2020, and § 1, Ord. 1200, eff. November 19, 2022; Ord. 1211, eff. 12/19/2025)

§ 4-3.02. Definitions.

(a) Whenever the word "Municipality" is used in said California Fire Code, it shall be held to mean the City.

(b) Whenever the word "Chief of the Bureau of Fire Prevention" is used in said California Fire Code it shall be held to mean the Fire Chief or Chief of Fire Services.

(c) Whenever the word "Fire Chief" is used in said California Fire Codes and related Codes, it shall be held to mean the Fire Chief or Chief of Fire Services.
(§ 1, Ord. 1066, eff. February 1, 2008)

§ 4-3.03. Bureau of Fire Prevention.

(a) Established: Supervision. The Bureau of Fire Prevention of the City is hereby established and shall be operated under the supervision of the Fire Chief or Chief of Fire Services.

(b) Inspector: Appointment. The Fire Chief may recommend to the City Manager the employment of inspectors and technical inspectors who, when such authorization is made, shall be employed and appointed by the City Manager on the recommendation of the Fire Chief.

(c) Enforcement duties. The members of the Bureau of Fire Prevention shall enforce the provisions of said California Fire Codes and related Codes.
(§ 1, Ord. 1066, eff. February 1, 2008)

§ 4-3.04. Modifications.

The Fire Chief shall have the power to modify any of the provisions of said Uniform Fire Code upon an application, in writing, by an owner or lessee, or duly authorized agent, when there are practical difficulties in the way of carrying out the letter of the Code, public safety is secured, and substantial justice done. The particulars of such modifications, when granted or allowed, and the decision of the Fire Chief thereof shall be entered upon the records and kept by the Fire Chief

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and duplicate copies shall be forwarded to the City Clerk.
(§ 1, Ord. 1066, eff. February 1, 2008)

§ 4-3.05. Appeals.

Whenever the Fire Chief disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provision of the Code do not apply or that the true intent and meaning of the Code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief to the City Council within 30 days from the date of the decision of the appealed.
(§ 1, Ord. 1066, eff. February 1, 2008)

§ 4-3.06. Alternate materials and methods.

The Fire Chief is authorized to approve alternate materials or methods provided that the Chief finds that the proposed design, use of operation satisfactorily complies with the intent of this Code and that the method of work performed or operation is, for the purpose intended, at least equivalent to that prescribed in this Code. Approvals under the authority herein contained shall be subject to the approval of the building official whenever the alternate material or method involves matters regulated by the Building Code.
(§ 1, Ord. 1066, eff. February 1, 2008)

§ 4-3.07. Amendments to the California Fire Code 2025 Edition.

The California Fire Code is hereby amended as follows:

Amendment No. 1

Chapter 1: Section [A] 102.8 Subjects not regulated by this code.

Section [A] 102.8, Chapter 1 of the California Fire Code, 2025 Edition is amended to read as follows:

Section [A] 102.8. **Subjects not regulated by this code.** Where no applicable standards or requirements are set forth in this code, or contained within other laws, codes, regulations, ordinances or bylaws adopted by the jurisdiction, compliance with applicable standards of the National Fire Protection Association or other nationally recognized fire safety standards as are approved shall be deemed as prima facie evidence of compliance with the intent of this Code. Nothing herein shall derogate from the power of the Fire Chief to determine compliance with codes or standards for those activities or installations within the Fire Chiefs jurisdiction or responsibility.

EXCEPTION: Recognized standards shall not include any standard which attempts to regulate local authority as to minimum daily staffing levels and incident response levels. These standards include, but are not limited to NFPA 1710 & 1720.

Amendment No. 2

Chapter 1: [A] Section 104.1 General.

Section [A] 104.1 of the 2025 Edition of the California Fire Code is hereby amended to add Section 104.1.1 as follows:

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Section 104.1.1 **Permits, Fire Suppression, and Inspection Recovery of Costs.** The Fire Department shall recover cost that reasonably constitute the cost of fire suppression, inspections, clean-up of chemical spills, the cost of suppression chemicals, material and/or equipment used to mitigate the hazard. Cost recovery against a property owner and/or other responsible person when the act is a result of that person's willful negligence and/or negligence, violation of federal or state statute, or local ordinance.

Amendment No. 3

Chapter 1: [A] Section 104.10.1 Assistance from other agencies.

Section [A] 104.10.1, Chapter 1 of the California Fire Code, 2025 Edition, is amended to read as follows:

Section 104.10.1. **Assistance from other agencies.** The Fire Chief, Fire Chief Officers and the fire investigation team who have been designated by the Fire Chief shall have the powers of a police officer in performing their duties under this code. Police and other enforcement agencies shall have authority to render necessary assistance in the investigation of fires when requested to do so.

Amendment No. 4

Chapter 1: [A] Section 105 Permits

Section [A] 105.6 of the 2025 Edition of the California Fire Code is hereby amended to read as follows:

Section 105.6. The requirements of this section shall be subject to the permits specified in the California Fire Code as adopted and amended. Permits, Inspections, and Plan review fees may be provided by resolution by the City Councilor as provided by the California Building Code and/or California Fire Code and/or Reference to the Building Standards. All required plans and permits shall be submitted to the Fire Department for review and approval prior to issuance of any permits required by this section and/or required by the City.

Amendment No. 5

Chapter 5: Section 506

Section 506.1 of the 2025 Edition of the California Fire Code is hereby amended to add Section 506.1(a) to read as follows:

When access to or within a structure or an area is unduly difficult because of secure openings, where immediate access is necessary for life saving or firefighting purposes, or where an automatic fire suppression and/or standpipe system is installed, or where an automatic alarm system is installed, or where a gate or cross arm impedes ingress through a fire lane, or where the area or building is protected by a locked gate, a key box or a security padlock shall be installed in an accessible location unless otherwise authorized by the Chief. The approved City of Los Banos Fire Department key box shall be a "Knox Box." The Knox Box and security padlock shall be obtained through the City of Los Banos Fire Department. The key boxes shall contain, but not be limited to the following items as designated by the Chief: (i) labeled keys to locked points of egress, whether interior or exterior; (ii) labeled keys to locked mechanical rooms; (iii) labeled keys to any gate or secured areas not installed with a Knox Box or Security Padlock; (iv) labeled keys to any other areas that may be required by the Chief; (v) a list with the names

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and telephone numbers for the emergency contact persons; (vi) floor plan of the interior building showing locations of shut offs; decals shall be installed/displayed as required by the Chief.

When hazardous materials as defined in Chapter 27 of the California Fire Code are stored or dispensed or other conditions exist on the premises where information is necessary for life saving or firefighting purposes as determined by the Fire Chief, a Document Storage Box shall be installed in an accessible location unless otherwise authorized by the Chief. The approved City of Los Banos Fire Department document storage box shall be a "Knox Document Storage Cabinet". The "Knox Document Storage Cabinet" shall be obtained through the City of Los Banos Fire Department. The box shall contain, but not be limited to the following items as designated by the Chief: (i) blueprints; (ii) floor plans; (iii) MSDS hazardous materials information; (iv) any other emergency response related items as required by the Chief.

Amendment No. 6

Chapter 9: Section 903 AUTOMATIC SPRINKLER SYSTEMS Automatic Fire Extinguishing Systems

Section 903.2 of the 2025 Edition of the California Fire Code is hereby amended to add Sections 903.2(a) through (m) to read as follows:

a) Notwithstanding any less restrictive provision of Section 903, an automatic sprinkler system shall be provided in the locations described in Sections 903.2.1 through 903.2.12 where the fire area exceeds 5,000 square feet unless the specific section requires an automatic sprinkler system for a fire area of less than 5,000 square feet which in that case the more restrictive provision shall apply.

b) (i) In the case of a remodel of an existing building or structure an automatic sprinkler system shall be provided in the locations described in Sections 903.2.1 through 903.2.12 where the fire area exceeds 5,000 square feet, unless the specific section requires an automatic sprinkler system for a fire area of less than 5,000 square feet which in that case the more restrictive provision shall apply, and the total construction cost for the remodel exceeds $100,000 as determined by the City.

(ii) In the case of an addition to an existing building or structure an automatic sprinkler system shall be provided in the locations described in Sections 903.2.1 through 903.2.12 where the fire area exceeds 5,000 square feet or the addition causes the fire area to exceed 5,000 square feet, unless the specific section requires an automatic sprinkler system for a fire area of less than 5,000 square feet, which in that case the more restrictive provision shall apply.

(iii) In the case of a change in the type of use or occupancy an automatic sprinkler system shall be provided in the locations described in Sections 903.2.1 through 903.2.12 where the fire area exceeds 5,000 square feet unless the specific section requires an automatic sprinkler system for a fire area of less than 5,000 square feet which in that case the more restrictive provision shall apply.

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c) Fire Control Room. An approved fire control room shall be provided for all buildings protected by an automatic fire extinguishing system. Said room shall contain all system control valves, fire alarm control panels, HVAC duct detector test and reset switches and other fire equipment required by the chief. Fire control rooms shall be located within the building at a location approved by the chief, and shall be provided with a means to access the room directly from the exterior. Durable signage shall be provided on the exterior side of the access door to identify the "Fire Control Room".

d) When residential units require the installation of a NFPA 13D system, the systems water supply will be configured in accordance with the City of Los Banos Improvement Standards.

e) When residential units require the installation of a NFPA 13D system, the system will be a "Stand Alone" wet pipe system.

f) When residential units require the installation of a NFPA 13D system, the system riser must be located within an exterior wall, with access to the system riser through an exterior access panel door.

g) When residential units require the installation of a NFPA 13D system, a water flow alarm is required to be installed on the exterior of the dwelling in the area of the Master Bedroom window. This water flow alarm will activate anytime the water flow switch is activated.

h) When residential units require the installation of a NFPA 13D system, all pendent sprinkler heads within the living areas will be Concealed pendent sprinklers, flat plate 4.9 K-factor heads.

i) When residential units require the installation of a NFPA 13D system, an inspector test/ drain valve must be located on the system at the furthest point of the system from the riser. The inspector's test connections shall contain an orifice equal to or smaller than the smallest sprinkler installed in the system. This valve must be accessible to the home occupant and located behind a metal door cover. A sign attached to the front of the door must state "Fire Sprinkler Test Drain.

j) When residential units require the installation of a NFPA 13D system, a single upright "pilot" head will be installed at the highest point within the attic area. These heads shall be Intermediate-rated sprinklers. Multiple high peaked roof assemblies and/or area separation walls may require additional pilot heads.

k) When residential units require the installation of a NFPA 13D system, fire sprinkler piping located in unheated attic spaces shall be completely covered with insulation per the NFPA 130 ANNEX A recommendations.

l) When residential units require the installation of a NFPA 13D system, complete coverage must be provided within the enclosed garage area.

m) Locking Devices Fire Department Connections. Every building equipped with a fire sprinkler system shall be required to install lockable type devices on Fire Department Connection. Said device shall be approved by the Fire Department (Knox Fire Department Connection).

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EXCEPTIONS:

1. Where the California Fire Code and/or California Building are more restrictive, the most restrictive occupancy requirements will be followed.
2. Area separation walls, the extent and location of such wall shall provide a complete separation or division to limit the floor area to 5,000 square feet. Separation shall be of Four-hour fire-resistive construction. Four-hour separation walls shall be constructed in accordance with the current California Building Code.

Amendment No. 7

Chapter 9: Section 904 ALTERNATIVE AUTOMATIC FIRE EXTINGUISHING SYSTEMS Installation of fixed Fire Protection Systems

Section 904 of the 2025 Edition of the California Fire Code is hereby amended to add Section 904(a) to read as follows:

a) All fire extinguishing system required in this code and/or the California Building code shall be installed in accordance with the requirements of thisSection, and the National Fire Protection Association standards and/or Factory Mutual Engineering.

Amendment No. 8

Chapter 9: Section 906 PORTABLE FIRE EXTINGUISHERS

Section 906.1 of the 2025 Edition of the California Fire Code is hereby amended to add Section 906.1(a) as follows:

a) The minimum approved portable fire extinguisher size for all occupancies shall be, 2A:10-B:C rated. Unless more restrictive by code.

Amendment No. 9

Chapter 9: Section 907 FIRE ALARM AND DETECTION SYSTEMS Sprinkler System Supervision

Section 907.1 of the 2025 Edition of the California Fire Code is hereby amended to add Sections 907.1(a) through (f) to read as follows:

a) All automatic sprinkler systems shall be supervised by an approved central station, proprietary or remote station service or a local alarm which will give an audible signal at a constantly attended location. All automatic fire sprinkler systems installed in Group R Division I occupancies as outlined in the 2025 California Building Code are required to be monitored by an approved central alarm monitoring station.

b) Supervisory signal service alarms. Flow switches and/or tamper switches shall be installed on all fire sprinkler system to include gate valves, post indicator valves.

c) Annunciator Panel. Annunciator panel means any arrangement of luminaries that indicate a fire condition by location or zone and is activated by a water flow or detection of the products of combustion.

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d) Equipment. Every building equipped with a fire alarm system activated by smoke detectors, rate of heat rise detection, water flow alarms, tamper switches, or pull station shall be equipped with an annunciator panel located within the Fire Control Room.

e) When required in Section 907.1 (a) the fire alarm systems will meet the following occupancy requirements:

(1) Strip malls & structures with multiple occupancies - All suites located within a structure equipped with a fire sprinkler system will be required to have a minimum of one (1) audio/visual notification device and one (1) manual pull station located in the area designated by the Los Banos Fire Department.

(2) Suites or areas 5000 square feet or greater - All suites or areas 5000 square feet or greater, located within a building equipped with a fire sprinkler system are required to install a full occupant notification fire alarm system. This system will include an approved manual, combination automatic and manual or automatic fire alarm system in accordance with the provisions of this code and NFPA 72.

f) Anytime an HVAC is required to be equipped with an automatic smoke detector as per the Uniform Mechanical Code, said smoke detector is required to have a remote test/reset switch located within the Fire Control Room.

Amendment No. 10

Chapter 28: Section 2803 LUMBER YARDS AND WOOD WORKING FACILITIES Wood Products, Pallet Storage and Use.

Section 2803.1 of the 2025 Edition of the California Fire Code is hereby amended to add Sections 2803.1.1 through 2803.1.5 to read as follows:

2803.1.1 Pallets and Palletized Packing boxes. Required permit to store pallets and or palletized items in excess of 30,000 board feet.

2803.1.2 Piles. Pallets shall be piled with due regard to the stability of piles and in no case higher than 12 feet in height. Where pallets are piled next to a property line the distance from the property line shall not be less than one half of the height of the pile and in no case less than five feet.

2803.1.3 Driveways. Driveways between and around storage piles shall be a minimum of 20 feet wide. And maintained free from accumulation of rubbish, weeds, equipment and materials. Driveways shall be so spaced that a maximum grid system unit of 50 feet by 50 feet is produced. Note exception: Modification of the driveways, clearance or widths required by this section shall be increased or decreased when, in the opinion of the Fire Chief, Clearances of widths are not adequate to provide fire apparatus access.

2803.1.4 Storage. Pallet storage, operating under permit, shall be surrounded with a suitable chain link fence of at least 6 feet in height.

2803.1.5 Fire Protection. An approved water supply and fire hydrants capable of supplying the required fire flows shall be provided to within 150 feet of all portions of the storage piles.

Amendment No. 11

Chapter 56: Section 5608 EXPLOSIVES AND FIREWORKS, Fireworks and Pyrotechnic

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Special Effects Material (Definitions)

Section 5608 of the 2025 Edition of the California Fire Code is hereby amended to add Sub Section 5608.2 through 5608.5 to read as follows:

5608.2 **Fireworks - Purpose.** It is the intent of the city to reasonably regulate the sale, use, display, and discharge of dangerous and safe and sane fireworks within the city to protect the public health, safety, and general welfare.

5608.2.1. **Definitions.** For the purposes of this section, unless otherwise apparent from the context, certain words and phrases used in this section are defined as follows.

A. "Dangerous fireworks" means any fireworks specified as such in the State Fireworks Law, Section 12505 and 12561 of the Health and Safety Code of the State of California, and such other fireworks as may be determined to be dangerous by the state fire marshal.

B. "Safe and Sane Fireworks" as defined in Section 12529 of the Health and Safety Code the State of California, means any fireworks, which do not come within the definition of "dangerous fireworks" or "exempt fireworks".

C. "Eligible Organization" means an organization which has met all of the following criteria for a continuous period of not less than two full years preceding submittal of an application for permit required by this section 16 (and which continues to do so thereafter).

1. The organization must be qualified pursuant to Internal Revenue Code Sections 501(c)3, 4, 6, 7, 8, 10, 19, 23, or 26, Section 501(d), Section 501(e);
2. The organization must be headquartered within and clearly affiliated or identified with the City of Los Banos;
3. The organization must be one which provides direct and regular community services and benefits to the citizens of the City of Los Banos;
4. The organization must hold its regularly scheduled meeting within the City of Los Banos; and
5. Has a minimum membership of ten (10) members continuously.

D. "Fireworks Stand" means any building, counter, or other structure of a temporary nature used in the sale or offering for sale of Safe and Sane fireworks pursuant to a permit duly issued.

5608.2.2. **Possession, Sale, Use, Display, Discharge of Dangerous Fireworks.**

A. It shall be unlawful to possess, sell, use, display, or discharge within the City of Los Banos "dangerous fireworks" except as permitted by the provisions of this Section.

B. It shall be unlawful for any person having lawful possession or control of private property, including but not limited to an owner, renter, lessee, to permit any person to possess, sell, use, display, or discharge within the City of Los Banos "dangerous fireworks" except as permitted by the provisions of this Section.

5608.2.3. **Possession, Sale, Or Use of Safe and Sane Fireworks.** It shall be unlawful to possess, sell, use, display, or discharge within the City of Los Banos "safe and sane fireworks" except as permitted by the provisions of this Section.

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5608.2.4. **Permit for Sale of Safe and Sane Fireworks.** It shall be unlawful for any person to possess, store, to offer for sale, or sell safe and sane fireworks within the City of Los Banos without a valid permit from the fire department. The fire chief shall have the authority to adopt reasonable rules and regulations for the granting of permits for the sale of safe and sane fireworks by eligible organizations. The fire chief shall also have the authority to adopt reasonable rules and regulations for the safe operation of firework stands.

5608.2.5. **Application for Permit to Sell Safe and Sane Fireworks. Permits to sell safe and sane fireworks shall be issued by the fire department as follows:**

A. All applications for permits shall be in writing and delivered to the fire chief on forms supplied by the fire department, and shall include all documentation and proof required by the rules and regulations established by the state fire marshal and the fire chief. All application materials must be complete to be accepted by the fire department.

B. Applications may be filed beginning the first business day of August of each year up to and including 5 p.m. the last working day in September of the same year or at other dates and times as determined by the Fire Chief. No application shall be received after 5 p.m.

C. Applications shall be signed by a bona fide officer of the non-profit organization wherein the officer, on behalf of the organization and its agent, shall agree to abide by all state laws, all administrative regulations, all city ordinances, all rules and regulations promulgated by the Fire Chief and the terms and conditions of the permit.

D. Applications shall identify the name of the organization, the organization charter or mission statement, the address of the principal meeting place and mailing address, number of members, the purpose of the organization and the date it came into existence.

E. Application fees: the applicant shall pay a non-refundable twenty-five $25.00 dollar fee. The fee is required to be paid at the time application is submitted.

F. Permit Fee: $250.00 paid prior to permit issuance.

G. Except as provided in subsection (H), the maximum number of permits which may be issues and the maximum number of "safe and sane fireworks" stands that will be permitted pursuant to this section 16 during anyone calendar year shall not exceed one permit for each five thousand (5,000) residents of the City of Los Banos, or fraction thereof, based on the State of California Census Estimate. The official Census Estimate shall be the latest estimate published before the end of the filing period.

H. Exempt Permit: in addition to the maximum number of permits set forth in subsection (G) herein, the Fire Chief may at the direction of the City Manager, issue one additional permit ("exempt permit") to an eligible organization, as defined in Section 5608.2.1, for the sale of safe and sane fireworks pursuant to the following provisions:

1) The City Manager in his or her sole discretion may waive the requirement that the organization receiving the exempt permit has met the criteria for a continuous period of not less than two years prior to submittal of an application for a permit as set forth in Section 5608.2.1C;

2) The organization receiving the exempt permit shall dedicate to the satisfaction of the City Manager all of the proceeds from the sale of safe and sane fireworks to sponsoring or contributing to public fireworks display in celebration of the Fourth of July in the City of Los Banos;

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3) The organization receiving the exempt permit shall be subject to and agree to all other conditions of approval deemed necessary by the City as a prerequisite to issuing the permit.

5608.2.6. **Issuance of Permits.** Only eligible organizations that have submitted a timely and complete application accepted by the fire chief and that have been drawn from a pool of accepted applications will be permitted to sell safe and sane fireworks.

A. If the number of accepted applications exceeds the maximum number of permits which may be issued in a calendar year; accepted applicants for a permit will be selected by lot on the first working day of October at 1 p.m. at Fire Station One or at another time and location as determined by the fire chief. Successful and unsuccessful applicants will be notified by mail.

B. By April 1, each successful applicant shall provide to the fire chief; a site plan with the location of the fireworks stands; a written letter from the property owner indicating permission to sell safe and sane fireworks on the site; the permit fee; proof of insurance, one million dollars public liability, property damage, and product liability insurance policies with riders attached to the policies designating the City of Los Banos as an additional insured. Applicants that do not submit the required information by the April 1 deadline shall not be issued a permit.

C. Permits will be effective only when delivered by the fire department after the final inspection of the fireworks stand shows compliance with all the requirements established by the fire chief or this section for the operation of a fireworks stand.

D. A permit entitles the holder of the permit to one firework stand, which shall operate on the location identified on the permit.

E. Two or more qualified applicants may be issued a permit as a joint venture.

F. Permits issued pursuant to this section are valid only during the calendar year issued.

G. Permits issued pursuant to this section are not transferable.

5608.2.7. **Fireworks Stands.** When all application requirements have been completed, fees have been paid and the stand location has been approved, the fire department shall authorize the erection of the stand. The stand shall be inspected and approved by the Fire Chief or his/her designee, prior to the sale of any fireworks from said stand. The sale of fireworks from any other building or structure is prohibited. Temporary fireworks stand shall be subject to the following provisions:

A. Fireworks stands shall be located only upon property that is zoned for commercial or industrial uses.

B. Fireworks stands shall be located on improved property, i.e., paved, cement parking lots.

C. Fireworks stands shall be 35 feet from the public right-of-way and 35 feet away from existing structures.

D. No smoking signs shall be posted on all four sides and inside the fireworks stand indicating "No Smoking within 35 feet".

E. Fireworks stands shall not interfere with normal traffic patterns in private parking lots.

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F. Fireworks stands shall be constructed of substantial material to provide security and safe sales operation.

G. Permits to sell safe and sane fireworks shall be posted in a conspicuous location within the interior portion of the fireworks stand.

H. A sign shall be affixed to the front of the exterior portion of the fireworks stand in letters at least six inch in height, identifying the name of the nonprofit organization to which the permit to sell safe and sane fireworks was issued.

I. No electrical service shall be allowed in or within 25 feet of the firework stand, to include fuel powered generators or similar equipment.

J. Fireworks stands shall have two working, currently serviced, two and one-half gallon water extinguishers. Extinguishers shall be readily accessible.

K. During hours of non-operation: fireworks shall be stored in an enclosed locked cargo container on site, in a location approved by the fire chief. The storage container shall have placards on all four sides and have signage posted indicating "No Smoking" within 35 feet.

L. Wholesale storage of safe and sane fireworks importer/distributors is not allowed in the city.

M. The fireworks stand shall be removed from the temporary location and all unsold stock and accompanying litter shall be removed from the location by five p.m., on July 5th. Failure to dismantle and/or remove any fireworks stand may result in the removal of the fireworks stand by the Fire Department or designee at the sole expense of the holder of the permit.

5608.2.8. **Regulations.**

A. Fireworks stands may be operated only from the hours of 8 a.m. to 8 p.m.

B. No safe and sane fireworks shall be sold before 12 noon on the twenty-eighth (28th) day of June or later than 8 p.m. on the fourth (4th) day of July.

C. It shall be unlawful to sell fireworks to persons under the age of 18 years old.

D. It shall be unlawful for the permitted organization to permit any person other than the permitted organization to operate the fireworks stand for which the permit is issued or to otherwise participate in the profits of the operation of such stand.

E. It shall be unlawful for the permitted organization to permit any person other than the individuals who are members of the permitted organization, their spouses or adult children, or volunteers whom no compensation is paid, to sell or otherwise participate in the sale of safe and sane fireworks at such stand.

F. No one under the age of 16 years old shall be allowed in the fireworks stand at any time.

G. Each organization which receives a permit must have at least two of its members attend an operator safety seminar provided by the fireworks company.

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5608.2.9. **Revocation of Permits**

A. Any violation of this section or other city ordinances or policies, or the terms and conditions of the permit, or state laws or administrative regulation, or safety rules of the fire department, shall be grounds for the immediate revocation of the permit. All officers and members of the organization shall be responsible for compliance with all of the provisions of this section.

B. The fire chief or his designee shall be authorized to suspend immediately and without notice or formal hearing the permit of any holder of a permit which violates any rule, regulation or ordinance while operating or preparing to operate fireworks stand during or immediately preceding any period of sale. If the fire chief or his designee establishes that a violation has occurred too late to suspend the permit during the period of sale, he shall have power to suspend the holder of the permit from applying for future permits.

C. The decision of the fire chief or his designee to suspend the permit shall be subject to review by the city manager, forthwith. In view of the limited sales period each year, for suspensions affecting the sale period, such hearing shall be held at the earliest possible time that the holder of the permit, city manager or his designee, and the representative of the Fire Chief can schedule a meeting for such review. For suspensions after the sale period the hearing shall be within one month after the request for hearing, which request must be made within fifteen days after notice of the suspension. The city manager or his designee is authorized to set aside the suspension, or to modify the suspension by limiting its effect to only one or more days, or by setting aside the forfeiture for future years. The decision of the city manager or his designee shall be final.

5608.2.10. **Seizure of Fireworks**

The Fire Chief or the designee thereof, shall seize, take, remove, or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored, or held in violation of this section.

5608.2.11. **Restrictions.**

A. It is unlawful for individuals under eighteen years of age to sell, purchase, or possess, "safe and sane fireworks."

B. It is unlawful for individuals under eighteen years of age to discharge, explode, fire, or set off any "safe and sane fireworks" unless such minor does so under the direct supervision of a person over 18 years of age and during the hours and on the days permitted by this section.

C. It shall be unlawful to discharge any "safe and sane fireworks" except from the first day of July to the fourth day of July during the hours of 9:00 a.m. to 10:00 p.m.

D. It shall be unlawful to ignite or otherwise use any "safe and sane fireworks," or permit the discharge thereof, upon, over, or onto the property of another without his/her consent.

E. It shall be unlawful for any person having the care, custody, or control of a minor (under 18 years old) to permit such minor to discharge, explode, fire, or set off any "dangerous fireworks," at any time, or to permit such minor to discharge or set off any "safe and sane fireworks" unless such minor does so under the direct supervision of a person over 18 years of age and during the hours and on the days permitted by this section.

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F. It shall be unlawful to discharge any "safe and sane fireworks" except on private property and as otherwise provided in this section. No fireworks shall be discharged on public, semipublic, or private open areas such as parking lots, vacant properties, or in a public street or right-of-way, or in public parks.

Exception: It shall be lawful to discharge Safe and Sane Fireworks in the public street only if street closure has been approved by the City Council for a block party. The applicant shall provide a site plan with the Street Closure application indicating the location in the street where Safe and Sane Fireworks are to be discharged. Said location shall be approved by the Fire Department.

G. Person or persons in violation of this section will be caused for immediate seizure of fireworks and citation. Improper use of fireworks or unsafe use of fireworks or use of fireworks in an area considered hazardous by the fire chief or designee shall cause immediate seizure of fireworks and citation.

5608.2.12. **Permit for Public Displays of Fireworks.** Public Display of fireworks, as defined in the State Fireworks Law, section 12500 et seq. of the Health and Safety Code, may be conducted subject to all the terms and provisions therein contained provided that a permit therefore has been granted by the fire chief. Such public displays, in addition, shall be subject to all rules and regulations contained in the Fire Code

The Fire Chief shall have authority to adopt reasonable rules and regulations for the granting of permits for those activities contained in Section 12640 of the Health and Safety Code of the state of California, including supervised public displays of fireworks by a jurisdiction, fair association, amusement park, other organization, or for the use of fireworks by artisans in pursuit of their trade. Each such use or display shall be handled by a licensed pyrotechnic operator as defined by Section 12527 of the Health and Safety Code of the state of California, and shall be of such character and so located, discharged or fired as in the opinion of the fire chief or his designee, after proper investigation, will not be hazardous or endanger any person.

5608.2.13. **Penalties for Violations.** Any person violating any provision of this section shall be guilty of a misdemeanor and shall be subject to criminal prosecution, civil remedies, administrative fines and penalties, and any other remedies available to the city for enforcement of this code.

5608.2.14. **Concurrent Authorities.** This section is not the exclusive regulation for the fireworks within the City of Los Banos. This section shall supplement and be in addition to the other regulatory codes, statutes, regulations, and ordinances heretofore and hereinafter enacted by the City of Los Banos, the State of California, or any other legal entity or agency having jurisdiction.

Any provisions of the City of Los Banos in conflict herewith are hereby repealed. This section supersedes any conflicting provisions of the Uniform Fire Code and Uniform Building Code.

5608.3. **Administrative Enforcement for Fireworks - Purpose and Scope**

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A. This Section provides for the imposition, enforcement, collection, and administrative review of all administrative fines, related to: (1) the possession, use, storage, sale and/or display of those fireworks classified as "dangerous fireworks" in California Health and Safety Code Sections 12500, et seq., with the exception of a pyrotechnic licensee when operating pursuant to that license; and (2) the sale, use, and/or display of "safe and sane fireworks" as defined in California Health and Safety Code Sections 12500 et seq. on or at dates, times and/or locations other than those permitted by this Section.

B. The issuance of citations imposing administrative fines may be performed at the discretion of the officials of the city authorized hereunder; and the issuance of a citation to any person constitutes but one remedy to redress violations of this code by any person. By adopting this Section, the city does not intend to limit its authority to employ any other remedy, civil or criminal, to redress any violation of this code or state law by any person.

C. The imposition of fines related to "dangerous fireworks" under this Section shall be limited to persons who possess, sell, use and/or display, or the seizure of, 25 pounds or less (gross weight) of such dangerous fireworks.

D. Fines collected pursuant to this Section related to "dangerous fireworks" shall not be subject to Health and Safety Code Section12706. However, the city shall provide cost reimbursement to the State Fire Marshal for the transportation and disposal of "dangerous fireworks" seized by the city where applicable. These costs will be included in any administrative fines imposed under this Section.

5608.4. **Enforcement Procedures and Fines**

Administrative enforcement including the amount of administrative fine for this Section shall be pursuant to the procedures set forth in Chapter 11 of Title 4 of the Los Banos Municipal Code.

5608.5. **Manufacturing of Fireworks**

The manufacturing of fireworks within the City is prohibited, except under special permit as required by local and state regulations.

Amendment No. 12

Chapter 57: Section 5704 STORAGE

Section 5704.1 of the 2025 Edition of the California Fire Code is hereby amended to add Sections 5704.2.9.6(a) through (b) to read as follows:

a) Restricted Location and Fire Protection. The storage of flammable or combustible liquids in above ground tanks shall be restricted to those areas of the City as follows: Light Industrial District (LI) and General Industrial (I) except as provided by use permits in the General Commercial District (C2) and Highway Commercial District (HC). All existing nonconforming tanks, which substantially comply with or are made to comply with the requirements of this code, may remain in use.

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b) Location of Bulk Plants or Terminals. The construction of new bulk plants and/or terminals for the storage of flammable, combustible, or hazardous liquids shall be restricted to those areas of the City in the Light Industrial District (LI) and General Industrial District (I). All existing nonconforming bulk plants for the storage of flammable or combustible liquids, which substantially comply, with the requirements of this code may continue use.

Amendment No. 13

Chapter 61: Section 6101 LIQUEFIED PETROLEUM GASES

Section 6101.1 of the 2025 Edition of the California Fire Code is hereby amended to add Section 6101.1(a) to read as follows:

a) Restricted Location and Installation. The storage of Liquefied Petroleum gas in above ground storage tanks shall be restricted to those areas of the city as follows. Light Industrial District (LI) and General Industrial (I) except as provided by use permit in the General Commercial District (C2) and Highway Commercial District (HC). All existing nonconforming facility, which substantially comply with or are made to comply with the requirements of this code, may remain in use.

(§ 1, Ord. 1066, eff. February 1, 2008, as amended by § 3, Ord. 1099, eff. August 20, 2011, § 2, Ord. 1117, eff. March 19, 2014, § 1, Ord. 1138, eff. November 7, 2015, § 2, Ord. 1149, eff. December 16, 2016, § 2, Ord. 1180, eff. February 15, 2020, and § 2, Ord. 1200, eff. November 19, 2022; Ord. 1211, eff. 12/19/2025)

§ 4-3.08. Fire zones.

(a) Fire District Established. The entire area of the City is hereby declared to be and is hereby established as a Fire District.

(b) Fire Zones Designated. Three fire zones, to be known and designated as Fire Zone One, Fire Zone Two, and Fire Zone Three, are hereby established within the Fire District established by the provisions of this Code.

(c) Fire Zoning Map Adopted. The fire zones established by the provisions of Section 4-3.20(b) of this chapter shall include such territory or portions of the City as are illustrated, outlined, and designated on that certain map on file in the office of the City Clerk marked and designated as "Fire Zones of the City of Los Banos, California," which map is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full for the application of the provisions set forth in the California Building Code.

(§ 1, Ord. 1066, eff. February 1, 2008, as amended by § 4, Ord. 1099, eff. August 20, 2011)

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Chapter 4
(Reserved)

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Chapter 5
Traffic

Note: Sections 4-5.01 through 4-5.03, codified from Ordinance No. 407, amended in their entirety by Ordinance No. 860.

§ 4-5.01. Purpose.

The purpose of this chapter is to set forth laws and policies governing the regulation and enforcement of specific traffic related matters within the City.
(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.02. Violations: Penalties.

(a) Any person violating any of the provisions of this chapter (except those listed in subsection (b) of this section), shall be deemed guilty of an infraction and shall be punishable as set forth in Chapter 2 of Title 1 of this Code.

(b) Any person violating any of the provisions of this Code which involves the standing or parking of a vehicle shall be subject to civil penalties. Penalty amounts and administrative fees will be set by resolution of the City Council.

(§ 1, Ord. 860, eff. September 18, 1992, as amended by § 1, Ord. 870, eff. July 2, 1993)

§ 4-5.03. Definitions.

The words and phrases used in this chapter shall, for the purpose of this chapter, have the meaning respectively described to them in this section or the specific section in which they are used. Whenever words or phrases used herein are not specifically defined, but are defined in the Vehicle Code of the State of California and amendments thereto, such definitions shall apply.

"City" means the City of Los Banos.

"Coach" means any motor bus, motor coach, trackless trolley, or passenger stage used as a common carrier of passengers.

"Council" means the City Council of the City of Los Banos.

"Curb" means the lateral boundary of the roadway whether such curb be marked by curbing construction, or not so marked; the word "curb" as herein used shall not include the line dividing the roadway of a street from parking strips in the center of a street, nor from tracks or rights of way of public utility companies.

"Divisional island" means a raised island located in the roadway and separating opposing or conflicting streams of traffic.

Holidays. Within the meaning of this chapter, holidays are: (1) New Years Day, January 1st; (2) Lincoln's Birthday, February 12th; (3) Washington's Birthday, third Monday of February; (4) Martin Luther King Day, third Monday in January; (5) Memorial Day, last Monday of May; (6) Independence Day, July 4th; (7) Labor Day, first Monday of September; (8) Veteran's Day, November 11th; (9) Thanksgiving Day, fourth Thursday in November; (10) Day after Thanksgiving, fourth Friday of November; and (11) Christmas Day, December 25th.

"Loading zone" means the space adjacent to a curb reserved for the exclusive use of vehicles during loading or unloading of passengers or materials.

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"Official time standard" means that whenever certain zones are named herein, they shall mean standard time or daylight savings time as may be in current use by the City.

"Parkway" means that portion of the street other than a roadway or sidewalk.

"Passenger loading zone" means the space adjacent to a curb reserved for the exclusive use of vehicles during loading and unloading of passengers.

"Police Officer" means every officer of the Police Department of this City or any officer authorized to direct or regulate traffic or to make arrests for violation for traffic regulations.

"Residential district" means any district established and designated by the Los Banos Zoning Ordinance which has as a primary goal the establishment, stabilization, protection, or maintenance of the residential character of the district. Such districts include but are not limited to Low Density Residential District (R-1), Medium Density Residential District (R-2), High Density Residential (R-3), Mobile Home Park Combining District (T), and those portions of a Planned Development District (P-D) where the land use is consistent with that in any R-zoned district, the density or intensity of such residential use notwithstanding.

"Vehicle Code" means the Vehicle Code and amendments thereto of the State of California.
(§ 1, Ord. 860, eff. September 18, 1992, as amended by § 1, Ord. 890, eff. December 1, 1995)

§ 4-5.04. Enforcement.

It shall be the duty of the Chief of Police to enforce violations of this chapter.
(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.05. Establishment of Traffic Safety Committee.

There is hereby established a Traffic Safety Committee consisting of the following members: A representative of the Public Services Department, Public Works Department, Community Development/Planning Department, Police Department, Fire Department and Planning Commission. The Police Department representative shall be designated Chairperson of the Traffic Safety Committee.
(§ 1, Ord. 860, eff. September 18, 1992, as amended by § 1, Ord. 890, eff. December 1, 1995, § 1, Ord. 925, eff. June 20, 1997, and § 1, Ord. 990, eff. October 16, 2002)

§ 4-5.06. Powers and Duties of the Traffic Safety Committee.

The Traffic Safety Committee shall have the duty of initiating or reviewing all proposals or requests for establishment, modification, elimination, or removal of all traffic control signs, signals, markings, speed zones, prohibited or restricted parking zones, or other such related matters, which fall under the lawful discretionary control of the City. The Traffic Safety Committee shall, after completing appropriate review of a proposal or request, exercise its authority to establish, modify, or eliminate a traffic control sign, marking, speed zone, prohibited or restricted parking zone, or other related traffic device or zone, through adoption by majority vote, of a Traffic Safety Committee resolution.
(§ 1, Ord. 860, eff. September 18, 1992, as amended by § 3, Ord. 890, eff. December 1, 1995)

§ 4-5.07. Traffic Safety Committee review process.

The Traffic Safety Committee shall meet at City Hall at 2:00 p.m. on the first Tuesday of the following months: January, April, July, October, for the purpose of reviewing traffic related

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requests and proposals. Further, when deemed necessary by the Committee Chairman or City Manager, the Traffic Safety Committee shall meet in special session. In reaching their decision to establish, modify, or eliminate a traffic control zone or device, the Traffic Safety Committee shall consider the following factors: (1) the likely effects with regard to traffic safety, traffic flow, and nuisance; (2) the guidelines set forth in the State of California Traffic Manual, the specific needs of the community, and the uniqueness of the area being reviewed.
(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.08. Appeal of Traffic Safety Committee action.

Whenever an individual disagrees with the decision of the Traffic Safety Committee to establish or deny the establishment, modification, or elimination of a proposed or requested traffic control device or zone, said individual may file a written appeal of a decision with the City Council. The City Council will hear testimony from both the individual filing the appeal and a representative of the Traffic Safety Committee and then render their decision to approve or rescind the Traffic Safety Committee's action. If the decision of the City Council is contrary to the proposed actions of the Traffic Safety Committee, the establishment, modification, or elimination of the traffic control device or zone will be established by resolution.
(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.09. Traffic Control Devices, Uniform Standards.

The construction and specifications of all traffic control devices shall conform to the Uniform Standards of the California Department of Transportation.
(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.10. Unauthorized placement of signs, markings, or paint on city curbs, sidewalks and streets is prohibited.

No person, except when specifically authorized by the City Council or Traffic Safety Committee, shall place any sign, marking or paint on City curbs, sidewalks or streets.
(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.11. Emergency authority of police and fire officials.

When such action is deemed necessary in order to safeguard lives, respond to a fire or other emergency, to expedite vehicle or pedestrian movements, or due to special events or circumstances, City police and fire officials may direct traffic as conditions may require; including but not limited to the closure of streets and sidewalks, prohibition of parking, posting of temporary regulatory and advisory signs, or by voice, hand, or other method.
(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.12. Persons other than authorized officials shall not direct traffic.

No person, other than a police or fire official of this City or other governmental body or a person authorized by a police or fire official to do so, shall direct or attempt to direct vehicle or pedestrian traffic. This section is not meant to preclude any person who is attempting to warn vehicles or pedestrians of an accident or other emergency pending arrival of police and fire officials.
(§ 1, Ord. 860, eff. September 18, 1992)

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§ 4-5.13. Obstruction or interference with police or authorized officials.

No person shall interfere with or obstruct in any way any police officer or other employee of the City in their enforcement of any provision of this chapter. The removal, obliteration or concealment of any chalk mark, light, sign, paint, or other distinguishing marking is prohibited.
(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.14. Obedience to police or authorized officials.

No person shall fail or refuse to comply with or perform any action that is required or forbidden by any lawful order, signal, or direction of a City police or fire official or persons authorized to give such directions by police and/or fire officials. When such person is wearing an official insignia issued by the City and is acting in the course of his/her appointed duties.
(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.15. Moving or traversing barricade pattern.

No person shall traverse or pass a barricade pattern which is erected to regulate traffic, vehicular or pedestrian on any street or sidewalk, nor shall any person move, adjust or remove said barricades.
(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.16. Unauthorized use or encroachment on public rights-of-way prohibited.

Except when such act is permitted by law or is specifically approved by the City Council or a City employee authorized by the City Council to give such approval, no person shall place any cord, rope, barrier, or other such object on or across a City sidewalk, street, alley, or other right-of-way.
(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.17. Exemption of certain vehicles.

(a) The provisions of this chapter regulating the operation, parking and standing of vehicles shall not apply to police, fire, ambulance or other emergency vehicles when responding to or handling emergency calls. The exemption further applies to police and fire vehicles when they are engaged in pursuit, apprehension or surveillance activities.

(b) The provisions of this chapter pertaining to parking or standing of vehicles shall not apply to any vehicle of the City, other governmental agency, or public utility companies when such vehicles are being operated on official business and such parking or standing is necessary to engage in such business.

(c) The foregoing exemptions shall not, however, relieve the operator of any such exempted vehicles from the obligation to exercise due care for the safety of others or the consequences of the operators willful disregard for the safety of others.

(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.18. When vehicles may be removed from streets.

Any Police Officer of the City may remove or cause to be removed:

(a) Any vehicle that is left parked or standing upon a street or highway within the City for 72

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or more consecutive hours.

(b) Any vehicle which is left parked or standing upon a street or highway where the use of such street or highway or a portion thereof is necessary for the installation of underground utilities, or has been authorized for a purpose other than normal traffic flow, or is necessary for the movement of equipment, articles, vehicles, or structures of unusual size, or is necessary for cleaning, repair, or construction, may be removed from such street or highway or portion thereof, provided that signs giving notice that such vehicle may be removed are erected or placed at least 24 hours prior to this removal.

(c) Any vehicle which has been left parked or standing upon a street or highway when such parking or standing is prohibited by authority of City ordinance or resolution and signs are posted giving notice of such removal.

(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.19. Curb markings to indicate no stopping and parking regulations.

For the purpose of this chapter the following curb markings shall have the meanings as herein set forth;

(a) Red: No stopping, standing or parking permitted, except that a bus may stop in a red zone which is marked or signed as a bus zone.

(b) Yellow: No stopping, standing or parking at any time between 7:00 a.m. and 6:00 p.m. of any day except Sundays and holidays for any purpose other than loading or unloading of passengers or materials, provided the loading of passengers shall not consume more than three minutes, nor the loading or unloading of materials more than 20 minutes.

(c) White: No stopping, standing or parking for any purpose other than loading or unloading of passengers or deposit of mail in an adjacent mail box, provided the loading or unloading of passengers or the deposit of mail shall not consume more than three minutes. This applies at all times.

(d) Green: No stopping, standing or parking for a period of time longer than 24 minutes, or as is otherwise posted. This applies at all times.

(e) Blue: Parking limited exclusively to the vehicles of physically handicapped persons as described in California Vehicle Code Section 22511.5 and22511.9.

When authorized and legible curb markings are in place, no operator of any vehicle shall stop, stand or park such vehicle adjacent to such markings in violation of the restrictions herein set forth.

(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.20. Unlawful stopping, standing and parking prohibited.

Except when it is necessary to stop a vehicle to avoid conflict with other traffic or pedestrians or in compliance with the directions of a police officer, fire department official, or in response to an official traffic control device, no person shall stop, park, or leave standing a motor vehicle:

(a) Within any parkway;

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(b) Within any area designated by the City as no parking or restricted parking when legible signs or curb markings are present;

(c) Within any divisional island unless authorized and clearly indicated by appropriate signs or markings;

(d) At any place within 20 feet of a point on the curb immediately opposite the mid-block end of a safety zone, when such place is appropriately marked as a no parking zone;

(e) At any place within 20 feet of a crosswalk at an intersection in any business district when such place is appropriately marked as a no parking zone.

(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.21. Use of streets for storage of vehicles prohibited.

No person who owns or has possession, custody or control of any vehicle shall park such vehicle upon any street or alley for more than a consecutive period of 72 hours.
(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.22. Parking for demonstration.

No operator of any vehicle shall park said vehicle upon any street in this City for the principal purpose of advertising or displaying it for sale, unless authorized by resolution of the Council.
(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.23. Repairing or greasing vehicles on public streets.

No person shall construct or cause to be constructed, repair or cause to be repaired, grease or cause to be greased, dismantle or cause to be dismantled any vehicle or any part thereof upon any public street in this City. Temporary emergency repairs may be made upon a public street.
(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.24. Washing or polishing vehicles.

No person shall wash or cause to be washed, polish or cause to be polished any vehicle or any part thereof upon any public street in this City, when a charge is made for such service.
(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.25. Diagonal parking.

When the Traffic Safety Committee or Council has established any street or portion of any street as a diagonal parking zone and when signs or pavement markings are in place indicating such diagonal parking, no person shall park a vehicle except:

(a) At the angle to the curb indicated by signs or pavement markings allotting space to parked vehicles and entirely within the limits of said allotted space;

(b) With the front wheel nearest the curb within sixteen (16″) inches of said curb.

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The provisions of this section shall not apply when such vehicle is actually engaged in the process of loading or unloading passengers or freight and variation from the requirements is reasonably necessary to accomplish said loading or unloading.

(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.26. Parking space markings.

When the Traffic Safety Committee or Council authorizes the installation and maintenance of parking space markings to indicate parking spaces adjacent to curblines where authorized parking is permitted, no person shall stop, stand, or park a vehicle other than within a single space unless the size or shape of such vehicle makes compliance impossible.
(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.27. Parking in alley.

No person shall park any vehicle in an alleyway. The provisions of this section shall not apply when such vehicle is actually engaged in the process of loading or unloading passengers or freight.
(§ 1, Ord. 860, eff. September 18, 1992, as amended by § 1, Ord. 943, eff. June 19, 1998)

§ 4-5.28. Unlawful parking: Peddlers, vendors.

(a) Except as otherwise provided in this section, no person shall stand or park any vehicle, wagon or pushcart from which goods, wares, merchandise, fruits, vegetables or food stuffs are sold, displayed, solicited or offered for sale or bartered or exchanged, or any lunch wagon or eating car or vehicle, on any portion of any street or sidewalk within this City except that such vehicles, wagons or pushcarts may stand or park only at the request of a bona fide purchaser for a period of time not to exceed 15 minutes at any one place. The provisions of this subsection shall not apply to persons delivering such articles upon order of, or by agreement with a customer from a store or other fixed place of business or distribution.

(b) No person shall stand or park any vehicle, wagon or pushcart from which goods, wares, merchandise, fruits, vegetables, or food stuffs are sold, displayed, solicited or offered for sale or bartered or exchanged or any lunch wagon or eating car or vehicle, on any portion of any street or sidewalk within the City for more than 15 minutes without first obtaining written permission to do so from the City which shall designate the specific location in which such cart shall stand.

(c) No person shall park or stand any vehicle or wagon used or intended to be used in the transportation of persons or property for hire on any street while awaiting patronage for such vehicle or wagon without first obtaining a written permit to do so from the City which shall designate the specific location where such vehicle may stand.

(d) Whenever any permit is granted under the provisions of this section and a particular location to park or stand is specified therein, no person shall park or stand any vehicle, wagon, or pushcart on any location other than as designated in such permit. The City reserves the right to revoke any permit issued under the provision of this section. Revocations are appealable to the Traffic Safety Committee and then to the Council.

(§ 1, Ord. 860, eff. September 18, 1992)

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§ 4-5.29. Vehicles prohibited from using certain streets.

(a) The City may designate any street or portion thereof as a street the use of which is prohibited by any truck tractor or any vehicle with a gross vehicle weight rating of 10,101 pounds or more.

(b) The provisions of this section shall not apply to busses, recreational vehicles, travel trailers, public utility vehicles, or commercial vehicles making deliveries or pickups on the posted streets.

(c) Once posted, no person shall drive, park, or leave standing any such restricted vehicles on said streets.

(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.30. Trains not to block crossings.

No person shall cause or permit any railway train or railway cars or similar vehicle on rails to stop or stand or to be operated in such manner as to prevent the use of any street for the purposes of travel for a period of time longer than 10 minutes, except that this provision shall not apply to railway trains, cars or similar vehicles on rails while blocking or obstructing a crossing because of an accident which requires the operator of the train, car or similar vehicle on rails to stop at or near the scene of the accident.

(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.31. Other ordinances and resolutions.

Nothing in this chapter shall repeal any other ordinances or resolutions relating to traffic, vehicles, parking, streets, or highways.

(§ 1, Ord. 860, eff. September 18, 1992)

§ 4-5.32. Prima facie speed limits.

Pursuant to California Vehicle Code Section 22357, "Increase of Local Limits" and Section 22358, "Decrease of Local Limits," based on an engineering and traffic survey, prima facie evidence has been made for the declaration and establishment of appropriate speed limits upon streets or portions thereof within the City of Los Banos. Pursuant to such prima facie evidence, the City of Los Banos establishes local speed limits on the following streets or portions thereof as reflected below:

Prima Facie Speed Limit Declared 25 MPH	
4th Street	-from H Street to Pacheco Boulevard
6th (Main) Street	-from H Street to Pacheco Boulevard
6th Street	-from Pacheco Boulevard to Page Avenue
7th Street	-from H Street to Page Avenue
11th Street	-from Page Avenue to Pioneer Road
West J Street	-from West I Street to 3rd Street
J Street	-from 3rd Street to Pacheco Boulevard

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West K Street	-from West I Street to 4th Street
West L Street	-from West I Street to 4th Street
St. Francis Drive	-from Mercey Springs Road to Del Rio Drive
Unnamed road in the Ag Sports Complex City Park	-from Mercey Springs Road to Del Rio Drive
Prima Facie Speed Limit Declared 30 MPH	
2nd Street	-from Overland Avenue to West I Street
11th Street	-from Pacheco Boulevard to Page Avenue
East B Street	-from 7th Street to Mercey Springs Road
Black Hills Avenue	-from McKinley Street to Pioneer Road
Bluff Drive	-from Crescent Drive to Rainier Drive
Crescent Drive	-from Center Avenue to Bluff Drive
West I Street	-from Pacheco Boulevard to 4th Street
I Street	-from 4th Street to Pacheco Boulevard
McKinley Street	-from Bluff Drive to Black Hills Avenue
Overland Avenue	-from Nantes Road to Mercey Springs Road
Rainier Drive	-from Bluff Drive to McKinley Street
San Luis Street	-from Nickel Street to Ward Road
Scripps Drive	-from Mercey Springs Road to Place Road
Stonewood Drive	-from end approximately 220 feet north of Parkwood Drive to Willmott Road
Prima Facie Speed Limit Declared 35 MPH	
7th Street	-from Willmott Road to H Street
Center Avenue	-from Pacheco Boulevard to Cardoza Road
H Street	-from Nevada Avenue to Pacheco Boulevard
West I Street	-from end approximately 150 feet south of Kathy Street to Pacheco Boulevard
Place Road	-from Scripps Drive to Pioneer Road
San Luis Street	-from Mercey Springs Road to Nickel Street
Ward Road	-from end approximately 400 feet north of Greenbriar Drive to Pacheco Boulevard
Willmott Road	-from Johnson Road to Mercey Springs Road
Prima Facie Speed Limit Declared 40 MPH	
H Street	-from Colorado Avenue to Nevada Avenue
Place Road	-from Pacheco Boulevard to Scripps Drive

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Prima Facie Speed Limit Declared 45 MPH	
Overland Avenue	-from City Limit approximately 500 feet west of Johnson Road to Nantes Road

(§ 1, Ord. 927, eff. June 20, 1997)

§ 4-5.33. Decreased speed limits.

Pursuant to California Vehicle Code Section 22357.1, "Decreased Near Children's Playgrounds," and Section 22358.4, "Decreased of Local Limits near Schools or Senior Centers," based on an engineering and traffic survey, prima facie evidence has been made for the declaration and establishment of decreased speed limits upon streets or portions thereof with-in the City of Los Banos. Pursuant to such prima facie evidence, the City of Los Banos established decreased local speed limits on the following streets or portions thereof as reflected below:

Decreased Speed Limit Declared 25 MPH When Children Are Present	
East B Street	-from 7th Street to North Santa Ana Street
Center Avenue	-from north right-of-way line of CCID Main
	Canal to the north property line of APN 27-191-01 (St. Joseph's Catholic Church), approximately 150 feet north of Jefferson Avenue
11th Street	-from Madison Avenue to Page Avenue

(§ 2, Ord. 927, eff. June 20, 1997)

§ 4-5.40. Parking of recreational vehicles, recreational trailers, and utility trailers on roadways prohibited.

(a) It is unlawful for any person to park or leave standing a recreational vehicle on any roadway within the City except as follows:

(1) Recreational vehicles may be parked on the roadway for the express purpose and only long enough to load, prepare for use, unload or prepare for storage not to exceed 48 consecutive hours subject to the restrictions set forth herein and any other applicable State or local law.

No utility service, cord, or drain shall be connected to the vehicle.

(2) Recreational vehicles owned and operated, or used by persons who reside more than 50 miles from Los Banos, may be parked in residential areas for no more than seven calendar days (or portions thereof) within any 90-day period for the purpose of visiting City residents subject to the restrictions set forth herein and any other applicable State or local law.

(i) The recreational vehicle is self-sufficient in that no utility service, cord, or drain shall be connected to the vehicle, and

(ii) The recreational vehicle shall be parked on the street as close as practical to a street lot line of the dwelling subject to visitation.

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(3) Recreational vehicles over six (6′) feet in height shall not be parked within thirty-five (35′) feet of a stop sign or any intersection or in any other location so as to obscure the vision for motorists entering the intersection.

(4) Recreational vehicles shall not be parked on any narrow roadway (less than thirty (30′) feet in width) in a position that reduces the available travel lane to less than fourteen (14′) feet.

(5) Subject to the restrictions set forth herein and any other applicable State or local law, the use of recreational vehicles as a temporary shelter is permitted unless it results in an adverse effect on the health and/or general welfare of users of adjacent or proximate properties.

(b) It is unlawful for any person to park or leave standing a utility trailer on any roadway within the City except as follows:

(1) The utility trailer may be parked on the roadway for the express purpose of and only long enough to load or unload equipment, materials, or debris, or while otherwise actively being used for a project at which the trailer is parked, not to exceed 12 consecutive hours during any 24-hour period.

(2) Utility trailers owned and operated, or used by persons who reside more than 50 miles from Los Banos, may be parked in residential areas for no more than seven calendar days (or portions thereof) within any 90-day period for the purpose of visiting City residents subject to the restrictions set forth herein and any other applicable State or local law.

(3) The utility trailer may be parked on the roadway for the express purpose of accommodating the movement of furnishings, or household goods in conjunction with the relocation of local residents, not to exceed 24 consecutive hours in a 30-day period.

(c) For the purposes of this section, unless otherwise apparent from the context, "recreational vehicle" shall mean any vehicle or trailer designed or modified for habitation or recreational uses including but not limited to: a camp car, camper, motor home, house car, trailer coach, travel trailer, or camping trailer; boat, snowmobile, jet ski, recreational equipment; and any trailer designed or modified for use in transporting boats, motorcycles, jet skis, snowmobiles, horses or other livestock, tents and any other recreational equipment.

(d) For the purposes of this section, unless otherwise apparent from the context, "utility trailer" shall mean a trailer, whether open or enclosed, utilized for hauling equipment, materials or debris or for any similar purpose including but not limited to a utility or box trailer, farm trailer, auxiliary and pull dollies. Tractor trailers/commercial trailers may be parked on City streets for deliveries and pick ups and on truck routes subject to all other restrictions.

(§ 1, Ord. 1008, eff. June 18, 2004)

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Chapter 6
Administrative Remedies And Enforcement

Note: Chapter 6 entitled "Nuisances, Abatement of Weeds, Dirt, Rubbish, Refuse, and Rank Growths," consisting of Sections 4-6.01 through 4-6.19, as added by Ordinance No. 521, effective June 6, 1975, repealed by Ordinance No. 788, effective November 19, 1988. Chapter 6 entitled "Property Maintenance and Nuisances," consisting of Section 4-6.01 through 4-6.25, as added by Ordinance No. 788, effective November 19, 1998, as amended by Ordinance No. 918, effective April 18, 1996, and Ordinance No. 934, effective October 17, 1997, repealed by Ordinance No. 950, effective April 16, 1999.

§ 4-6.01. Findings and determination.

(a) This chapter is developed based upon the firm belief that the current and future values and the general health, safety and welfare of the community are affected significantly by the appearance and maintenance of real property and property values, and that implementation of this chapter will avoid further deterioration of neighborhoods and commercial centers, and will be of benefit to the community as a whole.

(b) There is currently existing within the City, real property, both improved and unimproved, that is in a state of deterioration or disrepair as to cause a depreciation of the value of surrounding property or to be materially detrimental to nearby properties and improvements.

(c) The purpose and intent of this chapter is:

(1) To enhance and promote the maintenance of real property, both improved and unimproved, and by so doing, improve the livability, appearance, and the social and economic conditions of the community;

(2) To define as public nuisances and violations of this Code those conditions which are considered harmful and/or deleterious to the public health, safety and welfare of the citizens of the City;

(3) To establish guidelines for the correction of property violations and nuisances which afford due process and procedural guarantees to affected property owners;

(4) To provide for administrative remedies, which are in addition to all other legal remedies, criminal or civil, which may be pursued by the City to address any violation of this Code; and

(5) To utilize the sanctions and penalties of this chapter as a last resort only after reasonable efforts at resolving disputes by educational and nonconfrontational means have been employed; it being recognized that voluntary compliance is preferred over all other remedies.

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.02. Definitions.

"Abate" shall mean to repair, replace, remove, demolish or otherwise remedy the condition in question by such means and in such manner and to such extent as the Enforcement Officer, in his or her best judgment, shall determine is necessary in the interests of the general health, safety and welfare of the community.

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"Director" shall mean the head of any City department which is charged with responsibility for enforcement of any provision of this Code.

"Enforcement Officer" shall mean any City of Los Banos employee or agent of the City of Los Banos with the authority to enforce any provision of this Code.

"Hearing Board" shall mean the seven member Planning Commission.

"Hearing Officer" shall mean the chairperson of the Planning Commission.

"Premises" shall mean any building, lot, parcel, real estate, or land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

"Responsible party" shall mean the owner of any premises or any agent, lessee, or other person occupying or having the charge or control of the premises.

"Weeds" shall mean all weeds growing upon streets, alleys, sidewalks or private property in the City and shall include any of the following:

(1) Weeds which bear or may bear seeds of a downy or wingy nature;

(2) Weeds and indigenous grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;

(3) Weeds which are otherwise noxious or dangerous;

(4) Weeds which are a public nuisance of seasonal and recurring nature which include tumbleweeds and Russian thistle; and

(5) Accumulations of garden refuse, cuttings and other combustible or noncombustible material.

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.03. Nuisances.

It is unlawful for any responsible person to keep or maintain premises under his or her control in a condition detrimental to the public health, safety or general welfare. Each of the following conditions is hereby declared to be detrimental to the public health, safety or general welfare, or to be a visual eyesore, and thus constitutes a public nuisance:

(a) The maintenance of premises in such a manner as to permit the premises to become so defective, unsightly or in such a condition of deterioration or disrepair that the premises cause appreciable harm or are materially detrimental to proximal properties;

(b) The maintenance of premises so out of harmony or conformity with the landscaping and maintenance standards of adjacent properties as to cause substantial diminution in the enjoyment, use or property value of such adjacent properties;

(c) The existence of any accumulation of waste paper, hay, grass, straw, weeds, litter or other combustible or noncombustible material upon the premises, or public sidewalks, streets or areas in front of such premises, or upon any roof or in any building, entrance way, court or yard thereof;

(d) The existence of any branch or foliage which interferes with the visibility on, or the tree use of, or access to any portion of any street improved for vehicular or pedestrian travel or which interferes with access to any hydrant, alarm box, standpipe, sprinkler system,

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connection or any other appliance or facility provided for fire protection purposes;

(e) Overgrown vegetation likely to harbor rats, vermin or other nuisances or having a tendency to depreciate the aesthetic and property values of surrounding properties;

(f) Dead, decayed, diseased or hazardous trees, weeds and other vegetation potentially dangerous to the public safety and welfare or having a tendency to depreciate the aesthetic and property values of surrounding properties;

(g) Land, topography or geology, of the configuration of which whether in natural state or as a result of grading operations, excavations or fill, causes erosion, subsidence or surface water drainage problems of such magnitude as to be injurious or potentially injurious to the public health, safety and welfare or to adjacent properties;

(h) The failure to close, by such means as shall be acceptable, all doorways, windows and other openings into vacant structures;

(i) Unpainted buildings causing dry-rot warping, the lack of adequate weather protection, or broken windows constituting potentially hazardous conditions and inviting trespassers and malicious mischief;

(j) Broken or discarded furniture and household equipment on the premises for unreasonable periods of time and visible from the street or from the sites of neighboring properties and having a tendency to depreciate the aesthetic and property values of surrounding properties;

(k) The accumulation and storage, for a period in excess of 10 days, of abandoned, wrecked, dismantled or in an inoperative condition of any licensed or unlicensed vehicle, trailer, camper, boat or other mobile equipment, or parts thereof, unless such vehicular part thereof is completely enclosed in a building or located behind a solid fence six (6′) feet in height in a lawful manner on private property, or unless such vehicle is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle repairer or licensed vehicle dealer;

(l) Attractive nuisance potentially dangerous to children or the general public in the form of abandoned or broken equipment, unprotected and/or hazardous pools, ponds or excavations, neglected machinery, or any other attractive nuisance visible to the public or surrounding properties;

(m) The existence of unused building materials and packing boxes when stored in yards and visible to the public. Nothing in this chapter shall prevent such storage when done in conjunction with a construction project for which a building permit has been issued and which is being prosecuted diligently to completion;

(n) Trash, dirt and other debris, either inside or outside buildings, visible from the public right-of-way or from the site of neighboring properties for unreasonable periods of time and having a tendency to depreciate the aesthetic and property values of surrounding properties;

(o) The accumulation of dirt, litter or debris in vestibules, doorways or along the adjoining sidewalks of residential, commercial or industrial buildings;

(p) The maintenance of signs and/or sign structures relating to uses no longer conducted or products no longer offered for sale on vacant commercial, industrial or institutional buildings for more than 45 days after such premises become vacant;

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(q) The maintenance of any structure in a state of substantial deterioration or disrepair, visible from the public right-of-way or from the sites of neighboring properties, where such conditions would have a tendency to depreciate the aesthetic and property values of surrounding properties;

(r) The existence of any fence or other structure or any thing on private property abutting or fronting upon any public street, sidewalk or place, which fence or other structure or thing is in a sagging, leaning, fallen, decayed or other dilapidated or unsafe condition;

(s) The performance of mechanical work on motor vehicles on public right-of-way or the performance of such work in rear area of residential properties so as to be visible from public right-of-way or neighboring properties for periods in excess of three weeks;

(t) The disposal of oil, gasoline and other petroleum products, noxious chemicals, pesticides, or any gaseous, liquid or solid waste in such a manner as to:

(1) Constitute a condition considered injurious to the public health, safety and welfare,

(2) Cause pollution of the land, water or air in the City, or

(3) Degrade the appearance of or detract from, the aesthetic and property values of neighboring properties;

(u) Premises maintained in such a condition as to obscure the visibility of public street intersections to such a degree as to constitute a public hazard;

(v) It is unlawful to place, deposit, dump or throw, or cause to be placed, deposited, dumped or thrown, any garbage, swill, can, bottle, paper, ashes, refuse, carcass of any dead animal, offal, trash, rubbish or any noisome, nauseous or offensive matter upon private property in the City; provided, however, grass clippings, garden trimmings, stones, wood and other similar things may be deposited on private property by the owner thereof or any person having the written permission of the owner;

(w) A landscaped area provided in compliance with the regulations prescribed in this chapter or as a condition of a use permit or variance shall be planted with materials suitable for screening or ornamenting the site, whichever is appropriate, and plant materials shall be maintained and replaced, as needed, to screen or ornament the site;

(x) The leaving out of garbage cans, refuse containers, or refuse on the curb or in a yard area visible from a public street on days not assigned for trash pickup and prior to 6:00 p.m. on the day before collection day;

(y) The parking on any private property, except duly licensed sales lots, of any vehicle, trailer, camper, boat or other mobile equipment displaying any sign, advertisement or device for the purpose of advertising or which advertises that said vehicle, trailer, camper, boat or other mobile equipment is for sale. Execution: The display of one vehicle, trailer, camper, boat or other mobile equipment for sale by the owner of the real property, which is private property, residentially zoned and improved with a dwelling, and is the owner of such vehicle, trailer, camper, boat or other mobile equipment shall not constitute a nuisance provided said advertising sign is not more than ten (10″) inches by twelve (12″) inches and such display complies with all other sections of this Code; and

(z) Vehicles, boats, trailers, whether motorized or nonmotorized, parked, stored, or displayed,

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within any required setback, or on any unimproved surface, or on any improved surface which has not previously been approved for parking purposes pursuant to applicable Building Code and/or zoning ordinance provisions and/or not otherwise in conformance with City of Los Banos improvement standards and specifications.

(aa) Any other condition on, or use of, property which constitutes a public nuisance as defined by State law or which may be declared such by other laws of the City.

(§ 1, Ord. 950, eff. April 16, 1999, as amended by § 1, Ord. 1029, eff. May 6, 2005)

§ 4-6.04. Abatement of nuisances.

All or any part of premises found as provided in this chapter to constitute a public nuisance shall be abated by rehabilitation, demolition or repair pursuant to the provisions set forth in this chapter. The procedures set forth in this chapter shall not be exclusive and shall not in any manner limit or restrict the City from enforcing other City laws or abating public nuisances in any other manner provided by law.

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.05. Compliance order.

(a) Whenever the Director, or Enforcement Officer, determines that a violation of any provision of this Code is occurring or exists, the Director or Enforcement Officer may issue a written compliance order to any responsible party for the violation.

(b) A compliance order issued pursuant to this chapter shall contain the following information:

(1) The date and location of the violation;

(2) The section of this Code violated and a description of the violation;

(3) A description of the action(s) necessary to correct the violation or to abate the unlawful condition(s);

(4) The time period after which administrative penalties or other actions will begin to accrue if compliance with the order has not been achieved;

(5) Either a copy of the Administrative Remedies Ordinance or an explanation of the consequences of noncompliance and a description of the hearing procedure and appeal process.

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.06. Hearing.

(a) If the Director determines that all violations have been corrected within the time specified, no further action shall be taken.

(b) If full compliance is not achieved within the time specified in the compliance order, the Director shall set a hearing before the Hearing Board.

(c) The secretary of the Hearing Board shall cause written notice of hearing to be served on the violator and, where real property is involved, a notice shall be served on the property owner at the address as it appears on the last equalized County assessment roll available on the date the notice is prepared.

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(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.07. Notices: Service.

A copy of the compliance order, and other notices, provided for in this chapter shall be sent to the owner and may be sent to any other person sought to be charged with the responsibility of correction or abatement. The notice shall be sent by certified mail, postage prepaid, and addressed as follows:

(a) To the owner. As such person's name and address appear on the last equalized assessment roll of the County or are known to the Director or the person authorized by the Director to give such notice; and

(b) To any other such person. As such person's name and address are known to the Director or the person authorized by the Director to give notice.

(c) Where personal service or service by mail upon the property owner is unsuccessful, a copy of the order may be conspicuously posted at the property which is the subject of the order.

The person giving such notice shall file a copy thereof in the office of the Director, together with an affidavit or certificate stating the date and manner in which such notice was given. The failure of any owner or any other person to receive such notice shall not affect in any manner the validity of any proceeding taken pursuant to the provisions of this chapter.

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.08. Notice of hearing.

(a) Every notice of hearing shall contain the date, time and place at which the hearing shall be conducted by the Hearing Board.

(b) Each hearing shall be set for a date not less than 15 days nor more than 60 days from the date of the notice of hearing. The Director may determine that the matter is urgent and/or that good cause exists for an extension of time, and if so, the notification time can be shortened or lengthened by the Director.

(c) This hearing serves to provide the full opportunity of a person subject to a compliance order to object to the determination that a violation has occurred and/or that a violation has continued to exist. The failure of any person subject to the compliance order to appear at the hearing shall constitute a failure to exhaust administrative remedies.

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.09. Hearing—Findings and order.

(a) At the time and place set forth in the notice, the Hearing Board shall conduct a hearing on the compliance order issued pursuant to Section 4-6.05.

(b) The Hearing Board shall consider any written or oral evidence consistent with its rules and procedures regarding the violation and compliance by the violator or by the real property owner.

(c) Within reasonable time following the conclusion of the hearing, the Hearing Board shall make findings and issue its determination regarding:

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(1) The existence of the violation;

(2) The failure of the violator or owner to take required corrective action within the required time period.

(d) The Hearing Board shall issue written findings for each violation. The findings shall be supported by evidence received at the hearing.

(e) If the Hearing Board finds by a preponderance of the evidence that a violation has occurred and that the violation was not corrected within the time period specified in the compliance order, the Hearing Board shall issue an administrative order.

(f) If the Hearing Board finds that no violation has occurred or that the violation was corrected within the time period specified in the compliance order, the Hearing Board shall issue a finding of those facts.

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.10. Administrative order.

(a) If the Hearing Board determines that a violation occurred which was not corrected within the time period specified in the compliance order, the Hearing Board shall issue an administrative order imposing any or all of the following:

(1) An order to remove or to correct, including a schedule for correction where appropriate;

(2) Administrative penalties as provided in Section 4-6.11 of this Code;

(3) Administrative costs as provided in Section 4-6.12 of this Code.

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.11. Administrative penalties.

(a) The Hearing Board may impose administrative penalties for the violation of any provision of this Code in an amount not to exceed a maximum of Two Thousand Five Hundred and No/100ths ($2500.00) Dollars per day for each ongoing violation, except that the total administrative penalty shall not exceed One Hundred Thousand and No/100ths ($100,000.00) Dollars exclusive of administrative costs, interest and restitution for compliance reinspections, for any related series of violations.

(b) In determining the amount of the administrative penalty, the Hearing Board may take any or all of the following factors into consideration:

(1) The duration of the violation;

(2) The frequency, recurrence and number of violations, related or unrelated, by the same violator;

(3) The seriousness of the violation;

(4) The good faith efforts of the violator to come into compliance;

(5) The economic impact of the violation on the violator:

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(6) The impact of the violation on the community;

(7) Such other factors as justice may require.

(c) Administrative penalties imposed by the Hearing Board shall accrue from the date specified in the compliance order and shall cease to accrue on the date the violation is corrected, as determined by the Director or Hearing Board.

(d) The Hearing Board, in its discretion, may suspend the imposition of applicable penalties for any period of time during which:

(1) The violator has filed for necessary permits; and

(2) Such permits are required to achieve compliance; and

(3) Such permits are actively pending before City, State or other appropriate governmental agency.

(e) Administrative penalties assessed by the Hearing Board shall be due by the date specified in the administrative order.

(f) Administrative penalties assessed by the Hearing Board are a debt owed to the City and, in addition to all other means of enforcement, if the violation is located on real property, may be enforced by means of a lien against the real property on which the violation occurred.

(g) If the violation is not corrected as specified in the Hearing Board's order to correct, administrative penalties shall continue to accrue on a daily basis until the violation is corrected, subject to the maximum amount set forth in subsection A of this section.

(h) If the violator gives written notice to the Director that the violation has been corrected and if the Director finds that compliance has been achieved, the Director shall deem the date the written notice is postmarked or personally delivered to the Director or the date of the final inspection, whichever first occurred, to be the date the violation was corrected. If no written notice is provided to the Director, the violation will be deemed corrected on the date of the final inspection.

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.12. Administrative costs.

(a) The Hearing Board may assess administrative costs against the violator when it finds that a violation has occurred and that compliance has not been achieved within the time specified in the compliance order.

(b) The administrative costs may include any and all costs incurred by the City in connection with the matter before the Hearing Board including, but not limited to, costs of investigation, attorney fees, staff costs incurred in preparation for the hearing itself, and costs for all reinspections necessary to enforce the compliance order.

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.13. Failure to comply with administrative compliance order.

(a) Failure to pay the assessed administrative penalties and administrative costs specified in the administrative order of the Hearing Board may be enforced as:

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(1) A personal obligation of the violator; and/or

(2) If the violation is in connection with real property, a lien upon the real property. The lien shall remain in effect until all of the administrative penalties, interest and administrative costs are paid in full.

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.14. Right to judicial review.

(a) Any person aggrieved by an administrative order of the Hearing Board may obtain review of the administrative order in the Superior Court by filing with the court a petition for writ of mandate.

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.15. Recovery of administrative civil penalties.

(a) The City may collect the assessed administrative penalties and administrative costs by use of all available legal means, including recordation of a lien pursuant to Section 4-6.20.

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.16. Report of compliance after administrative order.

(a) If the Director determines that compliance has been achieved after a compliance order has been sustained by the Hearing Board, the Director shall file a report indicating that compliance has been achieved.

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.17. Compliance disputes.

(a) If the Director does not file a report pursuant to Section 4-6.16 a violator who believes that compliance has been achieved may request a compliance hearing before the Hearing Board by filing a request for a hearing with the secretary of the Hearing Board.

(b) The hearing shall be noticed and conducted in the same manner as a hearing on a compliance order, provided in Sections 4-6.07 through Section 4-6.09.

(c) The Hearing Board shall determine if compliance has been achieved and, if so, when it was achieved.

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.18. Lien procedure.

(a) Whenever the amount of any administrative penalty and/or administrative cost imposed by the Hearing Board, pursuant to this Chapter and in connection with real property, has not been satisfied in full within 90 days and/or has not been successfully challenged by a timely writ of mandate, this obligation may constitute a lien against the real property on which the violation occurred.

(b) The lien provided herein shall have no force and effect until recorded with the County Recorder. Once recorded, the administrative order shall have the force and effect and priority of a judgment lien governed by Section 697.340 of the Code of Civil Procedure and may be extended as provided in Sections 683.110 to 683.220, inclusive, of the Code of

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Civil Procedure.

(c) Interest shall be accrued on the principal amount of the judgment remaining unsatisfied pursuant to law.

(d) Prior to recording any such lien, the Director of Finance shall prepare and file with the City Clerk a report stating the amounts due and owing.

(e) The City Clerk shall fix a date, time and place for hearing such report and any protests or objections thereto by City Council.

(f) The Director of Finance shall cause written notice to be served on the property owner not less than 10 days prior to the time set for the hearing. Such notice shall be served as provided in Section 4-6.07.

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.19. Public hearings and protests.

(a) Any person whose real property is subject to a lien pursuant to Section 4-6.18 may file a written protest with the City Clerk and/or may protest orally at the City Council meeting.

(b) Each written protest or objection must contain a description of the property in which the protesting party is interested and the grounds of such protest or objection.

(c) The City Council, after the hearing, shall adopt a resolution confirming, discharging or modifying the amount of the lien.

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.20. Recording the lien.

(a) Thirty days following the adoption of a resolution by the City Council imposing a lien, the City Clerk shall file the same as a judgment lien in the Office of County Recorder of Merced County, California. The lien may carry such additional administrative charges as set forth by the resolution of the City Council.

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.21. Satisfaction of the lien.

(a) Once payment in full is received by the City for outstanding penalties and costs, the Director of Finance shall either record a notice of satisfaction or provide the property owner or financial institution with a notice of satisfaction so they may record a notice with the Office of County Recorder. Such notice of satisfaction shall cancel the City's lien.

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.22. Abatement of abandoned, wrecked, dismantled and inoperative vehicles or parts thereof.

(a) Removal. Five days after the adoption of a compliance order or administrative order declaring a vehicle, or part thereof, to be a public nuisance, the vehicle, or part thereof may be disposed of by removal to a scrapyard or automobile dismantler's yard. After a vehicle has been removed, it shall not thereafter be reconstructed or made operable.

(b) Removal: Notices. Within five days after the date of the removal of the vehicle, or part

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thereof, notice shall be given to the Department of Motor Vehicles of the State identifying the vehicle, or part thereof, removed. At the same time there shall be transmitted to said Department of Motor Vehicles any evidence of registration available, including registration certificates, certificates of title and license plates.

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.23. Abatement of weeds.

(a) All owners or lessees of unimproved or improved real property within the City shall comply with the provisions of this chapter by discing, harrowing, rototilling or manual labor on or before April 1st of each year, or by such other date which, on special occasions, may be especially declared by the Council. After said date, all such premises or parcels of real property shall be declared a public nuisance and may therefor be ordered abated as provided in this chapter.

(b) In order to comply with the provisions of subsection (a) of this section, the Enforcement Officer shall send to all owners or lessees of unimproved or improved real property within the City, each year, a notice that such persons have until April 1st of said year, or until such other date as may be specified by the Council in any given year, to rid their property of a condition which is considered one of a hazardous fire potential. In such notification the owners or lessees of such improved or unimproved real property shall be informed that they can personally accomplish such remedies or the eradication of the potential fire hazard, or that the City may assist such persons on a cash basis, or that such owners or lessees shall have the privilege to contract with a private firm for the removal and eradications of such hazardous fee conditions as earlier declared. The property owner or lessee shall reply to such notification to the Enforcement Officer on or property before March 1st, in which manner such person wishes to proceed to eradicate the potential hazardous fire condition. All work done shall be completed by April 1st of each year to the satisfaction and approval of the Enforcement Officer.

(c) As of April 1st of each year, should the potential hazardous fire condition on the said described property not be eradicated pursuant to the provisions of subsection (b) of this section, the hazardous condition shall be declared by the Council as an immediate fire hazard and public nuisance, and the hazardous condition shall be abated by the City, under its supervision, and all work thus done to eradicate such hazardous condition shall be a cost to be assessed as a lien upon the subject real property in the manner provided in subsection (d) of this section.

(d) If the administrative costs and the costs of removal such are charged against the owner of a parcel of unimproved or improved real property within the City pursuant to the provisions of subsection (c) of this section are not paid within 90 days after April 1st, such costs shall be assessed against the parcel of land pursuant to the provisions of Section 38773.5 of the Government Code of the State and shall be transmitted to the Tax Collector for collection. Such assessment shall have the same priority as other City taxes.

(e) In each given year, the late maturity of weeds of a seasonal nature may require further eradication as may be determined by the Enforcement Officer. Should such condition occur, and the condition be determined to be a hazardous fire condition by the Enforcement Officer, the provisions set forth in subsections (a), (b), (c) and (d) of this section shall be followed insofar as to the eradication of the late maturity of weeds of a seasonal nature.

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(f) The notice referred to in this section shall be substantially in the following form:

Notice to Remove Weeds

TO THE OWNER, AGENT OF THE OWNER, LESSEE, OCCUPANT, OR PERSON IN POSSESSION OF THE PROPERTY HEREINAFTER DESCRIBED:

As owner, agent, lessee, or other person occupying or having charge or control of the building, lot, or premises at _____, you are hereby notified that the undersigned, pursuant to subsection _____ of Section 4-6.05 of Chapter 6 of Title 4 of the Los Banos Municipal Code, _____.

You are hereby notified to abate said condition to the satisfaction of the undersigned within _____ days of the date of this notice or to appear at the office of the _____ at _____, 20_____, at _____o clock'_____.m., and show cause, if any, why said condition should not be abated by the City and the expenses thereof charged to you as a personal obligation and/or made a lien upon said buildings or grounds.

Abatement is to be accomplished in the following manner: _____.

Dated: _____

Enforcement Officer, City of Banos
By _____

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.24. Abatement by the City.

In all cases where the Enforcement Officer has determined to proceed with abatement, on the day following the date fixed for such hearing or, if the matter has been continued by the Enforcement Officer, the day following the conclusion thereof, the City shall acquire jurisdiction to abate such condition at such person's expense as provided in this chapter. Any property owner or responsible person shall have the right to abate such condition him or herself or have the condition abated at his or her own expense, provided such condition has been abated prior to the arrival of the Enforcement Officer or his or her authorized representatives to do so. If the procedures relating to the eradication of the condition by the property owner have been complied with at the property owner's expense, the Enforcement Officer or his or her authorized representative shall have no further jurisdiction to abate such condition.
(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.25. Abatement by the City: Accounts and reports of costs.

The Enforcement Officer shall keep an account of the cost of abating such nuisance and embody such account in a report and assessment list to the Council, which shall be filed with the City Clerk. Such report shall refer to each separate lot or parcel of land by description sufficient to identify such lot or parcel, together with the expense proposed to be assessed against each separate lot or parcel of land.
(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.26. Abatement by the City: Accounts and reports of costs: Notices.

The City Clerk shall post a copy of such report and assessment list on the bulletin board in the City Hall together with a notice of the filing thereof and of the time and place when and where

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it will be submitted to the Council for hearing and confirmation, notifying property owners that they may appear at such time and place and object to any matter contained therein. A like notice shall also be published twice in a newspaper of general circulation, published and circulated within the City. The posting and first publication of such notice shall be made and completed at least 10 days before the time such report shall be submitted to the Council. Such notice, as so posted and published, shall be substantially in the following form:

Notice of Hearing on Report and Assessment Nuisance Abatement

NOTICE IS HEREBY GIVEN that on _____, 20_____, the Enforcement Officer of the City of Los Banos filed with the City Clerk of said City a report and assessment on the abatement of rubbish and litter within said City, a copy of which is posted on the bulletin board at the entrance of the City Hall.

NOTICE IF FURTHER GIVEN that on _____20_____, at the hour of 7:30 p.m., in the Council Chamber of said City Hall, said report and assessment list will be presented to the City Council of said City for consideration and confirmation, and that any and all persons interested, have any objections to said report and assessment list, or to any matter or thing contained therein, may appear at said time and place and be heard.

DATED: _____

_____
City Clerk, City of Los Banos

(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.27. Abatement by the City: Accounts and reports of cost; Hearings: Confirmation.

At the time and place fixed for receiving and considering the report referred to in Section 4-6.25 of this chapter, the Council shall hear the report, together with any objections which may be raised by any of the property owners liable to be assessed for the work of abating such nuisance, and the Enforcement Officer shall attend such meeting with his or her record thereof, and, upon such hearing, the Council may make such modifications in the proposed assessments therefor as the Council may deem necessary, after which such report and assessment list shall be confirmed by resolution.
(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.28. Abatement by the City: Costs.

(a) The amount of the cost of abating such nuisance upon, or in the front or rear of, the various lots or parcels of land respectively referred to in such report shall constitute special assessments against such respective lots or parcels of land and, after thus made and confirmed, shall constitute a lien on such property for the amount of such assessments until paid.

(b) Administrative charges amounting to 20% of the total cost shall be added to the gross cost of the abatement as ordered. In the event, the assessment by this chapter is placed on the tax roll, an additional charge of 10% of the total assessment, but not exceeding One Hundred and No/100ths ($100.00) Dollars, shall be added to the charge and assessment.
(§ 1, Ord. 950, eff. April 16, 1999)

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§ 4-6.29. Procedure not exclusive.

The procedure provided in this chapter shall be cumulative and in addition to any other procedure provided in the laws of the City or by State laws for the abatement of any of the conditions described in this chapter, and abatement pursuant to the provisions of this chapter shall not prejudice or affect any other action, civil or criminal, for the maintenance of such condition.
(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.30. Immediate danger: Summary abatement.

Whenever any condition on, or use of, property causes or constitutes, or reasonably appears to cause or constitute, an imminent or immediate danger to the health or safety of the public, or a significant portion thereof any enforcement officer, or his or her authorized representative, shall have the authority to summarily and without notice abate such condition or use. The expenses of such abatement shall become a lien on the property and be collectible as provided in Sections 4-6.23 through 4-6.26 of this chapter.
(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.31. Right of the City to sue for assessments and costs.

The City may sue in any court of competent jurisdiction for the amount of the assessment, penalties and costs, and the satisfaction of any judgment thereby obtained shall cancel any lien for the assessment.
(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.32. Charges for fire suppression services.

Any property owner, or other responsible person, who, after written notification by the Enforcement Officer or his or her authorized representative, fails to abate a condition constituting a public nuisance as set forth in Section 4-6.03 of this chapter shall become liable for the expenses of fighting a fire which is determined by the Fire Department to have been caused by or attributed to, in whole or in part, such condition constituting such a public nuisance. Such expenses shall be charged to the property owner and/or other responsible person and shall become a lien upon the property and shall be collectible as provided in Sections 4-6.25 and 4-6.26 of this chapter.
(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.33. Right of entry.

It is unlawful for any person, owner, agent of the owner, lessee or anyone in possession of any premises within the City to refuse to allow the Enforcement Officer, or his or her agents or employees, to enter upon the premises at any time during the hours of daylight for the purpose of the abatement of the prohibited conditions or to interfere in any way whatsoever with the Enforcement Officer, or his or her agents or employees, in any work which he may undertake pursuant to the provisions of this chapter.
(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.34. Franchises.

When the Council has contracted with, or granted a franchise to, any person, such person shall be authorized to enter upon private property or public property to remove, or cause the removal

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of, weeds, rubbish, litter or unsafe buildings declared to be a public nuisance pursuant to this chapter.
(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.35. Liability.

The Enforcement Officer or any employee charged with the enforcement of this Code, acting in good faith and without malice for the City in the discharge of his or her duties, shall not thereby render him or herself personally liable, and he is relieved from all personal liability for any damage which may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his or her duties. Any suit brought against the Enforcement Officer or such employee because of such act or omission performed by him or her in the enforcement of any provision of this Code shall be defended by the Legal Department of the City until the final termination of the proceedings.
(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.36. Violations: Penalties.

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable according to the provisions of this chapter.
(§ 1, Ord. 950, eff. April 16, 1999)

§ 4-6.37. Recovery of attorney's fees.

In all cases where the City Attorney or designee has determined to proceed with abatement proceedings either by filing a criminal or a civil action, initiating an administrative proceeding or special proceeding, recovery of attorney's fees shall be available to the prevailing party. However, recovery of attorney's fees shall be available to those individual actions or proceedings in which the city elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the city in the action or proceeding.
(§ 1, Ord. 950, eff. April 16, 1999)

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Chapter 7
Skateboards

§ 4-7.01. Personal transportation devices defined.

For the purposes of this chapter, "personal transportation devices" shall mean any device which is used to propel or transport a person or persons by means of muscular power, wind power or any type of motor or engine (excluding motor vehicles, bicycles or wheel chair — invalid tricycle — or motorized quadricycle when operated by a person who operates such device due to a physical disability). Personal transportation devices include but are not limited to, skateboards, roller skates, in line skates, and similar devices.
(§ 1, Ord. 763, eff. June 19, 1987, as amended by § 1, Ord. 898, eff. July 5, 1996)

§ 4-7.02. Restricted use: Public streets.

Persons operating a personal transportation device that is not otherwise controlled by the California Vehicle Code are subject to the same regulations as are pedestrians while operating these devices on public streets, alleys or right-of-ways.
(§ 2, Ord. 763, eff. June 19, 1987, as amended by § 1, Ord. 898, eff. July 5, 1996)

§ 4-7.03. Prohibited use: Public sidewalks and restricted areas.

It is unlawful to operate a personal transportation device on any public sidewalk in a business district or any restricted area or any private property without the permission of the property owner or person in control of the property.
(§ 3, Ord. 763, eff. June 19, 1987, as amended by § 1, Ord. 898, eff. July 5, 1996)

§ 4-7.04. Business district defined.

For the purposes of this chapter, "business district" shall be defined as any public sidewalk or driveway which borders any commercial building.
(§ 4, Ord. 763, eff. June 19, 1987, as amended by § 1, Ord. 898, eff. July 5, 1996)

§ 4-7.05. Restricted area defined.

For the purposes of this chapter, "restricted area" shall be defined as any section of public sidewalk, walkway, thoroughfare, or other area which is clearly posted by means of signs or painted markings prohibiting the operation of personal transportation devices.
(§ 5, Ord. 763, eff. June 19, 1987, as amended by § 1, Ord. 898, eff. July 5, 1996)

§ 4-7.06. Violations: Penalties.

Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.
(§ 6, Ord. 763, eff. June 19, 1987, as amended by § 1, Ord. 898, eff. July 5, 1996)

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Chapter 8
Graffiti Abatement

§ 4-8.01. Purpose and findings.

(a) The purpose of this chapter is to provide for the administration and financing of graffiti removal; community education on the prevention of graffiti laws, and enforcement of graffiti laws.

(b) The City Council of the City of Los Banos finds that the proliferation of graffiti constitutes a public nuisance; that graffiti creates a condition of blight within the City which results in the deterioration of property values, business opportunities, and enjoyment of life for persons using or occupying adjacent surrounding properties; that graffiti is inconsistent with the City's property maintenance goals, crime prevention programs, and aesthetic standards.

(§ 1, Ord. 921, eff. May 2, 1997)

§ 4-8.02. Graffiti or other inscribed material defined.

Any unauthorized inscription, word, figure, mark or design that is written, marked, etched, scratched, drawn, or painted on real or personal property.

(§ 1, Ord. 921, eff. May 2, 1997)

§ 4-8.03. Administration.

(a) The administration of this chapter shall be the responsibility of the Chief of Police and/or his/her designees. The Chief of Police will enjoy the cooperation and assistance of all City Departments in the administration of this program. County, State, Federal, and private assistance may also be utilized when appropriate.

(b) The Chief of Police will set in place programs and procedures for:

1. Locating graffiti within the City limits;

2. The apprehension and prosecution of those who commit the criminal act of graffiti, i.e., vandalism;

3. Coordination and restitution from the responsible party(s) (violator) or those legally responsible for the violator (parents/guardian);

4. Coordinating with other City Departments for removal of graffiti; (a) by the property owner, or (b) with the consent of the property owner with City equipment and funds, or (c) without the cooperation of the property owner through an abatement process.

(§ 1, Ord. 921, eff. May 2, 1997)

§ 4-8.04. Financing.

(a) Costs related to this chapter will be distributed to involved City Departments from the general fund.

(b) Funds recovered through this program (by restitution, abatement/liens, etc.), will be deposited into the general fund.

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(§ 1, Ord. 921, eff. May 2, 1997)

§ 4-8.05. Community education.

The Chief of Police shall institute a community education program on the prevention of graffiti.
(§ 1, Ord. 921, eff. May 2, 1997)

§ 4-8.06. Enforcement of graffiti laws.

The Chief of Police and all those officers under his/her control are encouraged by way of this chapter to vigorously enforce those laws related to graffiti violations.
(§ 1, Ord. 921, eff. May 2, 1997)

§ 4-8.07. Graffiti removal.

(a) The offender(s) who caused or created the graffiti may be ordered by the magistrate having jurisdiction over the case to repair, paint over, or otherwise remove the graffiti.

(b) The offender(s) who caused or created the graffiti may be ordered by the Probation Department to repair, paint over, or otherwise remove the graffiti.

(c) Through a City, County, or private diversion program the offender(s) who caused or created the graffiti may be ordered or may agree to repair, paint over, or otherwise remove the graffiti.

(d) The property owner where the graffiti exists should report the graffiti and then remove or cause the removal of the graffiti.

(e) The City may remove or cause the removal of the graffiti with the consent of the property owner.

(f) Lacking the consent to remove the graffiti and lacking the cooperation of the property owner to remove the graffiti the City may (with proper notice) abate/remove the graffiti and place appropriate liens on the property.

(g) The offender and his/her parents or guardians if the offender is a minor, may be ordered or may agree through a diversion program to keep the damaged property or another specified property in the community free of graffiti for up to one year.

(§ 1, Ord. 921, eff. May 2, 1997)

§ 4-8.08. Cost recovery.

(a) The City or any property owner/victim may pursue the full cost recovery from the offender(s) and/or the offender's parents or guardians. The City may pursue cost recovery for all costs related to the offender including but not limited to: apprehension and prosecution costs, court costs, attorney fees, and graffiti removal.

(b) Cost recovery limitations for parents or guardians are set by the California Civil Code, Section 1714.1.

(c) Pursuant to California Government Codes 38771-38773.7 the City declares that graffiti is a nuisance.

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1. The City may provide for summary abatement of any such nuisance at the expense of a minor creating, causing, or committing the nuisance. The City may make the expense of abatement of the nuisance a lien against property of the minor and a personal obligation against the minor pursuant to Government Code Section 38773.2 or 38773.6.

2. The parent or guardian having custody or control of the minor shall be jointly and severely liable with the minor. The City may make the expense of graffiti abatement a lien against the property of a parent or guardian having custody and control of the minor and a personal obligation against the parent or guardian having custody and control of the minor pursuant to California Government Code Section 38773.2 or 38773.6.

3. The City may provide for the abatement or any nuisance at the expense of the persons creating, causing, committing, or maintaining it. The City may make the expense of abatement of nuisances a lien against the property on which it is maintained and a personal obligation against the property owner in accordance with California Government Code Section38773.1 or 38773.5. The City may also make the cost of abatement of a nuisance located upon a parcel of land a special assessment against that parcel.

4. The City may provide for the abatement of any nuisance and make the abatement and related administrative costs a special assessment against a parcel of land owned by the minor who caused or created the nuisance or by the parent or guardian having custody and control of the minor.

5. The City may provide that upon entry of a second or subsequent civil or criminal judgment within a two year period finding that an owner of property is responsible for a condition that may be abated in accordance to this chapter (except for conditions abated pursuant to Section17980 of the California Health and Safety Code), the court may order the owner to pay treble the costs of the abatement.

6. The City shall follow all procedures set forth in the California Government Code Sections stated above as to proper notice, recordation, fees, liens, and assessments.

(§ 1, Ord. 921, eff. May 2, 1997)

§ 4-8.09. Use of City funds.

The City may use its funds to remove graffiti from publicly or privately owned real or personal property located within the City, and to replace or repair public or privately owned property that has been defaced with graffiti.

The removal, repair, or replacement may be performed only after securing the consent of the entity or person who owns, controls, or possesses the property. The Police Department should be notified prior to said removal, repair, or replacement so that criminal evidence may be collected.

The City shall limit the improvements that this abatement provides to the area of graffiti only. The City shall not paint, repair, or replace other portions of the property that was not defaced.
(§ 1, Ord. 921, eff. May 2, 1997)

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Chapter 9
Floodplain Management

§ 4-9.01. Statutory authorization.

The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local government units authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the City Council of the City of Los Banos does hereby adopt the following floodplain management regulations.
(§ 1, Ord. 936, eff. January 16, 1998)

§ 4-9.02. Statement of purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(a) Protect human life and health;

(b) Minimize expenditure of public money for costly flood control projects;

(c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) Minimize prolonged business interruptions;

(e) Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;

(f) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;

(g) Ensure that potential buyers are notified that property is in area of special flood hazard; and

(h) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
(§ 1, Ord. 936, eff. January 16, 1998)

§ 4-9.03. Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"Base flood" means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this chapter.

Building. See "Structure."

"Development" means man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation

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or drilling operations or storage of equipment or materials.

"Flood or flooding" means:

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; or mudslides (i.e., mudflows) which are proximately caused by flooding as defined herein and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusual and foreseeable event which results in flooding as defined in this definition.

"Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source. See "Flooding."

"Floodplain Administrator" is the individual appointed to administer and enforce the floodplain management regulations.

"Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

"Floodplain management regulations" means this chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes Federal, State or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

"Governing body" is the local governing unit, i.e., county or municipality, that is empowered to adopt and implement regulations to provide for public health, safety and general welfare of its citizenry.

"Historic structure" means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states with approved programs.

"Manufactured home" means a structure, transportable in one or more sections, which is built

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on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"New construction," for floodplain management purposes, means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulations adopted by this community, and includes any subsequent improvements to such structures.

One-hundred-year flood or 100-year flood. See "Base flood."

"Recreational vehicle" means a vehicle which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Start of construction" includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations of the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code

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enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(§ 1, Ord. 936, eff. January 16, 1998)

§ 4-9.04. Lands to which this chapter applies.

This chapter shall apply to all areas identified ad flood-prone within the jurisdiction of the City of Los Banos.

(§ 1, Ord. 936, eff. January 16, 1998)

§ 4-9.05. Basis for establishing flood-prone areas.

The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated February 18, 1991, and accompanying flood insurance rate maps (FIRMs) for Merced County, California and incorporated areas dated August 2, 1995, and all subsequent amendments and/or revisions, are adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the City of Los Banos by the Floodplain Administrator. The study and FIRMS are on file at 520 "J" Street, Los Banos, California.

(§ 1, Ord. 936, eff. January 16, 1998 as amended by § 1, Ord. 938, eff. February 18, 1998)

§ 4-9.06. Compliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the City Council from taking such lawful action as is necessary to prevent or remedy any violation.

(§ 1, Ord. 936, eff. January 16, 1998)

§ 4-9.07. Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(§ 1, Ord. 936, eff. January 16, 1998)

§ 4-9.08. Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

(a) Considered as minimum requirements;

(b) Liberally construed in favor of the governing body; and

(c) Deemed neither to limit nor repeal any other powers granted under state statutes.

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(§ 1, Ord. 936, eff. January 16, 1998)

§ 4-9.09. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Floor heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City Council, any officer or employee thereof, the State of California, or the Federal Insurance Administration, Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.
(§ 1, Ord. 936, eff. January 16, 1998)

§ 4-9.10. Severability.

This chapter and the various parts thereof are hereby declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.
(§ 1, Ord. 936, eff. January 16, 1998)

§ 4-9.11. Establishment of development permit.

A development permit shall be obtained for all proposed construction or other development in the community, including the placement of manufactured homes, so that it may be determined whether such construction or other development is within flood-prone areas.
(§ 1, Ord. 936, eff. January 16, 1998)

§ 4-9.12. Designation of the Floodplain Administrator.

The Building Official is hereby appointed to administer, implement, and enforce this chapter by granting or denying development permits in accord with its provisions.
(§ 1, Ord. 936, eff. January 16, 1998)

§ 4-9.13. Duties and responsibilities of the Floodplain Administrator.

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following.

(a) Permit review. Review all development applications to determine that:

(1) Permit requirements of this chapter have been satisfied;

(2) All other required State and Federal permits have been obtained; and

(3) The site is reasonably safe from flooding.

(b) Review and use of any other base flood data. The Floodplain Administrator shall obtain, review, and reasonably utilize any base flood data available from other Federal or State agency or other source.

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(§ 1, Ord. 936, eff. January 16, 1998)

§ 4-9.14. Provisions for flood hazard reduction—Standards of construction.

If a proposed building site is in a flood-prone area, all new construction and substantial improvements, including manufactured homes, shall:

(a) Be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(b) Be constructed:

(1) With materials and utility equipment resistant to flood damage;

(2) Using methods and practices that minimize flood damage;

(3) With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(§ 1, Ord. 936, eff. January 16, 1998)

§ 4-9.15. Provisions for flood hazard reduction—Standards for subdivisions or other proposed new development.

If a subdivision proposal or other proposed new development, including manufactured home parks or subdivisions, is in a flood-prone area, any such proposals shall be reviewed to assure that:

(a) All such proposals are consistent with the need to minimize flood damage within the flood-prone area;

(b) All public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and

(c) Adequate drainage is provided to reduce exposure to flood hazards.

(§ 1, Ord. 936, eff. January 16, 1998)

§ 4-9.16. Provisions for flood hazard reduction—Standards for utilities.

(a) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:

(1) Infiltration of flood waters into systems; and

(2) Discharge from the systems into flood waters.

(b) On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

(§ 1, Ord. 936, eff. January 16, 1998)

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Chapter 10
Skateboard Parks

§ 4-10.01. Purpose and intent.

The purpose and intent of this chapter is to regulate public use of any City-owned skateboard park in the City that is designed and maintained for the purpose of recreational skateboard use and personal transportation devices and is not supervised by the City on a regular basis.
(§ 1, Ord. 941, eff. May 15, 1998)

§ 4-10.02. Personal transportation devices defined.

For purposes of this chapter, "personal transportation devices" shall mean any device which is used to propel or transport a person or persons by means of muscular power, wind power or any type of motor or engine (excluding motor vehicles, bicycles or wheel chair - invalid tricycle - or motorized quadricycle when operated by a person who operates such device due to a physical disability). Personal transportation devices include but are not limited to, skateboards, roller skates, in-line skates, and similar devices.
(§ 1, Ord. 941, eff. May 15, 1998)

§ 4-10.03. Use of skateboards or personal transportation devices.

At any City-owned skateboard park, no person shall ride a skateboard or personal transportation devices thereon unless that person is wearing a helmet, elbow pads, knee pads and wrist guards.
(§ 1, Ord. 941, eff. May 15, 1998)

§ 4-10.04. Posting of signs.

There shall be a posting of signs at the skateboard park affording reasonable notice that any person riding a skateboard or personal transportation devices at the park must wear a helmet, elbow pads, knee pads and wrist guards, and any person failing to do so will be subject to a citation.
(§ 1, Ord. 941, eff. May 15, 1998)

§ 4-10.05. Violations and penalties.

Any person violating any of the provisions of this chapter shall be punishable as set forth in Chapter 2, Title 1 of this Code, relating to infractions.
(§ 1, Ord. 941, eff. May 15, 1998)

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Chapter 11
Administrative Enforcement

§ 4-11.01. Purpose and intent.

The City Council has determined that the enforcement of this Code, any uniform or other code it adopts by reference, and any other ordinance of the City is an important public service and is vital to the protection of the public's health, safety, and quality of life. The City Council has determined that there is a need for alternative methods of code enforcement and that a comprehensive code enforcement system includes criminal, civil, and administrative remedies. (§ 2, Ord. 1092, eff. June 5, 2010)

§ 4-11.02. Applicability.

(a) This chapter provides for administrative citations, which are in addition to all other legal remedies, criminal or civil, which may be pursued by the City to address any violation of this Code. Use of this chapter shall be at the sole discretion of the City.

(b) The administrative citations process set forth in this chapter does not apply to continuing violations of this Code that pertain to building, plumbing, electrical or other similar structural or zoning issues.

(§ 1, Ord. 949, eff. April 16, 1999, as amended by § 1, Ord. 979, eff. September 14, 2001, § 2, Ord. 1007, eff. June 18, 2004, § 2, Ord. 1008, eff. June 18, 2004, § 2, Ord. 1045, eff. March 1, 2006, § 3, Ord. 1053, eff. May 4, 2007, § 2, Ord. 1054, eff. May 4, 2007, § 2, Ord. 1070, eff. June 6, 2008, and § 3, Ord. 1092, eff. June 5, 2010)

§ 4-11.03. Definitions.

Unless specifically defined below, words or phases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"Administrative citation" is a notice issued by an enforcement officer pursuant to this chapter that there has been a violation of the Code and that an administrative fine is imposed.

"Appellant" is a person who seeks an administrative hearing on an administrative citation in the manner required by this chapter.

"Code violation" is any violation of this Code or any other ordinance of the City, including any codes adopted by reference as permitted by law and any violation of any condition imposed upon the issuance of any permit, license, or other approval (e.g., subdivision map, use permit, variance, zoning clearance) pursuant to this Code or any other ordinance of the City.

"City Manager" is the City Manager or designee.

"Enforcement Officer" is an individual designated by the City Manager to act under this chapter.

"Hearing Authority" is the City Manager or designee.

"Issue" means to provide a notice of violation, an administrative citation, a notice of hearing, a notice of the continuance of a hearing, or a notice of decision by: (1) personally serving it on a responsible person; (2) mailing it to a responsible person by first-class mail; or (3) posting it in a conspicuous place on the property to which it relates and mailing a copy of it to a responsible person at the address where the violation occurred.

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"Notice of decision" is a notice that informs a responsible person of a decision made by a hearing authority pursuant to the provisions of this chapter.

"Notice of violation" is any notice that informs a person that a violation of the Code, any code it adopts by reference, or other applicable law, has occurred.

"Responsible person" is any of the following:

(1) A person or legal entity who, by action or inaction, causes, maintains, permits or allows a code violation;

(2) A person or legal entity whose agent, employee, or independent contractor, by action or inaction, causes, maintains, permits or allows a code violation;

(3) An owner of real property on which a code violation occurs;

(4) A lessee or sublessee with the current right of possession of real property on which a code violation occurs;

(5) A person or legal entity that uses real property on which a code violation occurs;

(6) If any of the above persons are minors, the parents or guardians of such minors shall be deemed the responsible person.

(§ 1, Ord. 949, eff. April 16, 1999, as amended by § 4, Ord. 1092, eff. June 5, 2010)

§ 4-11.04. General enforcement authority.

Enforcement Officers may issue notices of violation and administrative citations, inspect public and private property, and use whatever judicial and administrative remedies are available under this Code and other law to enforce the ordinances of the City. More specific provisions regarding administrative or other enforcement authority and procedures for particular violations may exist in this Code and shall to fullest extent permissible, be construed to complement rather than contradict this chapter.

(§ 5, Ord. 1092, eff. June 5, 2010)

§ 4-11.05. Authority to inspect.

Enforcement Officers are authorized to enter upon any property or premises within the City to ascertain whether the ordinances of the city are being obeyed, and to make any examination and surveys as may be necessary in the performance of their enforcement duties, in accordance withFourth Amendment of United States Constitution and the related protections of the California Constitution. These inspections may include the taking of photographs, samples, or other physical evidence. All inspection, entries, examinations and surveys shall be performed reasonably and in accordance with law. If an owner or occupant or property or his or her agent refuses to consent to entry and inspection, an Enforcement Officer may seek an administrative inspection warrant pursuant to law.

(§ 6, Ord. 1092, eff. June 5, 2010)

§ 4-11.06. Warning of a code enforcement violation.

Whenever an Enforcement Officer charged with the enforcement of any provision of a Code determines that a violation of that provision has occurred, the Enforcement Officer may issue a warning of a code enforcement violation to any responsible party for the violation. The warning

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shall identify the Code section(s) violated and provide a description of the violation and how it can be corrected. A warning is not a prerequisite to the issuance of a notice of violation or an administrative citation.
(§ 7, Ord. 1092, eff. June 5, 2010)

§ 4-11.07. Notice of violation.

Whenever an Enforcement Officer determines that a violation exists, the Enforcement Officer may issue a notice of violation to any responsible persons. The notice of violation must include the following information:

(1) The Code section(s) or other ordinances violated;

(2) A description of the condition creating or constituting the violation(s);

(3) The address where the violation(s) occurs;

(4) The name of the responsible person and any other involved persons known to the Enforcement Officer;

(5) The date and, if relevant, time at which the violation was observed;

(6) If applicable, a list of any corrections necessary to bring the property into compliance;

(7) A deadline by which to correct the violation(s);

(8) The signature of the Enforcement Officer issuing the notice of violation;

(9) The date the notice of violation is issued.
(§ 8, Ord. 1092, eff. June 5, 2010)

§ 4-11.08. Administrative citations.

(a) Regardless of whether a responsible person has received a notice of violation whenever an Enforcement Officer charged with the enforcement of any provision of this Code determines that a violation of that provision has occurred, or if a responsible person(s) fails to correct a code violation within the time prescribed in a notice of violation, the Enforcement Officer shall have the authority to issue an administrative citation to any responsible person.

(b) Each administrative citation shall contain the following information:

(1) The name of the responsible person and any other involved persons known to the Enforcement Officer;

(2) The date and, if relevant, time at which the violation was observed;

(3) The address or a definite description of the location where the violation occurred;

(4) The section of this Code violated and a description of the violation;

(5) The amount of the fine for the Code violation;

(6) A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;

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(7) An order prohibiting the continuation or repeated occurrence of the Code violation described in the administrative citation;

(8) A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request for hearing form to contest the administrative citation may be obtained; and

(9) The name and signature of the citing Enforcement Officer.

(§ 1, Ord. 949, eff. April 16, 1999, as amended by § 9, Ord. 1092, eff. June 5, 2010)

§ 4-11.09. Administrative fines and penalties.

(a) Any violation of a provision of this Code, any code it adopts by reference, or other applicable law, may be subject to an administrative fine or penalty pursuant to this chapter. (This also includes any violation of any condition imposed upon the issuance of any permit, license, conditional use permit, or other approval (e.g., subdivision map, special use permit, variance, zoning clearance) pursuant to this Code.)

(b) Each and every responsible person is joint and severally liable, in accordance with notice and procedures of this chapter, for all fines or penalties imposed for the violation(s).

(c) A violation that exists for more than one day shall be considered a separate and distinct violation for each day that it exists. Each daily violation may be subject to the maximum fine or penalty permitted under this chapter.

(d) An administrative citation may charge a Code violation for one or more days on which a violation exists and for violation of one or more Code sections.

(e) The administrative fines and penalties delineated in this chapter are in addition to, and do not preclude imposition of, any other remedies, criminal, civil, or administrative, available to the City. Imposition of administrative fines or penalties shall be at the sole discretion of the City.

(§ 1, Ord. 1092, eff. June 5, 2010)

§ 4-11.10. Amount of fines.

(a) The amounts of the fines for Code violations imposed pursuant to this chapter shall be set forth in the Schedule of Fines established by resolution of the City Council.

(b) The Schedule of Fines shall specify any increased fines for repeat violations of the same Code provision by the same person within 36 months from the date of an administrative citation.

(c) The Schedule of Fines shall specify the amount of any late payment charges imposed for the payment of a fine after its due date.

(d) For any violation of this Code for which there is no specific administrative penalty established in this Code or by separate resolution of the City Council, the fine shall be in the amount of One Hundred and No/100ths ($100.00) Dollars for the first violation; Two Hundred and No/100ths ($200.00) Dollars for a second violation of the same provision of this code occurring during the immediately following consecutive 12 month period; and Five Hundred and No/100ths ($500.00) Dollars for each additional violation of the same provision of this Code occurring during the immediately following consecutive 12 month

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period.

(§ 1, Ord. 949, eff. April 16, 1999, as amended by § 11, Ord. 1092, eff. June 5, 2010)

§ 4-11.11. Payment of fine.

(a) The fine shall be paid to the City within 30 days from the date of the administrative citation.

(b) Any administrative citation fine paid pursuant to subsection (a) shall be refunded in accordance with Section 4-11.16 if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.

(c) Payment of a fine under this chapter shall not excuse or discharge any continuation or repeated occurrence of the Code violation that is the subject of the administrative citation.

(§ 1, Ord. 949, eff. April 16, 1999, as amended by § 12, Ord. 1092, eff. June 5, 2010)

§ 4-11.12. Administrative hearing.

(a) A recipient of an administrative citation may request an administrative hearing. Such request must be filed within 20 calendar days of the issuance of the first administrative citation. Failure to request a hearing before the deadline, or failure to comply with all the terms for requesting a hearing, constitutes an abandonment of such request and a failure to exhaust administrative remedies.

(b) A request for an administrative hearing shall be made in writing and filed with the City Clerk, and shall include any grounds which the responsible person wishes the City to consider. A request for hearing form may be obtained from the department specified on the administrative citation. The request shall be accompanied by a deposit of the full amount of the fine, plus any penalties imposed by the administrative citation in the event the fine has not yet been paid.

(c) The person requesting the hearing shall be notified in writing of the time and place set for the hearing at least 10 calendar days prior to the date of the hearing.

(d) A cited person may request one continuance of a hearing provided he or she does so in writing before the date of the hearing and states a reasonable basis for the request. Unless the City issues a written notice of continuance, the hearing shall take place on the date, time and location specified in the notice of hearing transmitted to the cited person. A cited person's failure to attend a hearing shall constitute an abandonment of the request for the hearing and a failure to exhaust administrative remedies.

(§ 1, Ord. 949, eff. April 16, 1999, as amended by § 13, Ord. 1092, eff. June 5, 2010)

§ 4-11.13. Advance deposit hardship waiver.

(a) Any person who intends to request a hearing to contest that there was a violation of the Code or that he or she is the responsible party and who is financially unable to make the advance deposit of the fine as required in Section 4-11.12(b) may file a request for an advance deposit hardship waiver.

(b) The request shall be filed with the Department of Finance on an advance deposit hardship waiver application form, available from the Department of Finance, within 10 days of the date of the administrative citation.

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(c) The requirement of depositing the full amount of the fine as described in Section 4-11.12(b) shall be stayed unless or until the Director of Finance makes a determination not to issue the advance deposit hardship waiver.

(d) The Director may waive the requirement of an advance deposit set forth in Section 4-11.12(b) and issue the advance deposit hardship waiver only if the cited party submits to the Director a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the Director, the person's actual financial inability to deposit with the City the full amount of the fine in advance of the hearing.

(e) If the Director determines not to issue an advance deposit hardship waiver, the person shall remit the deposit to the City within 10 days of the date of that decision or 30 days from the date of the administrative citation.

(f) The Director shall issue a written determination listing the reasons for his or her determination to issue or not issue the advance deposit hardship waiver. The written determination of the Director shall be final.

(g) The written determination of the Director shall be served upon the person who applied for the advance deposit hardship waiver.

(§ 1, Ord. 949, eff. April 16, 1999, as amended by § 14, Ord. 1092, eff. June 5, 2010)

§ 4-11.14. Hearing Officer.

The City Manager shall designate the Hearing Officer for the administrative citation hearing.
(§ 1, Ord. 949, eff. April 16, 1999, as amended by § 15, Ord. 1092, eff. June 5, 2010)

§ 4-11.15. Hearing procedures.

(a) No hearing to contest an administrative citation before a Hearing Officer shall be held unless the fine has been deposited in advance in accordance with Section 4-11.12(b) or an advance deposit hardship waiver has been issued in accordance with Section 4-11.13.

(b) A hearing before the Hearing Officer shall be set for a date that is not less than 15 days and not more than 60 days from the date that the request for hearing is filed in accordance with the provisions of this chapter.

(c) The hearing shall be conducted by the Hearing Officer on the date, time, and location specified in the notice of hearing transmitted to the cited person.

(d) The administrative citation and any additional report submitted by the Enforcement Officer shall constitute prima facie evidence of the respective facts contained in those documents.

(e) At the hearing, the cited person shall be given the opportunity to testify and to present evidence concerning any code violation specified in the administrative citation.

(f) The enforcement officer or other representatives of the City may, but are not required, to attend the hearing.

(g) The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.

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(h) The Hearing Officer may continue the hearing and request additional information from the Enforcement Officer or the recipient of the administrative citation prior to issuing a written decision.

(i) A hearing need not be conducted in accordance with the technical rules of evidence. Any relevant evidence may be admitted if it is evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might consider such admission improper in a civil action. Irrelevant or unduly repetitious evidence shall be excluded.

(§ 1, Ord. 949, eff. April 16, 1999, as amended by § 16, Ord. 1092, eff. June 5, 2010)

§ 4-11.16. Hearing Officer's decision.

(a) After considering all of the testimony and evidence submitted at the hearing, the Hearing Officer shall issue a written decision to uphold or cancel the administrative citation and shall list in the decisions the reasons for that decision. The decision of the Hearing Officer shall be final.

(b) If the Hearing Officer determines that the administrative citation should be upheld, then the fine amount on deposit with the City shall be retained by the City.

(c) If the Hearing Officer determines that the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the Hearing Officer shall set forth in the decision a payment schedule for the fine.

(d) If the Hearing Officer determines that the administrative citation should be cancelled and the fine was deposited with the City, then the City shall promptly refund the amount of the deposited fine, together with interest at the average rate earned on the City's portfolio for the period of time that the fine amount was held by the City.

(e) The recipient of the administrative citation shall be served with a copy of the Hearing Officer's written decision.

(f) The employment, performance evaluation, compensation and benefits of the Hearing Officer shall not be directly or indirectly conditioned upon the amount of administrative citation fines upheld by the Hearing Officer.

(§ 1, Ord. 949, eff. April 16, 1999, as amended by § 17, Ord. 1092, eff. June 5, 2010)

§ 4-11.17. Judicial review.

A cited person may seek judicial review of the hearing authority's decision by filing a petition for review with the Superior Court, pursuant to Government Code Section 53069.4 within 20 calendar days after service of a copy of the notice of decision. In any such action, the prevailing party shall have the right to recover reasonable attorney fees and cost.

(§ 1, Ord. 949, eff. April 16, 1999, as amended by § 18, Ord. 1092, eff. June 5, 2010)

§ 4-11.18. Late payment charges.

Any person who failed to pay to the City any fine imposed pursuant to the provisions of this chapter on or before the date that fine is due also shall be liable for the payment of any applicable late payment charges set forth in the Schedule of Fines.

(§ 1, Ord. 949, eff. April 16, 1999, as amended by § 19, Ord. 1092, eff. June 5, 2010)

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§ 4-11.19. Collection of administrative fines and costs.

The City may collect any past due administrative citation fine, late payment charge and collection costs by use of all available legal means.
(§ 1, Ord. 949, eff. April 16, 1999, as amended by § 20, Ord. 1092, eff. June 5, 2010)

§ 4-11.20. Notices.

(a) The administrative citation and all notices required to be given by this chapter shall be served on the responsible party in accordance with the provisions of this Code.

(b) Failure to receive any notices specified in this chapter does not affect the validity of proceedings conducted hereunder.

(§ 1, Ord. 949, eff. April 16, 1999, as amended by § 19, Ord. 1092, eff. June 5, 2010)

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Chapter 12
Military Equipment Use

§ 4-12.01. Title.

The ordinance codified in this chapter shall be known as the military equipment use ordinance. (§ 1, Ord. 1196, eff. July 1, 2022; Ord. 1217, eff. 10/2/2026)

§ 4-12.02. Purpose.

The purpose of the ordinance codified herein is to ensure the Police Department's compliance with California Assembly Bill 481, which requires California law enforcement agencies to obtain approval of the law enforcement agency's governing body, by adoption of a military equipment use policy, as specified, by ordinance at a regular meeting prior to taking actions relating to the funding, acquisition, or use of military equipment.
(§ 1, Ord. 1196, eff. July 1, 2022; Ord. 1217, eff. 10/2/2026)

§ 4-12.03. Definitions.

"Police Department" means any division, section, bureau, employee, volunteer and/or contractor of the Los Banos Police Department.

"Military equipment" includes all of the following (per California Government Code Section 7070):

(1) Unmanned, remotely piloted, powered aerial or ground vehicles.

(2) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.

(3) High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half ton trucks, five ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.

(4) Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.

(5) Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.

(6) Weaponized aircraft, vessels, or vehicles of any kind.

(7) Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.

(8) Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.

(9) Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.

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(10) Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Penal Code Sections 30510 and 30515, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.

(11) Any firearm or firearm accessory that is designed to launch explosive projectiles.

(12) "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard, service-issued handheld pepper spray.

(13) Taser shockwave, microwave weapons, water cannons, and the long range acoustic device (LRAD).

(14) The following projectile launch platforms and their associated munitions: 40 millimeter projectile launchers, "bean bag," rubber bullet, and specialty impact munitions (SIM) weapons.

(15) Any other equipment as determined by a governing body or a state agency to require additional oversight.

(16) Notwithstanding subsections (1) through (15) above, "military equipment" does not include general equipment not designated as prohibited or controlled by the Federal Defense Logistics Agency.

"Military equipment use policy" means a publicly released, written document that includes, at a minimum, all of the following:

(1) A description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.

(2) The purposes and authorized uses for which the Police Department proposes to use each type of military equipment.

(3) The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.

(4) The legal and procedural rules that govern each authorized use.

(5) The training, including any course required by the commission on peace officer standards and training, that must be completed before any officer, agent, or employee of the Police Department is allowed to use each specific type of military equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy.

(6) The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.

(7) The procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the Police Department will ensure that each complaint, concern, or question receives a response in a timely manner.

(§ 1, Ord. 1196, eff. July 1, 2022; Ord. 1217, eff. 10/2/2026)

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§ 4-12.04. Military equipment use policy requirement.

(a) The Los Banos Police Department shall obtain City Council approval of a military equipment use policy in accordance with Government Code Section 7071 at a regular meeting of the City Council held pursuant to the Ralph M. Brown Act (Government Code Section 54950 et seq.) prior to engaging in any of the following:

(1) Requesting military equipment made available pursuant to Section2576a of Title 10 of the United States Code.

(2) Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(3) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(4) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the City of Los Banos.

(5) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the City of Los Banos pursuant to this chapter.

(6) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of, military equipment.

(7) Acquiring military equipment through any means not provided by this section.

(b) In seeking the approval of the City Council, the Los Banos Police Department shall submit a proposed military equipment use policy to the City Council and make those documents available on the Police Department's internet website at least 30 days prior to any public hearing concerning the military equipment at issue.

(c) The City Council shall only approve a military equipment use policy pursuant to this chapter if it determines all of the following:

(1) The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

(2) The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

(3) If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

(4) Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

(d) In order to facilitate public participation, any proposed or final military equipment use policy shall be made publicly available on the internet website of the Police Department

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for as long as the military equipment is available for use.

(e) The City Council shall review the ordinance codified in this chapter at least annually and vote on whether to renew it at a regular meeting held pursuant to the Ralph M. Brown Act, Government Code Section 54950 et seq.

(§ 1, Ord. 1196, eff. July 1, 2022; Ord. 1217, eff. 10/2/2026)

§ 4-12.05. Use in exigent circumstances.

(a) Notwithstanding the provisions of this chapter, the Police Department may acquire, borrow and/or use military equipment in exigent circumstances without following the requirements of this chapter. "Exigent circumstances" means a law enforcement agency's good faith belief that an emergency involving the danger of, or imminent threat of death or serious physical injury to any person is occurring, has occurred, or is about to occur.

(b) If the Police Department acquires, borrows, and/or uses military equipment in exigent circumstances that has not been approved in the military equipment policy as authorized in accordance with this section, it must take all of the following actions:

(1) Provide written notice of that acquisition or use to the City Council within 30 days following the commencement of such exigent circumstance, unless such information is confidential or privileged under local, state or federal law.

(2) If it is anticipated that the use will continue beyond the exigent circumstance, submit a proposed amended military equipment use policy to the City Council within 90 days following the borrowing, acquisition and/or use, and receive approval, as applicable, from the City Council.

(3) Include the military equipment in the Police Department's next annual military equipment report.

(§ 1, Ord. 1196, eff. July 1, 2022; Ord. 1217, eff. 10/2/2026)

§ 4-12.06. Reports on the use of military equipment.

(a) The Police Department shall submit to the City Council an annual military equipment report for each type of military equipment approved by the City Council annually for as long as the military equipment is available for use.

(b) The Police Department shall also make each annual military equipment report required by this section publicly available on its internet website for as long as the military equipment is available for use.

(c) The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:

(1) A summary of how the military equipment was used and the purpose of its use.

(2) A summary of any complaints or concerns received concerning the military equipment.

(3) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.

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(4) The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.

(5) The quantity possessed for each type of military equipment.

(6) If the Police Department intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

(d) Within 30 days of submitting and publicly releasing an annual military equipment report pursuant to this section, the Police Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the Police Department's funding, acquisition, or use of military equipment.

(e) The City Council shall determine, based on the annual military equipment report submitted pursuant to this section, whether each type of military equipment identified in that report has complied with the standards for approval set forth in this chapter and the military equipment use policy. If the City Council determines that a type of military equipment identified in that annual military equipment report has not complied with the standards for approval, the City Council shall either disapprove a renewal of the authorization for that type of military equipment or require modifications to the military equipment use policy in a manner that will resolve the lack of compliance.

(§ 1, Ord. 1196, eff. July 1, 2022; Ord. 1217, eff. 10/2/2026)

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Chapter 13
(Reserved)

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Chapter 14B
Alarms And Alarm Systems

§ 4-14B.010. Purpose.

The purpose of this chapter is to ensure that the allocation of public safety resources are equally applied when responding to alarm activations. It is the policy of the City of Los Banos to provide quick and efficient response to all emergency calls for aid from the police or fire services. In the case of burglary, robbery and fire alarms some businesses and residences fail to take reasonable steps to avoid false activation of the alarm system. Public resources are diverted to the source of the alarm only to find that they have responded to a false alarm. Because the response by the City results in a considerable expenditure of City employee time and is an expense to the City both in manpower and materials, the City Council has determined that the expense of such response should be reimbursed if the number of responses exceed a certain amount annually. Alarm systems that transmit a false alarm, which results in the City dispatching Police and/or Fire personnel to a location shall constitute a public nuisance.
(§ 1, Ord. 1072, eff. August 1, 2008)

§ 4-14B.020. Definitions.

The following definitions apply to the provisions of this chapter:

"Alarm" or "alarm system" shall mean an alarm signal from a residence, business, or government agency in the City of Los Banos which ends at the City of Los Banos or at a central alarm company office which in turn relays it to the Police or Fire Department, and which causes City personnel to respond, through whatever means, results in the response of the Police and/or Fire Department personnel.

"Emergency" shall mean an incident that reasonably requires a response by Police and/or Fire Department personnel. A response due to the failure, malfunction or other error, whether human or mechanical, which results in the transmission of an alarm to the Police Department is not an emergency. In the event that a question of whether a response by City personnel was a response to an emergency the determination of the Police Chief shall be final.

"False alarm" shall mean an alarm to which City personnel or equipment have responded because of a report that an emergency existed and which did not require a response because the incident for which the alarm was given did not occur.

"Alarm owner," in determining responsibility for commercial alarms, shall mean the person or persons who contract with the alarm company for service to that alarm system or the owner, lessee, or occupant of the structure in which the alarm is installed and who maintains control of said alarm shall be ultimately responsible for that alarm system.
For residential alarm systems in a single-family or multi-family dwellings the responsibility shall rest with the person or persons who contract with the alarm company for service to that alarm system, or the owner, lessee, or occupant of the structure in which the alarm is installed and who maintains control of said alarm. Government building alarm systems shall be the responsibility of the department head or person in charge of such facility.
(§ 1, Ord. 1072, eff. August 1, 2008)

§ 4-14B.030. Permit.

Application for Permit. Application for alarm system permits shall be filed with the Police

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Department on such forms as the Police Department may prescribe.

(a) An applicant must apply for a separate permit for each alarm site. A separate application and permit fee shall be filed and collected for each permit.

(b) Each alarm system permit application must contain the following information:

(1) Full name, date of birth, social security number, driver's license number, address, and telephone number of the person who will be the permit holder and of the person responsible for the proper maintenance and operation of the alarm system and payment of fees assessed under this chapter;

(2) Classification of the alarm site as either residential or commercial;

(3) For each alarm system located at the alarm site, the purpose of the alarm system; i.e., fire, burglary, robbery, or panic;

(4) Other information as may be reasonably required by the Police Department;

(5) The information furnished and secured pursuant to this chapter shall, to the extent permitted by law, be confidential and shall not be subject to public inspection. It is hereby declared that this information is critical to the safety and security of the alarm user and law enforcement personnel and that the public interest by not disclosing said information to the public clearly out weighs the public interest served by disclosing said information.

(c) Except for persons exempt pursuant to Government Code Section 6103, every application for an alarm system permit shall be accompanied by a nonrefundable fee in an amount set by resolution of the City Council of the City of Los Banos. This fee shall be in addition to any other fee imposed by the City and is imposed for the purpose of defraying the costs of processing and overseeing the permit process and the cost of patrol response for false alarms.

(d) (1) Any alarm system permit issued in accordance with the provisions of this chapter shall be valid only as to the person named on the permit, and only for the particular address specified on the permit and shall not expire so long as there is no change of the named permittee or address, except as provided in subsection (e) below.

(2) In the event the permittee's name is legally changed, the permittee shall so inform the Police Department within 10 days of such change and no fee shall be assessed to correct the permit.

(3) The permittee shall inform the Police Department of any other general information changes to the application within 10 days after such change, and no fee shall be assessed for changing the Police Department's records.

(e) All permits issued will require renewal every two years accompanied by a nonrefundable fee in an amount set by resolution of the City Council of the City of Los Banos.

(§ 1, Ord. 1072, eff. August 1, 2008)

§ 4-14B.040. Prohibition.

False Alarms in Excess of Three per Calendar Year—Abatement of Nuisance. Maintaining,

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using, or possessing an alarm system, which has caused any false alarms at the same property location in excess of three per 12 month period shall constitute a public nuisance and be subject to imposition of a fee upon the owner or occupant of the subject property in an amount set forth within this chapter. Any fee imposed pursuant to this section may be assessed against the property upon which the nuisance occurred and a notice of lien recorded. All fire alarms must remain connected to a central alarm monitoring station.
(§ 1, Ord. 1072, eff. August 1, 2008)

§ 4-14B.050. Exemptions.

(a) New Alarm Installations. In the case of new alarm installations there will be a 30 day grace period in which response will not be monitored for enforcement of this chapter.

(b) City Power Outage. Alarm activations caused by a disruption of electrical service to an area of the City shall not be monitored for enforcement of this chapter.
(§ 1, Ord. 1072, eff. August 1, 2008)

§ 4-14B.060. Penalties.

(a) After the third false alarm in a 12 month period, excluding the new alarm exemption as stated in Section 4-14B.050 of this chapter, the Police Department will send a warning letter to the responsible party.

(b) For the fourth and fifth response to a false alarm an extra charge, as established by resolution, per response shall be collected.

(c) For the sixth and seventh response to a false alarm an extra charge, as established in the fee resolution, per response shall be collected.

(d) Additional false alarm responses will result in an extra charge, as established by resolution, per response shall be collected.

(e) After the seventh false alarm during a calendar year, there will be no further police response to the alarm call, pending verification from the alarm owner that repair or training has taken place to mitigate the false activations.

(f) Any location with a fire alarm that does not maintain a central alarm monitoring station connection is subject to a fine of One Hundred and No/100ths ($100.00) Dollars per non-connected day.
(§ 1, Ord. 1072, eff. August 1, 2008)

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LOS BANOS CODE

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Title 5

PUBLIC WELFARE, MORALS, AND CONDUCT

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Chapter 1
Abandoned, Wrecked, Dismantled Or Inoperative Vehicles

§ 5-1.01. Findings and declarations.

In addition to and in accordance with the determination made and the authority granted by the State of California under Section22660 of the California Vehicle Code, to remove abandoned, wrecked, dismantled or inoperative vehicles, or parts thereof, as public nuisances, the City Council makes the following findings and declarations:

The accumulation and storage of abandoned, wrecked, dismantled or inoperative vehicles, or parts thereof, on private or public property, not including highways, is found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects, and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, on private or public property, not including highways, except as expressly permitted by this chapter, is declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this chapter.
(§ 2, Ord. 1006)

§ 5-1.02. Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Abandoned vehicle" shall mean any vehicle that is left on public or private property, not including highways, in such inoperable or neglected condition that it may be reasonably concluded that the owner intends to relinquish all rights or interest in it.

"City Clerk" shall mean the City Clerk for the City of Los Banos or his or her designee who shall be a regularly salaried full-time employee of the City of Los Banos.

"Dismantled vehicle" shall mean any vehicle that is partially or wholly disassembled.

"Enforcement Officer" shall mean the Fire Chief for the City of Los Banos or his or her designee who shall be a regularly salaried full-time employee of the City of Los Banos.

"Highway" shall mean a way or place of whatever nature, publicly maintained and open to the use of the public for the purposes of vehicular travel. "Highway" shall include street.

"Inoperative vehicle" shall mean any vehicle mechanically incapable of being driven under its own power or which is prohibited from being operated on a public street or highway pursuant to California Vehicle Code Sections4000, 5202, 24002, or 40001, concerning license plates, registration, equipment, safety and related matters.

"Owner of the land" shall mean the owner of the land on which the vehicle, or parts thereof, is located as shown on the last equalized assessment roll.

"Owner of the vehicle" shall mean the last registered owner and the legal owner of record.

"Public property" shall mean property other than a highway owned by a public entity and shall include a public easement or other public right-of-way.

"Vehicle" shall mean a device by which any person or property may be propelled, moved, or

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drawn upon a highway, except a device moved exclusively by human power or used exclusively upon stationary rails or tracks.

"Wrecked vehicle" shall mean a vehicle that has sustained physical damage to such an extent that it cannot be operated safely on a public street or highway.
(§ 2, Ord. 1006)

§ 5-1.03. Exceptions to chapter applicability.

This chapter shall not apply to:

(a) A vehicle, or part thereof, that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;

(b) A vehicle, or part thereof, that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junkyard, or when such storage of parking is necessary to the operation of a lawfully conducted business or commercial enterprise;.

(c) A vehicle, or part thereof, located behind a solid fence six feet in height and not visible from the street or other public or private property; or

(d) A vehicle, or part thereof, which is placed totally within a carport and completely covered by a tarpaulin or similar covering.

Nothing in this section shall authorize the maintenance of a public or private nuisance as defined under provisions of law other than Chapter 10, commencing with Section 22650, of Division 11 of the California Vehicle Code and this chapter.

(§ 2, Ord. 1006)

§ 5-1.04. Chapter provisions not exclusive.

This chapter is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles, or parts thereof, within the City of Los Banos. This chapter shall supplement and be in addition to the other regulatory codes, statutes and ordinances heretofore or hereafter enacted by the City of Los Banos, the State of California, or any other legal entity or agency having jurisdiction.
(§ 2, Ord. 1006)

§ 5-1.05. Administration and enforcement: Right of entry.

Except as otherwise provided herein, or by law, the provisions of this chapter shall be administered and enforced by the Enforcement Officer. In the enforcement of this chapter, the Enforcement Officer, and his or her designated employees, may enter upon private property for the purposes set forth in this chapter to examine a vehicle, or parts thereof, obtain information as to the identity of a vehicle, and to remove or cause the removal of a vehicle, or parts thereof, declared to be a nuisance pursuant to this chapter as authorized by California Vehicle Code Sections 22663 and 22669.
(§ 2, Ord. 1006)

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§ 5-1.06. Right of entry: Franchisee personnel.

When the City of Los Banos has contracted with or granted a franchise to any person or persons, for removal of abandoned, wrecked, dismantled or inoperable vehicles, or parts thereof, such person or persons shall be authorized to enter upon private property to remove or cause the removal of a vehicle, or parts thereof, declared to be a nuisance pursuant to this chapter.
(§ 2, Ord. 1006)

§ 5-1.07. Assessment of administrative costs.

The City Council shall, from time to time, determine and fix an amount to be assessed as administrative costs (excluding the actual cost of removal of any vehicle or parts thereof) under this chapter.
(§ 2, Ord. 1006)

§ 5-1.08. Authority: Abatement and removal.

Upon discovering the existence of an abandoned, wrecked, dismantled, or inoperative vehicle, or parts thereof, on private property or public property within the City of Los Banos, the Enforcement Officer shall have the authority to cause the abatement and removal thereof in accordance with the procedures set forth in this chapter.
(§ 2, Ord. 1006)

§ 5-1.09. Notice of intention to abate.

(a) Except as provided by subsections (c) and (d) of this section or otherwise provided by law, a 10 day notice of intention to abate and remove a vehicle, or parts thereof, as a public nuisance shall be mailed by registered or certified mail to the owner of the land on which the vehicle is located as shown on the last equalized assessment roll and to the last registered and legal owners of record of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership.

(b) The notices of intention to abate and remove a vehicle, or parts thereof, shall be in substantially the following forms:

1. Notice to the Owner of Land:

NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED, WRECKED, DISMANTLED, OR INOPERATIVE VEHICLE, OR PARTS THEREOF, AS A PUBLIC NUISANCE

(Name and address of owner of the land)

As owner shown on the last equalized assessment roll of the land located at (*address*), you are hereby notified that the undersigned, pursuant to Title 5, Chapter 1, of the Los Banos Municipal Code, has determined that there exists upon said land an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, registered to (*name*), license number (*number*), which constitutes a public nuisance.

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You are hereby notified to abate said nuisance by the removal of said vehicle, or parts thereof, within 10 days from the date of mailing of this notice, and upon your failure to do so, the same will be abated and removed by the City of Los Banos and the removal costs together with administrative costs, will be assessed to you as owner of the land on which said vehicle, or parts thereof, is located.

As owner of the land on which said vehicle, or parts thereof, is located, you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the City Clerk at City Hall, 520 J Street, Los Banos, California, 93635, within such 10 day period, the Enforcement Officer shall have the authority to abate and remove said vehicle, or parts thereof, as a public nuisance and assess the costs as aforesaid without a public hearing. You may submit a sworn written statement within such 10 day period denying responsibility for the presence of said vehicle, or parts thereof, on said land, with your reasons for denial, and such statement shall be constituted as a request for hearing at which your presence is not required. You may appear in person at any hearing requested by you or the owner of the vehicle or, in lieu thereof, may present a sworn written statement as aforesaid in time for consideration at such hearing.

Notice mailed: (*date*)

CITY OF LOS BANOS By (*name*), Code Enforcement Officer

2. Notice to the Owner of the Vehicle:

NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED, WRECKED, DISMANTLED, OR INOPERATIVE VEHICLE, OR PARTS THEREOF, AS A PUBLIC NUISANCE

(Name and address of last registered and/or legal owner of record of vehicle-notice should be given to both if different)

As last registered and/or legal owner of record of (*description of vehicle - make, model, license*), you are hereby notified that the undersigned, pursuant to Title 5, Chapter 1, of the Los Banos Municipal Code has determined that said vehicle, or parts thereof, exists as an abandoned, wrecked, dismantled or inoperative vehicle at (*describe location on public or private property*) and constitutes a public nuisance pursuant to the provisions of Title 5 Chapter 1, of the Los Banos Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle, or parts thereof, within 10 days from the date of mailing of this notice.

As registered and/or legal owner of record of said vehicle, or parts thereof, you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the City Clerk at City Hall, 520 J Street, Los Banos, California, 93635, within such 10 day period, the Enforcement Officer shall have the authority to abate and remove said vehicle, or parts thereof, as a public nuisance and assess the costs as aforesaid without a public hearing.

Notice mailed: (*date*)

CITY OF LOS BANOS By (*name*), Code Enforcement Officer

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(c) No notice of intention to abate and remove a vehicle, or parts thereof, shall be required if the property owner and the owner of the vehicle or part thereof have signed releases authorizing removal and waiving further interest in the vehicle or parts thereof.

(d) No notice of intention to abate and remove a vehicle, or parts thereof, shall be required if (1) the vehicle is inoperable due to the absence of a motor, transmission, or wheels and incapable of being towed, (2) is valued at less than $200 by a person specified in California Vehicle Code Section 22855, (3) it is determined by the Enforcement Officer to be a public nuisance presenting an immediate threat to public health or safety; and (4) the property owner has signed a release authorizing removal and waiving further interest in the vehicle or part thereof. The Enforcement Officer shall not dispose of any such vehicle under California Vehicle Code Section 22662 unless he shall have provided notice to the registered and legal owners of intent to dispose of the vehicle or part, and the vehicle or part is not claimed and removed within 12 days after the notice is mailed. This subsection applies only to inoperable vehicles located upon a parcel that is (1) zoned for agricultural use; or (2) is not improved with a residential structure containing one or more dwelling units.

(§ 2, Ord. 1006)

§ 5-1.10. Request for public hearing.

(a) Upon request by the owner of the land or the owner of the vehicle, received by the Enforcement Officer within 10 days after the mailing of the notices of intention to abate and remove, a public hearing shall be held by the City Clerk or his or her designee on the question of abatement and removal of the vehicle, or parts thereof, as an abandoned, wrecked, dismantled or inoperative vehicle and the assessment of administrative costs and costs of removal of the vehicle, or parts thereof, against the property on which it is located.

(b) If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on the owner's land within such 10 day period, the statement shall be construed as a request for a hearing, which does not require the owner's presence.

(c) Notice of the hearing shall be mailed, by certified mail, return receipt requested, at least 10 days before the hearing to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership.

(d) If a request for hearing is not received within the 10 days after mailing of the notice of intention to abate and remove, the Enforcement Officer shall have the authority to abate and remove the vehicle, or parts thereof, as a public nuisance without holding a public hearing.

(§ 2, Ord. 1006)

§ 5-1.11. Public hearing.

(a) All hearings under this chapter shall be held before the City Clerk (hereinafter referred to as the Hearing Officer) who shall hear all facts and testimony he or she deems pertinent. The Hearing Officer shall not be limited by the technical rules of evidence. Such facts and testimony may include testimony on the condition of the vehicle, or parts thereof, and the circumstances concerning its location on such private property or public property. The owner of the land may appear in person at the hearing or present a sworn written statement

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in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his or her reasons for such denial.

(b) The Hearing Officer may impose such conditions and take such other action as he or she deems appropriate under the circumstances to carry out the purpose of this chapter. The Hearing Officer may delay the time for removal of the vehicle or parts thereof if, in the Hearing Officer's opinion, the circumstances justify it. At the conclusion of the public hearing, the Hearing Officer may find that a vehicle, or parts thereof, has been abandoned, wrecked, dismantled or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as provided in this chapter and determine the administrative costs and cost of removal to be charged against the owner of the land. The order requiring removal shall include a description of the vehicle or parts thereof and the correct identification number and license number of the vehicle, if available at the site.

(c) If the Hearing Officer finds that the vehicle was placed on the land without the consent of the owner of the land and that the owner of the land has not subsequently acquiesced in its presence, the costs of administration or removal of the vehicle shall not be assessed against the property upon which the vehicle is located or otherwise attempt to collect such costs from such owner of the land.

(d) If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his or her land but does not appear, or if an interested party makes a written presentation to the Hearing Officer but does not appear, he or she shall be notified in writing of the decision.

(§ 2, Ord. 1006)

§ 5-1.12. Appeal: Hearing.

(a) Any interested party may appeal the decision of the Hearing Officer to the Traffic Safety Committee by filing a written notice of appeal with the Hearing Officer within five days after the Hearing Officer's decision.

(b) Such appeal shall be heard by the Traffic Safety Committee, which may affirm, amend or reverse the order, or take other action deemed appropriate.

(c) The City Clerk shall give written notice of the time and place of the hearing to the appellant and those persons specified in Section 5-1.09. In conducting the hearing, the Traffic Safety Committee shall not be limited by the technical rules of evidence. The Traffic Safety Committee shall review the matter de novo.

(§ 2, Ord. 1006)

§ 5-1.13. Removal and disposal: Reconstruction prohibited.

Five days after adoption of the order declaring the vehicle or parts thereof to be a public nuisance, or five days from the date of mailing of notice of the decision if such notice is required by Section 5-1.11(d) or 15 days after such action of the Traffic Safety Committee removal following appeal, the vehicle or parts thereof may be disposed of by removal to a scrap yard or automobile dismantler's yard. After a vehicle has been removed it shall not thereafter be reconstructed or made operable, unless it is a vehicle that qualifies for either horseless carriage license plates or historical vehicle license plates pursuant to Vehicle Code Section 5004, and as

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subsequently amended, in which case the vehicle may be reconstructed or made operable.
(§ 2, Ord. 1006)

§ 5-1.14. Notice to Department of Motor Vehicles.

Within five days after the date of removal of the vehicle or parts thereof, notice shall be given to the Department of Motor Vehicles identifying the vehicle or parts thereof removed. At the same time there shall be transmitted to the Department of Motor Vehicles any evidence of registration available, including registration certificates, certificates of title and license plates.
(§ 2, Ord. 1006)

§ 5-1.15. Assessment of costs against land.

If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to this chapter are not paid within 30 days of the date of the order, or the final disposition of an appeal there from, such costs shall be assessed against the parcel of land pursuant to Section 38773.5 of the Government Code and shall be transmitted to the tax collector for collection. Such assessment shall have the same priority as other city taxes.
(§ 2, Ord. 1006)

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Chapter 2
Advertising Distribution

§ 5-2.01. Restricted.

It is unlawful for any person to distribute, or cause to be distributed, in the City any handbill or any printed or written advertising matter by placing, or causing the same to be placed, in any automobile, or in any yard, or on any porch, or in any mailbox not in the possession or under the control of the person so distributing the same.
(§ 1, Ord. 146)

§ 5-2.02. Exemptions.

The provisions of this chapter shall not apply to any newspaper or to any publication printing news of a general nature and keeping advertising space therein open to the public and the publishing of general advertising matter therein.
(§ 2, Ord. 146)

§ 5-2.03. Violations: Penalties.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.
(§ 3, Ord. 146)

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Chapter 3
Dances

§ 5-3.01. Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Public dance" shall mean any and all dances held in a public dance hall except dances held by any club, service club, or fraternal organization when admission is limited to members and invited guests and no admissions are sold at the door.

"Public dance hall" shall mean any place or hall, except private residences and school buildings, where a dance is held.
(§ 1, Ord. 404)

§ 5-3.02. Permits: Required.

It is unlawful for any person, society, lodge, organization, or corporation to conduct, operate, or be in charge of a public dance without first securing a permit therefor from the Chief of Police.
(§ 2, Ord. 404)

§ 5-3.03. Permits: Applications.

An application for a permit to conduct a public dance shall be made not later than five days prior to the date on which such dance is to be held.
(§ 3, Ord. 404)

§ 5-3.04. Permits: Fees.

Before the issuance of a permit to conduct a public dance, the Chief of Police shall collect from the applicant a fee of Two and No/100ths ($2.00) Dollars. Such fee shall be paid by the Chief of Police to the City Treasurer and shall be deposited in the general fund.
(§ 4, Ord. 404)

§ 5-3.05. Permits: Issuance: Denial.

Before issuing a permit to conduct a public dance, the Chief of Police shall satisfy him or herself that the public peace, safety, health, and general welfare will not be endangered or jeopardized by the issuance of such permit. The Chief of Police may consider any relevant factual material, including, but not limited to, the proposed place or location of such dance and the character and reputation of the applicant and other persons who will be involved in the conduct and operation of the dance under the permit if issued. If the Chief of Police finds that the issuance of such permit will endanger or jeopardize the public peace, safety, health, and general welfare, such issuance shall be denied.
(§ 5, Ord. 404)

§ 5-3.06. Permits: Conditions.

The Chief of Police may impose conditions upon the issuance of a permit to conduct a public dance to insure that the dance and dancing conducted under and by virtue of such permit will be compatible with the preservation of the public peace, safety, health, and general welfare.

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Each such permit so issued shall authorize one dance only.
(§§ 5 and 6, Ord. 404)

§ 5-3.07. Permits: Revocation.

The Chief of Police shall have the authority to revoke any permit to conduct a public dance at any time if a dance being conducted under a permit is conducted in such a manner that the Chief of Police deems the dance to be detrimental to the public peace, safety, health, and general welfare.
(§ 7, Ord. 404)

§ 5-3.08. Required attendance of security officers.

Each permittee conducting a public dance pursuant to a valid permit issued by the Chief of Police shall have at all times in attendance at such public dance the number of properly licensed private security officers required by the Chief of Police, which requirements shall be stated at the time of the issuance of the permit.
(§ 8, Ord. 404, as amended by § 1, Ord. 736, eff. December 6, 1985)

§ 5-3.09. Violations: Penalties.

Any person, society, lodge, organization, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.
(§ 9, Ord. 404)

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Chapter 4
(Reserved)

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Chapter 5
Loitering

§ 5-5.01. Minors restricted during certain hours.

It is unlawful for any minor under the age of 18 years to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places and public buildings, places of amusement and eating places, vacant lots or any unsupervised place between the hours of 11:00 p.m. and daylight immediately following; provided, however, that the provisions of this section do not apply when the minor is accompanied by his or her parents, guardian or other adult person having the care and custody of the minor, or when the minor is upon an emergency errand directed by his or her parent or guardian or other adult person having the care and custody of the minor or when the minor is returning directly home from a meeting, entertainment, recreational activity or dance. Each violation of the provisions of this section shall constitute a separate offense.
(§ 1, Ord. 377, as amended by § 1, Ord. 819, eff. January 19, 1990)

§ 5-5.02. Duty of parents and guardians.

It is unlawful for any parent or guardian of any minor under the age of 18 years to permit such minor to loiter in or about any public street or public place in the City between the hours of 11:00 p.m. and daylight unless such minor shall be accompanied by his parent, guardian, or other person having the lawful control of such minor.
(§ 1, Ord. 377, as amended by § 2, Ord. 819, eff. January 19, 1990)

§ 5-5.03. Aiding and abetting.

It is unlawful for any person to assist, aid, abet, or encourage any minor under the age of 18 years to violate the provisions of Section 5-5.01 of this chapter.
(§ 2, Ord. 377, as amended by § 3, Ord. 819, eff. January 19, 1990)

§ 5-5.04. Violations: Penalties.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.
(§ 3, Ord. 377)

§ 5-5.05. Park curfew.

It is unlawful for any person to be or remain in any City park between the hours of 10:00 p.m. and 6:00 a.m. of the following day, without having received a permit so to do from the Parks and Recreation Department.
(§ 2, Ord. 1085, eff. December 5, 2008)

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Chapter 6
Weapons

§ 5-6.01. Discharging muskets, rifles, pistols, and shotguns.

No person shall discharge in the City any musket, rifle, pistol, shotgun, or other mechanical or pneumatic-operated rifle or pistol or any other device designed to discharge a projectile without permission from the Chief of Police.
(§ 1, Ord. 12)

§ 5-6.02. Discharging air guns and similar weapons.

No person shall discharge in the City any gun by means of which any missile is projected by a spring, bow, or compressed air or use any implement whereby stones, beans, shots, pebbles, or other substances are projected.
(§ 4, Ord. 12)

§ 5-6.03. Slingshots.

No person shall hurl or throw in the City any stone or other missile by means of any sling.
(§ 5, Ord. 12)

§ 5-6.04. Violations: Penalties.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.
(§ 9, Ord. 12)

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Chapter 7
Drinking Alcohol On Public Thoroughfares Or At Public Parks

§ 5-7.01. Drinking alcoholic beverages on public thoroughfares.

It is unlawful for any person or member of any society, lodge, organization, or corporation to serve, drink, or consume any spirituous, vinous, malt, or other intoxicating beverage in or upon any public street, sidewalk or alley within the City.
(§ 1, Ord. 536, eff. December 19, 1975)

§ 5-7.02. Alcoholic beverages in City park and public recreation areas.

Except when authorized by a written permit issued by the Chief of Police, it is unlawful for any person or persons to consume any alcoholic beverage or possess any open container containing any alcoholic beverage in or upon any community park, neighborhood park, greenbelt park, parkway, green space, trailway, youth sports/recreation field and bleacher section adjacent to such youth sports/recreation field, or any other recreation area owned, operated, or maintained by the City. Applications for permits shall be submitted to the Chief of Police at least three business days before the event at which alcohol is to be consumed, and a copy of the permit must be in the possession of a responsible party at the permitted location at all times during the event at which alcohol is to be consumed or possessed in an open container. "Alcoholic beverage" includes alcohol, spirits, liquor, wine, beer, and any liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit or used for beverage purposes either alone or when diluted, mixed, or combined with other substances.
(§ 2, Ord. 877, eff. July 1, 1994, as amended by § 1, Ord. 946, eff. February 5, 1999, and § 1, Ord. 1053, eff. May 4, 2007)

§ 5-7.03. Enforcement.

Violations of the provisions of this chapter shall be subject to Title 4, Chapter 11 - Administrative Citations of the Los Banos Municipal Code.
(§ 2, Ord. 1053, eff. May 4, 2007)

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Chapter 8
Bingo Games

§ 5-8.01. Bingo game defined.

"Bingo" or "bingo game" shall mean a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random.
(§ 1, Ord. 552, eff. November 3, 1976)

§ 5-8.02. Licenses: Required.

No bingo game shall be allowed, played, or conducted without a license first being obtained from the City. Licenses shall be effective only for the calendar year or part thereof in which issued.
(§ 1, Ord. 552, eff. November 3, 1976)

§ 5-8.03. Licenses: Applications: Form.

An application for a bingo license shall be filed in the office of the City Manager. The application for such license shall be signed and verified by the applicant and shall set forth the following information:

(a) The name and address of the organization to which the license will be issued;

(b) The name, address, and telephone number of the applicant, who shall be a duly authorized representative of the applying organization;

(c) The name, address, and telephone number of the president or chief officer of the organization which intends to conduct any bingo game;

(d) The person who has the custody of the financial records of the bingo games, which records are required by the provisions of this chapter, and the location of such records;

(e) The location where the bingo game is intended to be held;

(f) A schedule of the fees or charges to be collected from the players for each bingo game or for the different varieties of bingo games to be conducted; and

(g) A statement that the place where the bingo games are to be conducted is on property owned or leased by the organization conducting such games and which property is used by such organization for an office or for the performance of the purposes for which the organization is organized;

Each application for a bingo license shall be accompanied by a written resolution of the governing board or body of the organization which is to conduct such games, such resolution being signed by the president or presiding officer of such organization and its secretary, authorizing the application for a bingo license.
Each application for a bingo license shall be accompanied by a certificate issued by the Franchise Tax Board of the State or by the Internal Revenue Service certifying the tax-exempt status of the organization applying for such license.

(§ 1, Ord. 552, eff. November 3, 1976)

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§ 5-8.04. Licenses: Applications: Fees: Investigations.

(a) All applications for bingo licenses shall be accompanied by an application fee of Twenty-Five and No/100ths ($25.00) Dollars, no part of which shall be refundable, and which shall be collectible annually.

(b) The City Manager shall verify the tax-exempt status of the applying organization and shall verify that the place where the bingo games are to be conducted is on property owned or leased by the organization conducting such games and which property is used by such organization for an office or for the performance of the purposes for which the organization is organized.

(c) The City Manager shall forward the application to the Chief of Police, who shall find and determine that:

(1) The conduct of such bingo games at the times and at the place indicated will not disturb the peace of the neighborhood and will not create substantial traffic or parking problems; and

(2) Neither the applying organization, nor any person listed in the application, has violated any laws and regulations of the City regarding building, fire, health, or safety and that the applicant has not knowingly and with intent to deceive made any false, misleading, or fraudulent statement of facts in his application or any other documents required by the City to be submitted in conjunction with the application.

(§ 1, Ord. 552, eff. November 3, 1976)

§ 5-8.05. Licenses: Issuance or denial: Nontransferable.

(a) Bingo licenses shall be granted only to organizations exempted from the payment of the bank and corporation tax by Section 23701a, 23701b,23701d, 23701e, 23701f, 23701g, and 23701l of the Revenue and Taxation Code of the State and a contribution to which would be a charitable contribution under subsection (2) of subsection (c) of Section 170 of the Internal Revenue Code of 1954.

(b) The City Manager shall not issue a bingo license to any applicant if the City Manager or the Chief of Police cannot certify any one of the findings required by this chapter to be made or if it appears from the application that the conduct of such games would be in violation of any of the terms, conditions, and requirements of this chapter.

(c) No bingo license issued shall be transferable.

(§ 1, Ord. 552, eff. November 3, 1976, as amended by § 1, Ord. 590, eff. December 16, 1977)

§ 5-8.06. Licenses: Summary suspension pending hearings: Misdemeanor to continue after suspension.

(a) Whenever it appears to the City Manager that the licensee is conducting a bingo game in violation of any of the provisions of this chapter, the City Manager shall have the authority to summarily suspend the license and order the licensee to immediately cease and desist any further operation of any bingo game.

(b) Any person who continues to conduct a bingo game after any summary suspension thereof under subsection (a) of this section shall be deemed guilty of a misdemeanor and, upon

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conviction thereof, shall be punishable by a fine not exceeding Five Hundred and No/100ths ($500.00) Dollars, or by imprisonment in the County Jail for a period not exceeding six months, or by both such fine and imprisonment.

(c) The order issued under subsection (a) of this section shall also notify the licensee that it shall have five days after the date of such order to request a hearing to determine whether such license shall be revoked. Failure to request, in writing, such hearing before the City Manager within such five day period shall result in a revocation of the license.

(d) Upon such a request by the licensee, whose license has been suspended under subsection (a) of this section, for a hearing to determine whether such license shall be revoked, the City Manager shall provide such hearing within 10 days after the receipt of such request at which hearing the suspended licensee may appear before the City Manager for the purpose of presenting evidence why the license should not be revoked. No license shall be revoked under this section unless written notice of the time and place of such hearing shall have first been given at least five days before the hearing by depositing in the United States mail a notice directed to such suspended licensee at the address given in the application. The notice shall set forth a summary of the grounds advanced as the basis of the suspension and revocation.

(e) Any organization whose license is revoked under this section shall not conduct any bingo game in the City until such time as the Council, on appeal, determines to overrule the decision of the City Manager.

(§ 1, Ord. 552, eff. November 3, 1976)

§ 5-8.07. Licenses: Revocation: Alternative procedure.

(a) Whenever it appears to the City Manager that the licensee is conducting bingo games in violation of any of the provisions of this chapter, or that the license was obtained by fraudulent representation and no summary suspension is ordered under Section 5-8.06 of this chapter, the license may be revoked; provided, however, the licensee may appear before the City Manager, at the time fixed by the City Manager, for the purpose of presenting evidence why the license should not be revoked. No license shall be revoked under this section unless written notice shall have first been given at least five days before the hearing by depositing in the United States mail a notice directed to such licensee at the address given in the application. The notice shall set forth a summary of the grounds advanced as the basis of the revocation.

(b) Any organization whose license is revoked under this section shall not conduct any bingo game in the City until such time as the Council, on appeal, determines to overrule the decision of the City Manager.

(§ 1, Ord. 552, eff. November 3, 1976)

§ 5-8.08. Licenses: Revocation: Appeals to the Council.

(a) Any holder of a license whose license is revoked under this chapter shall have the right, within 10 days after receiving notice in writing of the revocation, to file a written appeal to the Council. Such appeal shall set forth the specific grounds on which it is based. The Council shall hold a hearing on the appeal within 30 days after its receipt by the City, or at a time thereafter agreed upon, and shall cause the appellant to be given at least 10 days' written notice of such hearing. At the hearing the appellant or its authorized representative

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shall have the right to present evidence and a written or oral argument, or both, in support of his appeal. The determination of the Council on the appeal shall be final.

(b) Any organization whose license is finally revoked may not again apply for a license to conduct bingo games in the City for a period of one year after the date of such revocation; provided, however, if the ground for revocation is cancellation of the exemption granted under subsection (d) of Section 23701 of the Revenue and Taxation Code of the State, such organization may again apply for a license upon proof of the reinstatement of such exemption.

(§ 1, Ord. 552, eff. November 3, 1976)

§ 5-8.09. Keeping records: Inspections.

Licensees shall keep and maintain full records and accountings and shall detail the amount of money obtained from the players, the amount of money or value of prizes given for each game played, and the disposition of any funds generated by the conduct of bingo games. The City shall have the right to inspect such records at any reasonable time. The City Manager may request such records when the licensee applies to renew its annual license.

(§ 1, Ord. 552, eff. November 3, 1976)

§ 5-8.10. Conduct of bingo games.

(a) It shall be a misdemeanor, punishable by a fine not to exceed Ten Thousand and No/100ths ($10,000.00) Dollars, as authorized by subsection (c) of Section 326.5 of the Penal Code of the State, for any person to receive a profit, wage, or salary from any bingo game.

(b) No minor shall be allowed to participate in any bingo game.

(c) No person who is obviously intoxicated shall be allowed to participate in a bingo game.

(d) A licensee shall conduct bingo games only on property owned or leased by it and which property is used by such organization for an office or for the performance of the purposes for which the organization is organized; however, a licensee organization which regularly meets in a building owned or controlled by a public entity, or an organization which has no adequate regular meeting place and conducts a bingo game on the property of a tax-exempt organization, shall be exempted from this requirement.

No bingo game shall be conducted before 7:00 a.m. nor after 1:00 a.m. of any day.

(e) All bingo games shall be open to the public, not just the members of the nonprofit charitable organization.

(f) A bingo game shall be operated and staffed only by the members of the licensee organization. Such members shall not receive a profit, wage, or salary from any bingo game. Only the licensee organization shall operate such game or participate in the promotion, supervision, or any other phase of such game.

(g) No individual corporation, partnership, or other legal entity, except the licensee organization, shall hold a financial interest in the conduct of any bingo game.

(h) All profits derived from any bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account.

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(i) No person shall be allowed to participate in a bingo game unless the person is physically present at the time and place in which the bingo game is being conducted.

(j) The total value of prizes awarded during the conduct of any bingo game shall not exceed Two Hundred fifty and No/100ths ($250.00) Dollars in cash or kind, or both, for each separate game which is held.

(§ 1, Ord. 552, eff. November 3, 1976)

§ 5-8.11. Violations: Public nuisances.

In addition to the criminal penalties provided by this Code, the violation of any provision of this chapter shall be a public nuisance which may be abated by the City.

(§ 1, Ord. 552, eff. November 3, 1976)

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Chapter 9
(Reserved)

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Chapter 10
Hosting Gatherings Of Underage Drinkers

§ 5-10.01. Purpose and intent.

(a) To enforce laws prohibiting the service to and consumption of alcoholic beverages by underage persons;

(b) To protect public health, safety, general welfare and quiet enjoyment of residential property and properties neighboring one of these gatherings; and

(c) To establish standards and controls of parties, gatherings or assemblages involving underage persons consuming alcoholic beverages on private property.

(§ 1, Ord. 1070, eff. June 6, 2008)

§ 5-10.02. Definitions.

For the purposes of this chapter, the following definitions shall apply:

"Alcoholic beverage" shall mean alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

"Juvenile" means any person under 18 years of age.

"Gathering of underage drinkers" shall mean a party, event or gathering where two or more underage persons are present at a residence or other private property in which alcoholic beverages are being consumed or possessed by any underage person.

"Residence" or "other private property" shall mean a home, yard, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, whether occupied on a temporary or permanent basis, whether occupied as a dwelling, party or other social function, and whether owned, leased, rented, or used with or without compensation.

"Response cost" are the costs associated with response by law enforcement, fire, or other emergency response providers to a gathering, including, but not limited to:

(1) Salaries and benefits of law enforcement, fire or other emergency response personnel for the amount of time spent responding to, remaining at, or otherwise dealing with a gathering, and the administrative cost associated with or attributed to such response(s);

(2) The cost of any medical treatment for any law enforcement, code enforcement, fire, or other emergency response personnel injured responding to, remaining at, or leaving the scene of a gathering;

(3) The cost of repairing any City equipment or property damaged, and the cost of the use of any such equipment in, responding to, remaining at, or leaving the scene of a gathering; and

(4) Any other allowable costs related to enforcement of Section 5-10.04.

"Responsible person" shall mean a person or persons with a right of possession of the residence or other private property at which a gathering of underage drinkers is conducted. A responsible person need not be present at such gathering and prior knowledge of the gathering of underage

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drinkers is not a prerequisite to a finding that any specific individual is a responsible person as defined by this section. Responsible person includes, but is not limited to:

(1) Owner(s) and/or lessee(s) of the property where a gathering of underage drinkers is taking place, including the record owner of the title to property, wherever that person or entity may currently reside;

(2) Person(s) hosting a gathering of underage drinkers;

(3) Person(s) receiving money or other consideration for granting access to a gathering of underage drinkers;

(4) Parent(s) or legal guardian(s) of a minor who is also a responsible person;

(5) Tenant of the residence or other private property;

(6) Person(s) in charge of the residence or other private property.

"Underage person" shall mean any person under 21 years of age.
(§ 1, Ord. 1070, eff. June 6, 2008)

§ 5-10.03. Public nuisance.

(a) Any gathering of underage drinkers shall constitute a public nuisance, as an immediate threat to public health and safety.

(b) As a public nuisance, the gathering of underage drinkers may be summarily abated by police by all reasonable means, singularly or in combination, including, but not limited to:

(1) An order requiring the gathering to be disbanded;

(2) Issuance of an administrative citation under this chapter;

(3) Issuance of a citation and/or arrest of any law violators under any other applicable ordinances and/or statutes.

(§ 1, Ord. 1070, eff. June 6, 2008)

§ 5-10.04. Penalties for violation of the chapter.

(a) A violation of this chapter shall only be prosecuted as a civil penalty pursuant to the administrative citation procedures in Chapter 11 of Title 4 of the Los Banos Municipal Code. Notwithstanding Chapter 11, of Title 4, a violation subjects any and all responsible persons, as defined in this chapter, to a civil penalty of Five Hundred and No/100ths ($500.00) Dollars.

(b) If the owner of the private property has leased the property to another person, such owner shall not be considered a responsible person until such owner receives notice of at least one previous gathering of underage drinkers on his property in the prior 12 months. Notice shall be by a copy of the citation transmitted via certified mail, return receipt requested, and first class mail to the owner of the private property as recorded by the last equalized assessment roll of the Merced County Assessor.

(c) In the event that a gathering of underage drinkers is hosted by a juvenile, then the parents or guardians of that juvenile will be jointly and severally liable for any penalties incurred

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pursuant to this chapter.

(1) Alternative penalty for a first offense only: In the event a juvenile or one of his or her parents is found to be a responsible person as defined by this chapter, the juvenile and the juvenile's parents may complete a course on alcohol education and prevention of underage drinking approved by the Chief of Police, as an alternative to paying the entire first offense penalty of Five Hundred and No/100ths ($500.00) Dollars. The cost of the course will be considered in the calculation of a reduced fine amount upon successful completion of the approved course. The intent of this alternative is to reduce but not eliminate the penalty for an administrative citation pursuant to this chapter and the alternative fine will be determined at the sole discretion of the Chief of Police.

(d) A second violation of this chapter within 12 calendar months subjects and all responsible persons, as defined in this chapter, to a civil penalty of One Thousand, Five Hundred and No/100ths ($1,500.00) Dollars.

(e) Third and subsequent violations of this chapter within 12 calendar months of the first violation subjects any and all responsible persons, as defined in this chapter, to a civil penalty of Three Thousand and No/100ths ($3,000.00) Dollars as well as the recovery of response costs as described in Sections 5-10.05 and 5-10.06.

(§ 1, Ord. 1070, eff. June 6, 2008)

§ 5-10.05. Recovery of response costs.

(a) When a law enforcement, fire, or other emergency response provider makes an initial response to a gathering of underage drinkers, the official shall, in writing, inform any responsible person(s) for the gathering at the scene that:

(1) The official has determined that a gathering of underage drinkers exists; and

(2) That if emergency response providers make at least two subsequent responses to the same location within a 12 month period from the initial response, responsible person(s) will be charged for any response costs required for the third subsequent response, i.e., for the third response.

(b) Within 30 calendar days of the initial response and each response thereafter, an additional written warning shall be transmitted via certified mail to the owner of the private property as recorded by the last equalized assessment roll of the Merced County Assessor;

(c) This section applies to the costs of abatement of the summary nuisance described in Section 5-10.03, and costs are recovered pursuant to California Government Code Section 38773.1 and Chapter 11 of Title 4 of the Los Banos Municipal Code.

(§ 1, Ord. 1070, eff. June 6, 2008)

§ 5-10.06. Billing and collection of response costs.

(a) The response costs shall also be deemed a civil penalty and are collectable pursuant to the procedures in Chapter 11 of Title 4 of this Code. A person owing such costs shall be liable in an administrative civil proceeding for recovery for such fees.

(b) If the responsible person is a juvenile, then the juvenile's parents or guardians shall be liable

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for the response costs.

(c) Any citation issued for a violation of this chapter shall contain, at a minimum, the following information:

(1) The name(s) of the person(s) being held liable for the payment of such costs;

(2) The address of the residence or other private property where the gathering of underage drinkers occurred;

(3) The date and time of the response;

(4) The law enforcement, fire or emergency service provider who responded;

(5) The date(s) and time(s) of any previous warning(s) given pursuant to Section 5-10.06 and/or previous responses to gatherings of underage drinkers at the residence or other private property in question within the previous 12 months;

(6) An itemized list of the response costs for which the person(s) is being held liable. The police shall calculate and compile an itemized list of the applicable response costs; and

(7) The imposition of a lien on the subject property in the event of nonpayment of response costs.

(d) If a timely request for an administrative hearing pursuant to Section 4-11.06 is not made, such costs, if unpaid within 30 days of notice, shall become a lien against the property as is authorized by Government Code Section 38773.1.

(e) If, following an administrative hearing, appeal, or other final determination, the owner of the property is determined to be responsible for any costs pursuant to this section, such costs, if unpaid within 30 days of notice of the final determination, shall become a lien against the property as is authorized by Government Code Section 38773.1.

(f) Under either subsections (d) and (e) of this section, a notice of a lien shall be filed with the County Recorder's Office which states the identity of the record owner or possessor of the property, the date upon which the citation was issued, a description of the real property subject to the lien, and the amount of the abatement costs incurred to date. The notice shall be served on the record owner as required in Government Code Section 38773.1.

It is the intent of the City Council that abatement costs incurred after the filing of the Notice of an Abatement Lien relates back to the date upon which the lien was recorded for purposes of priority; however, in order to preserve its rights, after all abatement costs have been incurred and the abatement is complete, the City shall cause a supplemental Notice of an Abatement Lien to be recorded. The supplemental notice shall contain all of the information required for the original notice and shall also refer to the recordation date and recorder's number of the original notice.

(§ 1, Ord. 1070, eff. June 6, 2008)

§ 5-10.07. Special fund.

(a) There is hereby established a special fund for the purposes of receiving and expending civil penalties collected. This special fund shall be known and designated as the Prevention of

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Underage Drinking Fund.

(b) Expenditure of monies. The appropriation of all monies in the Prevention of Underage Drinking Fund shall be made exclusively for the purposes of Prevention of Underage Drinking Programs within the City of Los Banos. The Underage Drinking Program shall include the enforcement of, education for, and prevention of underage drinking. Expenditures shall include, but not be limited to; purchase of equipment, contractual services, material and supplies, or any other expenditures related to the prevention of underage drinking with the City of Los Banos. The administration of the fund shall conform to this Code and all accounting principles practiced by the City.

(c) Accumulation of monies in the funds. The balance remaining in the Prevention of Underage Drinking Fund at the close of any fiscal year shall be deemed to have been provided for a specialized purpose and shall be carried forward and accumulated in said fund for the purposes set forth herein.

(§ 1, Ord. 1070, eff. June 6, 2008)

§ 5-10.08. Protected activities.

This chapter shall not apply to activities protected by Article 1, Section 4 of the California Constitution or the 1st or 14th Amendments of the United States Constitution.

(§ 1, Ord. 1070, eff. June 6, 2008)

§ 5-10.09. Severability.

If any section, subsection, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The City Council declares that this chapter, and each section, subsection, sentence, clause and phrase hereof, would have been prepared, proposed, adopted, approved and ratified irrespectively of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

(§ 1, Ord. 1070, eff. June 6, 2008)

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Chapter 11
Unpermitted Public Camping And Public Storage Of Personal Property In Public Areas

§ 5-11.01. Purpose.

The streets and public areas within the City should be readily accessible and available to residents and the public at large. The use of these areas for camping purposes or storage of personal property interferes with the rights of others to use the areas for which they were intended. Such activity can constitute a public health and safety hazard which adversely impacts neighborhoods and commercial areas. Unlawful camping on private property without the consent of the owner, proper sanitary measures and for other than a minimal duration adversely affects private property rights as well as public health, safety, and welfare of the City.

The purpose of this chapter is to maintain streets, parks and other public and private areas within the City in a clean, sanitary and accessible condition; to establish a process for the collection, storage, disposal, or return of personal property found on public property; and to adequately protect the health, safety and public welfare of the community, while recognizing that, subject to reasonable conditions, camping and camp facilities associated with special events can be beneficial to the cultural and educational climate in the City.

Nothing in this chapter is intended to interfere with otherwise lawful and ordinary uses of public or private property.
(Ord. 1205, 11/20/2024, eff. 12/20/2024)

§ 5-11.02. Definitions.

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

"Abandoned personal property" means unattended, but not stored, personal property that by its condition of damage, deterioration, disrepair, non-use, obsolescence or location causes any reasonable person to conclude that the owner has permanently relinquished all right, title, claim and possession thereto. In determining whether property is abandoned, enforcement personnel shall, erring on the side of caution, evaluate the facts and circumstances surrounding the item(s), including whether the personal property is unattended and lacks objective signs of abandonment.

"Camp facilities" include, but are not limited to, tents, huts, lean-tos, tarps, cardboard boxes or structures, vehicles, vehicle camping outfits, or temporary shelter.

"Camp paraphernalia" includes, but is not limited to, materials intended to be used as beds or bedding, blankets, bedrolls, tarpaulins, cots, beds, sleeping bags, hammocks, fire pits, shopping carts, or cooking facilities and similar equipment.

"Camp" or "camping" means to utilize camp facilities and/or camp paraphernalia when it reasonably appears, in light of all circumstances, that a person is using such location for temporarily or permanently sleeping or for living accommodation purposes regardless of the intent of the participants or the nature of any other activities in which they may also be engaging including, but not limited to, the following activities:

(1) Sleeping or preparing to sleep (including the laying down of bedding for the purpose of sleeping), including undertaking such activities in a vehicle (including any motorhome, camp trailer, camper, coach, fifth wheel travel trailer, house car, recreational vehicle,

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mobile home);

(2) Erecting or using any tent, camp facilities, or building any other form of shelter;

(3) Unattended storage of personal belongings (including, but not limited to, clothing, sleeping bags, bedrolls, blankets, sheets, luggage, backpacks, kitchen utensils, cookware) or camp paraphernalia; or

(4) Making or using any fire, for purpose of heating or cooking, or using any flame, grill, portable stove, or similar flame producing device for cooking of meals on public property, except for in City parks with designated barbeque and cooking areas while using City-provided cooking facilities designed for such purposes.

A person shall be considered to be using a vehicle for camping if: the person admits they are using the vehicle to camp; or, based on the totality of the circumstances, it is established that a person is using the vehicle to live, dwell or reside.

Camping shall be deemed to occur regardless of whether a full night is actually spent occupying any specific location.

"City Manager" means the City Manager or the City Manager's designee.

"Encampment" means one or more temporary, makeshift, or hand-built shelters not intended for long-term continuous occupancy, including tents, or any other form of shelter, that are used to shelter one or more persons or their belongings and that are not authorized by the City. Encampment includes any camp paraphernalia and personal property associated with or located in or around the shelter or tents.

"Establish" means setting up or moving personal property, equipment, supplies or materials on to public or private property to camp or operate camp facilities.

"Maintain" means keeping or permitting personal property, equipment, supplies or materials to remain on public or private property in order to camp or operate camp facilities.

"Operate" means participating or assisting in establishing or maintaining a camp or camp facility.

"Personal property" means tangible property, belongings or possessions, which shall include any movable or tangible thing, including, but not limited to, goods, materials, merchandise, tents, tarpaulins, bedding, sleeping bags, hammocks, sheds, structures, mattresses, couches, chairs, other furniture, appliances, camping equipment, gear, tools, camp paraphernalia, personal items, household items, luggage, backpacks, clothing, documents, medication, bicycles, push carts, shopping carts, and vehicles of any kind.

"Private property" means all private property including, but not limited to, real property, yards, streets, sidewalks, alleys, private roads, and improved or unimproved land.

"Public property" or "public area" means property owned, managed, controlled, held, or leased by a public entity or agency, improved or unimproved, and includes, but is not limited to, buildings, structures, restrooms, open space, parks, park facilities, plazas, parking lots, highways, streets, bridges, alleys, medians, greenbelts, driveways, sidewalks, waterways, trailways, walkways or other public rights-of-way.

"Waterway(s)" means all the portion of the City containing drainage culverts, ponds, canals, creeks, and detention basins.
(Ord. 1205, 11/20/2024, eff. 12/20/2024)

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§ 5-11.03. Unauthorized camping or encampments on public property.

(a) It is unlawful and a public nuisance for any person to camp, occupy camp facilities, build, maintain or establish an encampment, occupy an encampment, use camp paraphernalia, or store or maintain personal property in or on public property or waterways at any time, unless specifically authorized or permitted by the City, in writing.

(b) Nothing in this chapter is intended to prohibit or make unlawful, activities of an owner of private property or other lawful user with the permission of the owner of private property that are normally associated with and incidental to the lawful and authorized use of private property for residential or other purposes; and provided further, nothing is intended to prohibit or make unlawful, activities of a property owner or other lawful user if such activities are expressly authorized by this Code and in compliance with the Zoning Ordinance or other laws and regulations.

(c) Nothing in this chapter is intended to prohibit or make unlawful the mere possession of or transportation of camp facilities or camp paraphernalia on public or private property, except as provided in this chapter.

(Ord. 1205, 11/20/2024, eff. 12/20/2024)

§ 5-11.04. Camping permit for special events required.

(a) The City Manager in his or her discretion, may issue a permit to establish, maintain and operate a camp or a camp facility in connection with a special event. A special event is intended to include, but not be limited to, programs operated by the departments of the City, youth or school events, marathons or other sporting events and scouting activities.

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

(Ord. 1205, 11/20/2024, eff. 12/20/2024)

§ 5-11.05. Posting copy of permit.

It is unlawful for any person to establish, maintain, conduct or carry on any camp or camp facility unless there shall be at all times posted in a conspicuous place upon the area or tract of land upon which the camp or camp facility is located a permit obtained from the City Manager in accordance with the provisions of section 5-11.04 of this chapter.

(Ord. 1205, 11/20/2024, eff. 12/20/2024)

§ 5-11.06. Authority of the City Manager to make rules and regulations.

The City Manager is further empowered to ascertain that the operation or maintenance of any camp or camp facilities to which a temporary permit shall apply will in no way jeopardize the public health, safety or welfare and for this purpose may make additional rules and regulations

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pertaining to their establishment, operation or conduct. The City Manager may also impose conditions on the establishment, maintenance and operation of the camp or camp facility, including, but not limited to, security, sanitation facilities, the number of occupants, posting of bonds or deposits, insurance, quiet hours, duration of the permit, and permitted activities on the premises. When the City Manager shall issue any permit under the terms of section 5-11.04 of this chapter, the same may be revoked at any time thereafter by the City Manager if the City Manager becomes satisfied that the maintenance or continuing operation of the camp or camp facilities is adverse to the public health, safety and welfare.
(Ord. 1205, 11/20/2024, eff. 12/20/2024)

§ 5-11.07. Public nuisance declared.

Any encampment established in violation of this chapter or unauthorized storage of personal property on public property is declared to be a public nuisance, and the City is authorized to abate the nuisance and remove the encampment, camp paraphernalia, related facilities, and stored personal property as authorized by law and in accordance with this chapter.
(Ord. 1205, 11/20/2024, eff. 12/20/2024)

§ 5-11.08. Abatement — Notice and removal of personal property in public areas.

(a) Notice and Removal. In the event of an unauthorized encampment or unauthorized personal property is found on public property an authorized City employee or contractor (examples of authorized employees include, but are not limited to, employees of the City Police Department, City Code Enforcement, employees or contractors of City Public Works Department, and other City employees properly trained to carry out this section), such employee or contractor shall leave notice with the owner of the Personal Property, or prominently post the notice near the Personal Property, or prominently post the notice within the encampment. The notice(s) shall contain all of the following information:

1. The requirement that the personal property be removed from public property;

2. The time frame that the property owner has to relocate the personal property. Such time frame shall not be less than 24 hours unless there is an immediate threat to the public health, safety, or welfare. Further, if the personal property obstructs and actually interferes with public property or the intended use of the public property, then this time frame may be shorter than 24 hours; provided, that if the property owner, is present, they are first advised to cease the interference and/or to move the personal property causing the obstruction and they decline to do so;

3. A statement that, if the personal property is not removed within the time frame, then the City will remove and store the personal property consistent with this section. This statement shall also provide the location where the personal property will be stored;

4. If applicable, the nature and purpose of the cleanup and/or removal;

5. If applicable, the date, time, and locations of the scheduled cleanup and/or removal of the personal property;

6. A citation to the applicable section of the municipal code or any other applicable law;

7. A statement of how the personal property may be reclaimed;

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8. A statement that, if personal property is removed pursuant to this section, then such personal property may be subject to disposal by the City pursuant to this section after 60 days from the date of removal;

9. A phone number that the person may call for more information; and

10. Any other additional information as determined by the City and/or City's Police Department.

After the time frame specified in the notice provided pursuant to this subsection (a), the personal property on the public property area may be removed, inventoried, stored, and disposed of by the City pursuant to this section. To the extent possible, the inventory list shall be provided to the property owner(s). For any personal property removed, a notice shall be posted in a prominent place in the removal area advising where the personal property is being kept and when it may be claimed by its rightful owner. The notice shall contain the information required by subsections (a)(1)-(10) of this section and any other additional information as determined by the City and/or City's Police Department. This notice shall include the earliest date on which the removed personal property will be disposed of by the City pursuant to this section.

(b) Additional Signage for Removal of Personal Property. The City may determine what, if any, areas of the City suffer from blight due to storage of personal property on any public property, and erect signs in those areas containing the applicable information specified in subsections (a)(1)-(10) of this section so as to provide additional notice.

(c) Holding and Disposal of Stored Personal Property. Except as provided in subsection (a) of this section, found personal property shall be deposited and inventoried in a safe place for a period of at least 60 days and found money shall be deposited with the Police Department in accordance with the Police Department cash handling policy for a period of not less than 60 days, unless sooner claimed by the true owner. In the event the property or money is not claimed within 60 days, it shall be deemed to be unclaimed personal property and subject to disposal as provided in this section, or as otherwise provided by law. Additionally, the City shall not be obligated to store personal property in excess of the City's then-current overall storage capacity. In this case, the City may dispose of unclaimed personal property prior to 60 days, but will make reasonable efforts to contact the owner of such property prior to doing so. The City shall maintain a record of the date any impounded personal property was discarded.

(d) Trash, Contaminated, Dangerous, or Perishable Personal Property. Any personal property coming into the possession of the City and/or City's Police Department may be immediately disposed of without notice, in a manner that the City and/or City's Police Department determines to be in the public interest, when such personal property is trash, contaminated, dangerous, perishable, or contraband pursuant to State or Federal law, and/or constitutes an immediate threat to the public health, safety, or welfare.

(e) The owner of impounded personal property may repossess the personal property prior to its disposal upon submitting satisfactory proof of ownership. A person may establish proof of ownership by, among other methods, describing the location from and date when the personal property was impounded from a public area, and providing a reasonably specific and detailed description of the personal property. Valid, governmental-issued identification or other acceptable form of identification is required to claim impounded personal property.

(f) Additional Procedures. The City Manager may adopt additional notice and collection

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procedures, as necessary, to implement this section.

(g) Applicability. To the extent known by the City or the City's Police Department, the provisions of this section shall not apply to the following:

1. Personal property or money subject to confiscation pursuant to State or Federal law;

2. Personal property that constitutes evidence in an ongoing criminal investigation and/or civil proceeding pursuant to State or Federal law;

3. Personal property that has been abandoned by its owner. Abandoned personal property may be disposed of forthwith.

(Ord. 1205, 11/20/2024, eff. 12/20/2024)

§ 5-11.09. Enforcement.

(a) Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.

(b) In addition to any other remedy or penalty set forth in this chapter or this Code, administrative penalties may be imposed pursuant to applicable provisions of Chapter 11 Title 4 of this Code against any responsible party, in violation of any of the provisions of this chapter. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 11 Title 4 of this Code.

(c) Remedies under this chapter are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

(Ord. 1205, 11/20/2024, eff. 12/20/2024)

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PUBLIC WELFARE, MORALS, AND CONDUCT

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LOS BANOS CODE

Title 6

SANITATION AND HEALTH

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Chapter 1
Animal Control, Regulation, And Protection

ARTICLE 1
GENERAL PROVISIONS

§ 6-1.1001. Purpose—Construction.

This chapter is intended to regulate, control and protect animals existing within the City of Los Banos.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.1002. Authority to set fees and charges.

The City Council may, from time to time, by resolution, establish a schedule of fees and charges for services performed and licenses issued under this chapter. The fees and charges so established may recover the reasonable cost of providing such services and issuing such licenses.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.1003. Penalties.

Violation of any of the provisions of this chapter shall be deemed to be an infraction or a misdemeanor unless otherwise designated.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.1004. Definitions.

For purposes of this chapter, unless the context clearly indicates otherwise, certain words and phrases shall have the meaning given to them in this section:

"Animal" means all nonhuman members of the animal kingdom, including domestic, exotic and livestock species.

"Animal Control Officer" means an employee of the City authorized to enforce all of the provisions of this chapter relating to the care, control and treatment of animals as well as any State laws which he or she is authorized to enforce, including, but not limited to, Public Safety Officers, and Code Enforcement Officers.

"Feral cat" means a cat as defined in Food and Agricultural Code Section31752.5.

"Livestock" means any animal kept by humans that do not customarily inhabit their owner's dwelling. Includes, but not limited to, equine, bovine, ovine, caprine, porcine, and any species of chickens, ducks, pigeons, geese, turkeys or other domesticated fowl.

"Owner" or "owner/guardian" means the primary or responsible person or persons who possess, has title to or an interest in, harbors, provides care, or has control, custody or possession of an animal. This definition shall exclude veterinarians who are treating or caring for an animal in the regular practice of veterinary medicine as well as the owners or operators of an animal grooming business, kennel or pet shop while engaged in the regular practice of such business.
(§ 2, Ord. 1153, eff. May 19, 2017)

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ARTICLE 2
ANIMAL SHELTER—ANIMAL CONTROL OFFICERS

§ 6-1.2001. Animal shelter—Location.

A public animal shelter shall be maintained at such place as is provided from time to time by the City Council.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.2002. Animal Control Services Unit—Animal Control Officers—Powers and duties.

(a) The Animal Control Services Unit in the Police Department Code Enforcement Division is primarily responsible for enforcing State and local laws pertaining to animals in the City of Los Banos.

(b) Each Animal Control Officer of the City shall have, and is vested with the authority of a public officer. The Animal Control Officers may, in the performance of their duties, enter upon any property pursuant to law, to ascertain if any of the provisions of this chapter, or any other provisions of this Code, or any State laws relating to disease, care, treatment, or cruelty to animals are being violated. Each Animal Control Officer may issue citations for the violation of the provisions of this chapter, or any other provisions of this Code, or any State law, in the manner prescribed by this Code, and remove animals from the premises if they deem necessary. The authority to issue citations in the manner prescribed by the City shall be alternative to any other authority provided by law.

(c) Each Animal Control Officer of the City shall have police powers in the enforcement of this chapter, or any State laws relating to disease, care, treatment, or cruelty to animals. Any person who shall interfere with, obstruct, or resist any Animal Control Officer while engaged in performing any duty imposed by the provisions of this chapter or any other law of the City, or State law, or who shall, without permission, remove or take away any animal from the Animal Shelter, or tamper with or do damage to any of the facilities or structures of the Animal Shelter, or remove any fence, bar, or barrier or open any gate for the purpose of enabling any animal to escape from the Animal Shelter shall be guilty of a misdemeanor.

(d) The Animal Control Services Unit shall keep a record of all impounded animals, including a description of the animal, the date of receipt, the date and manner of disposal, the name of the person redeeming or purchasing, and the fees, charges and proceeds of sales received on account of such animal, and such additional records as may be required by the provisions of this chapter, or State law. The Animal Control Services Unit shall provide the necessary subsistence for all animals that are impounded.
(§ 2, Ord. 1153, eff. May 19, 2017)

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ARTICLE 3
MANDATORY DOG LICENSE TAG AND VACCINATION

§ 6-1.3001. Dog license tag—Required.

Every owner of a dog which is four months of age or older, and which is kept in the City, shall obtain and maintain a current dog license tag for such dog from the City and shall pay the license fee as imposed by resolution of the City Council. No person shall refuse to exhibit such license when so directed by an Animal Control Officer, Public Safety or Code Enforcement Officer. The owner shall obtain the initial dog license tag within 30 days of the dog reaching four months of age; or within 30 days of owning/keeping/possessing a dog over the age of four months.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.3002. Dog license tag—Application.

Upon each application for a dog license tag or renewal of an expired dog license, the owner shall furnish to the City, in writing, his or her name, home and cellular telephone number, the address where the dog is kept, the name, breed, age, sex and color of the dog, proof of current vaccination, and proof that the dog has been spayed or neutered, if a discounted license is applicable. The City shall furnish application forms for such purpose and upon payment of all applicable fees, and penalties, if any, shall issue a numbered dog license tag.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.3003. Dog license tag—Certificate of vaccination required.

The City shall not issue any dog license tag under this chapter without presentation of a certificate of vaccination signed by a veterinarian showing that the dog has been vaccinated with an approved rabies vaccine and the period of time from the date of vaccination to the date of expiration of the vaccination does not exceed the time interval prescribed by the State Department of Health. In no case shall a dog license tag be issued with an expiration date greater than the rabies vaccination expiration date. Where a certificate of vaccination shows that a dog should not be vaccinated due to infirmity or other disability, the nature of the infirmity and/or other disability and the estimated date of termination of the disability thereof shall be shown.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.3004. Dog license tag issuance and fee.

(a) License Fee. A dog license fee set by resolution of the City Council shall be imposed upon every dog four months and older which is kept in the City by any person who is an owner. The dog license fee shall be reduced by at least 50% if a certificate is presented from a licensed veterinarian that the dog has been spayed or neutered. The dog license fee is an annual fee and shall not in any case be prorated.

(b) New Residents. Any person who moves into the City of Los Banos with a dog over the age of four months and with a current license and vaccination from another jurisdiction shall be allowed to procure a City of Los Banos dog license tag within the first 30 days at no charge. The expiration date of such new license will correspond with the expiration date of the previously issued license not to exceed one year.

(c) Duration of Dog License Tag. The person to whom the dog license is to be issued pursuant to this chapter may choose a dog license period of up to one, two, or three years. Dog

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licenses for dogs that have not attained the age of 12 months shall not exceed two years. Dog licenses for dogs that have attained the age of 12 months or older and who have been vaccinated for rabies shall not exceed three years. However, when issuing a dog license pursuant to this chapter, the license period shall not extend beyond the remaining period of validity for the current rabies vaccination.

(d) Assistance Dogs. Assistance dogs are issued a specifically designed identifying tag in accordance with the California Food and Agricultural Code Section30850, et seq. No fee shall be required for an assistance dog identification tag for any "assistance dog" such as a guide dog, signal dog or service dog as defined in California Food and Agriculture Code, Section 30850. However this provision does not remove the owner's responsibility to vaccinate said dog against rabies and attach a current City issued dog license tag to the dog's collar. Whenever a person applies for an assistance dog identification tag, the person shall sign an affidavit as defined in California Food and Agriculture Code, Section 30850(b). Owners of these assistance dogs must comply with all State and local health and license requirements for dogs.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.3005. Dog license tag—Duplicate.

If a dog license tag is lost or destroyed, a duplicate or other tag in lieu thereof shall be procured from the City within 30 days after loss or destruction. Upon receiving payment of a replacement fee, the City shall issue a replacement tag to the owner. The replacement fee shall be set by resolution of the City Council.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.3006. Dog license tag—Attachment—Exceptions.

The dog license tag issued to any dog licensed pursuant to this chapter shall be securely affixed to a collar, harness, or other device and shall be worn by such dog at all times that the dog is in the City, except when the dog is confined in a commercial kennel, or veterinary facility, or it is being exhibited at a show, field trial or other competition. The dog license tag shall be shown by the owner or handler at any time upon demand by an Animal Control Officer, Public Safety Officer, or Code Enforcement Officer.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.3007. Dog license tag—Delinquent fee.

A delinquent fee shall be added to any dog license fee for dog license tags not obtained in accordance with the times set forth in this chapter. The delinquent fee shall be set by resolution of the City Council.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.3008. Dog license tag nontransferable.

The dog license tag required by this chapter shall not be transferable from one dog to another.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.3009. Records of dog licenses.

The City shall keep a record of the issuance of dog license tags issued pursuant to the provisions

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of this chapter, which shall establish the identity of the person that owns or harbors the dog.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.3010. Unlicensed dogs subject to impoundment—Exceptions.

Each Animal Control Officer shall have the authority to seize and impound any dog owned, possessed, or harbored within the corporate limits of the City on which a current and valid dog license tag has not been issued pursuant to the provisions of this chapter. However, the provisions of this section shall not apply to dogs passing through the City or not remaining therein for a period of more than 30 days. In the alternative or in addition to impoundment the Animal Control Officer shall have the authority to issue an administrative citation for a violation of this section.
(§ 2, Ord. 1153, eff. May 19, 2017)

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ARTICLE 4
ANIMAL CARE AND CONTROL

§ 6-1.4001. Neglect of animals prohibited—Abandonment.

No person owning or otherwise having an animal in his or her care, charge, control, custody or possession shall cause or permit such animal to be without proper care and attention under conditions that endanger the health or well-being of an animal or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal. Proper care and attention includes but is not limited to proper and adequate food, water, shelter, sanitary enclosures or surroundings, qualified medical care or attention and required vaccinations, for such animal at a level, which insures the animal's safety, good health, and well-being. Any person abandoning their animal shall be subject to an administrative citation and fine as set by resolution of the City Council and or a misdemeanor.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.4002. Animals at large—Restraint—Leash requirements—Private property.

(a) No person owning or otherwise having an animal (excluding cats that have been spayed or neutered) in his or her care, charge, control, custody or possession shall cause, permit, or allow such animal to run, be or remain at large on any public street, road, alley, park or other public place in the City. "At-large" shall mean the condition wherein an animal is off the premises of its owner and is not under secure restraint by a substantial leash, chain, halter, rope, or rein, at a length necessary to maintain and keep such animal under effective charge and control. The provisions of this section shall not apply to a service or assistance dog; a dog participating in field or obedience trials; animal exhibitions; or a dog assisting a public safety officer engaged in law enforcement duties.

(b) No person owning or otherwise having an animal (excluding cats that have been spayed or neutered) in his or her care, charge, control, custody or possession shall cause, permit, or allow such animal, even though not at-large, to be in or upon private property other than that of the owner, except with the consent of the person in charge of the private property. The provisions of this section shall not apply to a service or assistance dog; or a dog assisting a public safety officer engaged in law enforcement duties.

(c) Any animal found on any private property without the consent of the owner may be taken up by the owner or possessor of the property and delivered to the Animal Control Officer or detained on the property until surrendered to the Animal Control Officer. Every person taking up any animal under the provisions of this section shall, within 24 hours thereafter, give notice thereof to the Police Department; and shall surrender such animal to the Animal Control Officer without fee or charge.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.4003. Biting animals—Notification and disposition.

(a) The owner or other person having an animal in his or her care, charge, control, custody or possession that bites a human being shall immediately notify the Police Department of such bite, giving the name and address of the person bitten, if known to him or her, and shall obey any quarantine instructions given by the Police Department or Animal Control Officer. The Animal Control Officer may, in his or her discretion, order the animal quarantined at the shelter, at a veterinarian's office, or at the owner/guardian's residence

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and may impose such reasonable conditions thereon as may be required.

(b) The owner or other person having an animal in his or her care, charge, control, custody or possession that bites or otherwise causes physical injury to another animal shall, if requested by the owner or handler of the injured animal, provide to the owner or handler of the injured animal, accurate and current contact information and, if available, the biting animal's license tag number and rabies vaccination information and shall obey any quarantine instructions given by the Police Department or Animal Control Officer. The Animal Control Officer may, in his or her discretion, order the animal quarantined at the shelter, at a veterinarian's office, or at the owner/guardian's residence and may impose such reasonable conditions thereon as may be required.

(c) If any person fails or refuses to obey any lawful order for the quarantine of an animal for observation of rabies, the Animal Control Officer may impound the animal for such quarantine at the expense of the owner. The Animal Control Officer shall charge the owner in such case for the care and board of the animal. Such rates shall be set by resolution of the City Council.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.4004. Animal waste.

(a) No owner or person otherwise having an animal in his or her care, charge, control, custody or possession, shall permit or allow any animal to do any of the following:

(1) Defecate on any public street or other public property without immediately cleaning or removing the excrement to a proper receptacle.

(2) Defecate on any private property other than that of its owner without the consent of the owner, lessee or other person in control of the private property.

(b) Any person owning or otherwise having an animal in his or her care, charge, control, custody or possession on any public street or other public property shall carry a tool or device to be used for cleaning or removing animal excrement.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.4005. Animals kept in vehicles.

(a) A person shall not leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal. Section597.7 of the Penal Code of the State of California is hereby incorporated into this chapter.

(b) Any animal that has been confined in a vehicle in violation of this section may be impounded pending a hearing to determine if the animal shall be returned to its owner. In the event of any such impoundment, the owner or keeper of the animal shall be liable for all costs and expenses of impounding or keeping the animal.

(c) Section23117 of the Vehicle Code of the State of California is hereby incorporated into this chapter. Any Animal Control Officer or peace officer may remove an animal that is not properly tethered in accordance with the aforementioned Vehicle Code without liability upon the City or any person for resulting damage. The driver of the vehicle may be cited

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for violation of such duty.

(d) With the exception of RVs or motor homes that are adequate and serve as the residence of the owner, animals may not be housed in vehicles.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.4006. Cats and dogs—Maximum number.

Except as otherwise set forth in this chapter, no person shall keep or have upon any premises owned, occupied, or controlled by him or her within the City more than three dogs and three cats over four months of age. Upon application for relief from the maximum number of dogs or cats allowed by this section, the Animal Control Services Unit may allow by administrative permit the occupant of the premises to maintain additional dogs or cats subject to reasonable conditions as are necessary to insure the general public health, safety and welfare of the general public and or nearby residents or businesses.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.4007. Feral cats.

(a) It is unlawful for any person within the City of Los Banos to intentionally provide food, water, or other forms of sustenance to a feral cat except under the following conditions:

(1) Register with the City as a caretaker of feral cats;

(2) Feed feral cat(s) daily in a manner that does not leave excess food in the area;

(3) Regularly trap and spay/neuter cats over the age of eight weeks;

(4) Identify all altered cats by tipping their ears;

(5) Arrange to have all trapped cats vaccinated for rabies in addition to any other vaccination or immunization requirement imposed by the State.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.4008. Vaccination.

(a) Every dog over four months of age shall have a medically current vaccination with an appropriate anti-rabies vaccine approved by the California State Department of Health Services.

(b) Every cat over four months of age shall have a medically current vaccination with an appropriate anti-rabies vaccine approved by the California State Department of Health Services.

(c) Every person who owns or comes to own an unvaccinated dog or cat over four months of age shall have 30 calendar days from the date the animal was obtained to comply with the provisions of this chapter.

(d) Every veterinarian, after vaccinating a dog or cat for rabies, shall issue a certificate to the owner or custodian. The certificate shall include the following information:

(1) The owner's full name, address, and telephone number;

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(2) The breed, age, sex, and color or markings of the animal;

(3) The date of immunization;

(4) The type of vaccine administered;

(5) The name of the vaccine manufacturer;

(6) The lot number of the vaccine used; and

(7) The signature of the veterinarian administering the vaccination or his or her agent and their veterinary license number.

(e) If a copy of the certificate is on file with the Animal Control Officer, a duplicate copy may be provided when requested by the owner or custodian of the animal. An administrative fee shall be charged for each duplicate certificate issued.

(f) The owner or custodian must maintain the certificate of vaccination, or a copy thereof, and must, upon demand of the Animal Control Officer, Public Safety Officer, or Code Enforcement Officer acting within the course and scope of his or her employment, display said certificate for examination.

(g) Upon written proof provided by a veterinarian that an animal has a medical condition which would cause it to be endangered by receiving anti-rabies vaccination, the Animal Control Officer may exempt the animal from the vaccination requirements in this section so long as the animal is kept in strict confinement and isolated at all times and so long as the medical condition is proven to exist. The written proof must also contain an estimated date when the animal can be safely vaccinated.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.4009. Tethering a dog.

It is unlawful for any dog owner or person in responsible charge of any dog to tether said dog for longer than three hours in a 24 hour period, or a time that is otherwise approved by Animal Control Services Unit. No persons shall tether, fasten, chain, tie or restrain a dog, or cause a dog to be tethered, fastened, chained, tied, or restrained to a dog house, tree, fence or any other stationary object. A dog may be attached to a running line, pulley, or trolley system. A dog may not be tethered by means of a choke collar or pinch collar. A person may tether, fasten, chain, or tie a dog while engaged in camping or recreational activities, or completing a temporary task that requires the dog to be restrained, or engaged in an activity that is conducted pursuant to a valid license issued by the State of California if the activity for which the license is issued is associated with the use or presence of a dog. A dog may be tethered, fastened, chained, or tied while actively engaged in shepherding or herding cattle or livestock, or cultivating agricultural products.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.4010. Dogs in public parks—Prohibited—Exception.

Dogs are prohibited in public parks and playground areas unless such dogs are under physical restraint by a person capable of controlling the dog by means of a leash at a length necessary to maintain and keep such animal under effective charge and control. This provision shall not apply to any area specifically designated as a dog park or off leash exercise area.

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(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.4011. Dog park regulations.

(a) The City Council may, from time to time, designate secured areas within the City for walking, recreation, training, and socialization of dogs.

(b) The following provisions for dog park use are in addition to the other requirements of the Los Banos Municipal Code.

(1) Hours of operation for the dog park shall be established by the Department of Public Works.

(2) All dogs that are brought into the dog park must have a current dog license tag and must be wearing a collar with a current license tag as required by Section 6-1.3006.

(3) All dogs that are brought into the dog park must be healthy with no contagious conditions, parasite free, and vaccinated as required by Section 6-1.4008.

(4) Potentially dangerous dogs, vicious dogs, unaltered dogs, and puppies under four months of age are prohibited from entering the dog park. Dogs exhibiting threatening or aggressive behavior must be immediately removed from the dog park. In the event of a dog bite or other injury caused by a dog, the person having charge, care, custody or control of the dog that caused the injury must provide current license tag information and a telephone number to the injured party.

(5) Separate areas for use by small dogs and large dogs may be designated at the dog park. Such areas will be separated by fencing and signage shall indicate the minimum and/or maximum weight and/or size of dog allowed in the designated area. Dogs are restricted to use of the area designated for their size.

(6) Dogs shall be off-leash only once inside the fenced area of the dog park. All persons owning or having charge, care, custody or control of any dog in the dog park must carry a leash.

(7) A maximum of three dogs per person age 14 years of age or older shall be allowed inside the dog park at any one time. Dogs may not be left unattended in the dog park, and close supervision of all dogs is required.

(8) No children under the age of six years are permitted in the dog park. Children from ages six to 14 are permitted in the dog park with adult supervision.

(9) All persons bringing a dog into the dog park shall be responsible for cleaning up after their dog, disposing of dog feces in the designated dog waste receptacles, and filling and repairing holes dug by their dog.

(10) All human and dog food, including food products, are prohibited in the dog park.

(11) Use of noise amplification equipment, including bullhorn, air horn, or similar device which results in noise disturbance, is prohibited in the dog park.

(12) Commercial use of the dog park is prohibited, including dog training classes, dog grooming, and solicitations or advertisement for pet-related services.

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(13) No private rental of the dog park is permitted.

(14) No private equipment, attraction, or structure may be brought into the dog park.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.4012. Animal nuisances.

(a) No owner, guardian or person otherwise having an animal in her or his care, charge, control, custody or possession shall permit or allow the existence of an animal nuisance as defined in subsection (b) herein. The keeping, harboring, maintaining, or owning of any animal committing an animal nuisance in addition to being a violation of this chapter, is hereby declared to be a nuisance subject to abatement proceedings described herein.

(b) "Animal nuisance," within the meaning of this chapter, means such actions or behaviors of an animal which interfere with the rights of persons to the enjoyment of life or property by creating chronic or habitual annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept, harbored or maintained, and shall include, but not be limited to the following:

(1) Permit unsanitary conditions to exist on the premises where the animal is kept which would cause odors, attract flies or vermin, or otherwise be injurious to public health and safety, or indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by the neighborhood, community or persons;

(2) Keep, maintain, cause or permit to be kept or maintained any animal making a chronic, continuous excessively loud or disturbing noise that prevents the resident or residents of any property from enjoying the full use of that property for any lawful purpose including but not limited to sleep or rest;

(3) Causing offense or danger to public health, safety, or welfare by virtue of the number or types of animals and the method they are maintained;

(4) Permit an animal to obstruct the reasonable and comfortable use of property in any neighborhood or community by chasing vehicles, molesting or biting passersby;

(5) The maintenance of any animal in violation of any provision of this chapter or any order of an Animal Control Officer or hearing officer issued pursuant to this chapter; or

(6) To keep or maintain any animal in violation of the Zoning Code of the City.

(c) If the Animal Control Officer finds such animal nuisance to exist, a written notice/ abatement order shall be served upon the owner or custodian of the animal(s) ordering that the animal nuisance shall be abated. The owner or custodian of the animal(s) may contest the abatement order in writing or in person within 10 days of receipt of the abatement order by requesting a hearing on the allegations.

(d) Upon a determination after a hearing held in accordance with the provisions of Section 6-1.4013 of this chapter, the Animal Control Officer shall have the authority to take whatever measures are specified in the determination to abate the animal nuisance including, but not limited to, impoundment and destruction of the nuisance animal.

(§ 2, Ord. 1153, eff. May 19, 2017)

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§ 6-1.4013. Nuisance abatement hearing—Procedures and findings.

(a) Upon receipt of a request for a hearing from the owner of an animal(s) referred to under an abatement order issued pursuant to Section 6-1.4012 the City Manager shall appoint a hearing officer, who may be an employee of the City. At the discretion of the City Manager, the services of a hearing officer from outside the City may be appointed.

(b) The hearing officer shall then schedule a hearing and serve notice of the hearing, with at least 10 days prior notice, upon the owner of the animal(s). The hearing notice shall be in writing and contain the date, time and location of the hearing and be served upon the owner of the animal(s), the complainants and to any other interested parties who request such a notice. The notice shall be served by personal delivery or by depositing a copy in the United States mail, addressed to the person to be served. The notice shall also include a copy of the original complaint, the original abatement order and a copy of this section.

(c) In conducting the hearing, the hearing officer shall not be bound by the strict rules of evidence as applied in judicial proceedings, however, the hearing officer shall observe the substance of those rules to insure that reasonably competent and reliable evidence is presented upon which a decision can be based concerning the existence or nonexistence of the animal nuisance. The hearing officer shall accept oral and documentary evidence to issues in the animal nuisance abatement offered by any interested person.

(d) Within 10 days upon completion of the hearing, the hearing officer shall make written findings upholding or dismissing the original abatement order. The City shall promptly serve the owner of the animal(s) with the findings of the hearing officer by personal delivery or by depositing a copy in the United States mail. If the hearing officer determines that the animal nuisance exists, the Animal Control Officer shall issue an order setting forth what actions are reasonably necessary in order to abate the public nuisance and shall require the affected owner to take all steps required to comply with the order.

(e) An order issued by the Animal Control Officer pursuant to the findings of the hearing officer shall be final and conclusive. The Animal Control Officer shall take action regarding the failure of an animal owner to comply with the post-hearing order, including, but not limited to, forwarding the information to the city attorney for obtaining a judicial order for the enforcement of the abatement order. In the event that litigation is reasonably required to obtain compliance with a post-hearing order, the owner who has failed to comply with the order shall pay to the City all costs incurred, including, but not limited to, reasonable attorneys' fees.

(§ 2, Ord. 1153, eff. May 19, 2017)

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ARTICLE 5
ANIMAL NOISE

§ 6-1.5001. Animal noise citation—General.

(a) It is unlawful for any person to keep on any premises, any dog, fowl, or other animal, that habitually barks, bays, cries, howls, or makes any other noise so continuously or incessantly as to unreasonably disturb the peace and quiet of the neighborhood or in such manner as to disturb or annoy persons in the neighborhood who are of ordinary sensibilities.

(b) Upon written complaint of two or more persons residing in different households within 300 feet of the location of the disturbance that a dog, fowl, or other animal habitually barks, bays, cries, howls, or makes any other noise so continuously or incessantly as to unreasonably disturb the peace and quiet of the neighborhood, the Animal Control Officer shall notify the owner/custodian of the dog, fowl, or other animal that a complaint has been received and the person shall take whatever reasonable steps the Animal Control Officer deems necessary to alleviate the noise.

(c) The Animal Control Officer has the authority to issue an administrative citation to any responsible person for a violation of this section. A responsible person to whom a civil citation is issued shall be liable for and shall pay the fine or fines as set forth by resolution of the City Council.

(d) The Animal Control Officer may, prior to the issuance of a civil citation:

(1) Attempt to make personal contact with the responsible person(s) in person, by telephone or by letter in an effort to correct the problem.

(2) Issue a warning.

(3) Grant a reasonable extension period to permit time to correct the problem not to exceed 10 days.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.5002. Payment of animal noise civil fines.

Payment of an administrative penalty shall not excuse the violator from correcting the animal noise violation. The issuance of a civil citation and/or payment of a fine shall not bar the City from taking any other enforcement action regarding a violation that is not corrected, including issuing additional civil citations, issuing a written notice/abatement order, and/or filing a civil or criminal complaint.

(§ 2, Ord. 1153, eff. May 19, 2017)

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ARTICLE 6
IMPOUNDMENT AND QUARANTINE OF ANIMALS

§ 6-1.6001. Impoundment.

(a) Any animal may be taken up and impounded if, to the knowledge of the Animal Control Officer, any Public Safety Officer, or any Code Enforcement Officer any of the following conditions exist:

(1) The animal is engaged in behavior or existing in a condition prohibited by this chapter;

(2) Where impoundment is authorized by this chapter.

(3) The animal is, or will be, without proper care due to the injury, illness, death, incarceration, or other involuntary absence of the owner or person responsible for the care of such animal; or

(4) The animal is required to be quarantined.

(b) Impoundment on Private Property. An animal which has become subject to impoundment while off the property of its owner or custodian and has returned to the same shall not be impounded if the owner or custodian is present to accept a citation for the offense, unless, except as provided in Section 53074 of the California Government Code, a clear and present danger to public safety exists by virtue of the animal remaining upon the property.

(c) Notice of Impoundment. When an animal implanted with a microchip or wearing a current Los Banos license tag is impounded, the Animal Control Officer shall make a reasonable attempt within 24 hours of impoundment to notify the owner or custodian of record in person, by telephone, or mail of the date and place of impoundment or removal.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.6002. Duration of impoundment.

(a) All impounded animals shall be kept in the animal shelter or other authorized place of impoundment for the period as described in Sections 31108,31752 and 31753 of the Food and Agricultural Code or applicable State law as amended from time to time.

(b) During this holding period and prior to adoption or euthanasia, the animal will be scanned for a microchip, license tag, tattoo or other form of identification. If one is found and the owner can be determined, a reasonable effort must be made to contact the owner of the animal.

(c) Except as set forth herein or by State law, any stray dog or cat that is impounded pursuant to this chapter shall, prior to the euthanasia of that animal, be released to a nonprofit, as defined in Section501(c)(3) of the Internal Revenue Code, animal rescue or adoption organization if requested by the organization prior to the scheduled euthanasia of that animal.

(1) Excepting stray animals experiencing irremediable suffering from a serious illness or severe injury, or needing maternal care;

(2) Excepting stray animals that at or subsequent to the time the animal is impounded or

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otherwise taken into possession, have manifested signs of a behavioral or temperamental defect that could pose a health or safety risk or otherwise make the animal unsuitable for placement as a pet; or

(3) Excepting stray animals that have manifested signs of disease, injury, or congenital or hereditary condition that adversely affects the health of the animal or that is likely to adversely affect the animal's health in the future.

(d) If an apparently feral cat has not been reclaimed by its owner or caretaker within the first three days of the required holding period, shelter personnel qualified to verify the temperament of the animal shall verify whether it is feral or tame by using a standardized protocol. If the cat is determined to be docile or a frightened or difficult tame cat, the cat shall be held for the entire required holding period specified in Section 31752 of the Food and Agriculture Code. If the cat is determined to be truly feral, the cat may be euthanized or relinquished to a nonprofit, as defined in Section 501(c)(3) of the Internal Revenue Code, animal adoption organization that agrees to the spaying or neutering of the cat if it has not already been spayed or neutered.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.6003. Redemption of impounded animal.

(a) The owner or custodian of any animal impounded may, at any time before the expiration of the period of impoundment, redeem the animal. An owner who redeems an animal shall be subject to all applicable fees as set forth by resolution of the City Council for each animal redeemed or as otherwise as provided for in this chapter. Except as otherwise provided in this chapter, an impounded animal which is not redeemed within the specified holding period, whether due to a failure to satisfy monetary obligations or otherwise, shall be considered to be abandoned by its owner and shall become the property of the City. Such animal may be disposed of as provided in this chapter. Abandonment does not relieve the owner's obligation to pay all fees related to the impounding and keeping of the animal.

(b) If the impounded animal is not currently vaccinated against rabies as required by law, the subject animal must be vaccinated against rabies by a California licensed veterinarian prior to redemption and the cost of the vaccination and any other costs accrued accomplishing the vaccination, including additional impoundment fees, must be satisfied before the animal is released or as otherwise directed by the Animal Control Services Unit.

(c) The refusal or failure of the owner or custodian of any impounded animal to pay the fees and charges after due notification shall be held to be an abandonment of the animal by the owner or custodian. Any person so abandoning their animal shall be subject to an administrative citation and fine as set by resolution of the City Council and or a misdemeanor.

(d) All animals that have been impounded for biting or having been deemed potentially dangerous or vicious as outlined in Article 8 of this chapter must be implanted with a microchip at the owners or custodian's expense prior to redemption.

(e) Upon the third impound within a 12 month period, any dog or cat so impounded must be spayed or neutered at the owner's or custodian's expense prior to redemption. If the owner or custodian can prove to the Animal Control Services Unit that the animal is a valuable breeding animal and currently registered with a national organization such as the American

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Kennel Club and such sterilization would devalue the animal, this requirement may be waived.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.6004. Owner surrendered animals.

(a) An owner may voluntarily surrender his or her animal to the Animal Shelter for placement for adoption or other disposition. Any animal that is voluntarily surrendered to or deposited with the Animal Shelter by the owner shall immediately thereafter become the property of the City. It shall be understood that no guarantee of placement will be made, and humane disposal will be at the discretion of the Animal Control Services Unit.

(b) Upon surrender of the animal to the Animal Shelter, the owner or custodian must present sufficient identification such as driver's license, California identification card, and shall sign a statement that he or she is the lawful owner of the animal.

(c) Any owner of an animal who voluntarily surrenders an animal to the Animal Shelter shall be subject to all applicable fees as set forth by resolution of the City Council for each animal surrendered or otherwise as provided for in this chapter.

(d) The surrender of an animal by an owner to the Animal Shelter, subsequent to impoundment for a violation of this chapter or any provisions of State law, shall not relieve the owner of the obligation to pay such fees or charges as set forth in this chapter incurred prior to such surrender.

(e) If the animal surrendered has a history of vicious or potentially dangerous behavior, it may be immediately euthanized in accordance with Section 31108.5 of the Food and Agriculture Code.

(f) Any animal relinquished by the purported owner that is of a species impounded by the Animal Shelter including rabbits, guinea pigs, hamsters, potbellied pigs, birds, lizards, snakes, turtles, or tortoises shall be held for the same holding periods, with the same requirements of care, applicable to stray dogs and cats in Sections 31108 and 31752 of the Food and Agriculture Code, and shall be available for owner redemption or adoption for the entire holding period. Notwithstanding the foregoing, kittens or puppies relinquished by the purported owner, or brought in by any other person with authority to relinquish them, to public or private shelters, may be available immediately for adoption.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.6005. Disposition of impounded and surrendered animals—Spay and neuter compliance.

(a) Except as otherwise provided in this chapter, an impounded animal which is not redeemed within the applicable holding period specified in this chapter or an animal voluntarily surrendered to the Animal Control Officer for adoption, except an animal that has been impounded for quarantine or is known to have bitten a human or to have demonstrated potentially dangerous or vicious propensities, may, at the discretion of the Animal Control Officer, be sold, adopted, or may be destroyed.

(b) No dog or cat shall be made available for adoption unless the dog or cat is spayed or neutered in accordance with California Food and Agricultural Code Sections 30503 and 31751.3 or is otherwise exempt pursuant to this subsection or State law. The dog or cat

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must be at least eight weeks of age and not dependent on maternal care.

(1) If a veterinarian licensed to practice veterinary medicine in this state certifies that the dog or cat is too sick or injured to be spayed or neutered, or that it would otherwise be detrimental to the health of the dog or cat to be spayed or neutered, the animal shelter will hold the surgical fees paid as a spay neuter deposit. The Animal Control Services Unit shall establish the amount of the deposit at the level he or she determines is necessary to encourage the spaying or neutering of the dogs or cats. The deposit shall be temporary, and shall only be retained until the dog or cat is healthy enough to be spayed or neutered, as certified by a veterinarian licensed to practice veterinary medicine in this state. The dog or cat shall be spayed or neutered within 14 business days of that certification. The contract veterinarian will send proof of the surgical sterilization to the animal shelter with an invoice for the surgery within 30 business days. The deposit will be paid directly to that adopter upon receipt of the certification or forfeited if no certification is received within the time set forth herein.

(2) Failure to spay or neuter the cat or dog as required, is a misdemeanor. A citation will be issued to the adopter in addition to forfeiture of the spay or neuter deposit. The animal must be returned to the animal shelter or Animal Control Officer upon demand. The adopter may also be subject to Civil Penalties as indicated in Sections 30522 and 30523 of the Food and Agriculture Code.

(3) The Animal Control Services Unit, society for the prevention of cruelty to animals shelters, humane society shelters, and rescue groups may enter into cooperative agreements with each other and with veterinarians in lieu of requiring spaying and neutering deposits to carry out this section.

(c) When an animal is sold or adopted, the receipt issued by the Animal Control Officer shall be valid title to the purchaser.

(d) Except as set forth herein or by State law, any stray dog or cat that is impounded pursuant to this chapter shall, prior to the euthanasia of that animal, be released to a nonprofit, as defined in Section501(c)(3) of the Internal Revenue Code, animal rescue or adoption organization if requested by the organization prior to the scheduled euthanasia of that animal.

(1) Excepting stray animals experiencing irremediable suffering from a serious illness or severe injury, or needing maternal care;

(2) Excepting stray animals that at or subsequent to the time the animal is impounded or otherwise taken into possession, have manifested signs of a behavioral or temperamental defect that could pose a health or safety risk or otherwise make the animal unsuitable for placement as a pet; or

(3) Excepting stray animals that have manifested signs of disease, injury, or congenital or hereditary condition that adversely affects the health of the animal or that is likely to adversely affect the animal's health in the future.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.6006. Quarantine.

(a) The Animal Control Officer shall ensure that all animals falling into the following

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categories shall be isolated or quarantined or destroyed and a rabies specimen taken at the animal shelter or at such other place and under such conditions as are prescribed by the health officer or authorized according to other applicable California State laws and regulations:

(1) Known rabid animals;

(2) Suspected rabid animals;

(3) Animals that have bitten or otherwise exposed a human to rabies; and

(4) Animals of a species subject to rabies, which have been bitten by a known rabid or suspected rabid animal or have been in intimate contact with a known rabid or suspected rabid animal.

(b) In circumstances where the bite or exposure to rabies occurred while the victim was on the property of the owner or custodian of the animal or when the victim is a member of the family or household of the owner or custodian, and when the animal is currently vaccinated against rabies and, as applicable, licensed as required by the provisions of this chapter, the animal may, at the discretion of the Animal Control Officer, be quarantined on the property of the owner provided the following:

(1) The owner of said animal can and does agree to ensure its confinement and isolation for the period of quarantine;

(2) The owner agrees, upon demand of the health officer or the Animal Control Officer during the period of quarantine, to surrender the animal to the Animal Control Officer;

(3) The owner agrees to immediately notify the Animal Control Officer if the animal escapes, becomes ill, or dies.

(c) It is unlawful for the owner or keeper of an animal to violate any of the conditions of isolation or quarantine prescribed by the health officer. Any violation of this section is a misdemeanor.

(d) Notwithstanding any other provision of this chapter, the owner of any animal which is required by law to be vaccinated for rabies and which has not been so vaccinated and which bites or wounds any person or other animal shall be subject to an administrative fine established by resolution of the City Council.

(e) Upon the death of any known rabid animal, suspected rabid animal, or animal which has bitten or otherwise exposed a human or other animal to rabies, the Animal Control Officer shall obtain and hold for the local health officer the carcass of the animal or an adequate specimen thereof, except that the Animal Control Officer is not responsible for the gathering of a specimen from the carcass of an animal.

(f) The local health officer may determine and declare that a rabies epidemic or other unusually dangerous health situation exists among dogs or other animals in the county, or in any part thereof. Upon making of such a declaration, the local health officer shall prepare and promulgate such rules and regulations as are necessary for the conduct of all persons within the area where the dangerous condition exists, and the dogs and other animals within the area. These rules and regulations of the local health officer may include, but are not

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limited to, quarantine, vaccination and destruction of diseased or suspected rabid or stray animals by humane methods. Such rules and regulations shall be effective when filed with the City Clerk. It shall be the duty of the Animal Control Officer to comply with all directives of the local health officer in the enforcement of the rules and regulations. A violation of any such rules and regulations shall be deemed a violation of this chapter.

(§ 2, Ord. 1153, eff. May 19, 2017)

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ARTICLE 7
PERMITS—BREEDERS CERTIFICATES—COMMERCIAL ANIMAL ESTABLISHMENTS

§ 6-1.7001. Rescue permit.

(a) The term "rescue permit" shall mean a written authorization issued annually by the Animal Control Services Unit giving a lawful rescue group the authority to hold an agreed upon number of dogs and/or cats at a specific location for the purpose of placing them in permanent homes, without having to obtain a use permit.

(b) The rescue group must provide proof to the Animal Control Services Unit of a current and valid nonprofit group status, as defined in the Internal Revenue Code and issued by the Internal Revenue Service Department of Treasury, as required by Food and Agriculture Code Section 31108(b).

(c) The rescue group must submit to annual inspections of the site where animals are to be housed.

(d) The rescue group must provide documentation of caretakers that are responsible for the care, feeding and treatment of the animals in addition to and in the absence of the individual applying for the permit.

(e) An evacuation plan must be on file at the site location.

(f) If the residence is not owned by the applicant, written permission from the land owner must be kept on file with the Animal Control Services Unit.

(g) No dog or cat may be sold, adopted, bartered, or otherwise transferred, whether for compensation or otherwise, until it has reached the age of at least eight weeks of age and not dependent on maternal care and has received its first immunization against common diseases and proof of spay or neuter (as required by Food and Agriculture Code Section 30503) has been provided to the new owner. If a veterinarian has determined that spay/ neuter is inappropriate for the animal's advanced age or health, a dog/cat may be placed with a new family with proof of verification, as stipulated in the Food and Agriculture Code Section 30503.

(h) Rescue permits can be revoked by the Animal Control Officer if there are complaints of excessive noise, feces or smell. All feces must be removed prior to accumulation upon the property. Feces must be removed prior to the occurrence of offensive odors or fly and/or rodent infestation. Feces must be removed by placing them in a plastic bag for deposit in appropriate garbage container. It is unlawful to deposit feces in manner which may create a health hazard.

(i) Any kennels built or operated at the permitted location or on the grounds of the rescue group shall be subject to the requirements of the Los Banos Zoning or Building Code.

(j) No dead animals shall be buried on the premises.

(k) Rescue permits shall not be issued to any person who has been convicted of animal cruelty or neglect.

(§ 2, Ord. 1153, eff. May 19, 2017)

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§ 6-1.7002. Breeder certificate.

(a) No person shall cause or allow any dog or cat owned, harbored, or kept within the City of Los Banos to breed without first obtaining a breeder certificate from the City.

(b) The term "breeder certificate" shall mean a written authorization issued annually by the Animal Control Services Unit giving its lawful holder permission to breed one litter per year per designated animal.

(c) Any holder of a breeder certificate who advertises to the public the availability of any dog or cat for sale, adoption, or transfer, whether for compensation or otherwise, must prominently display the breeder certificate number in any such advertisement. Further, the breeder certificate holder must provide the certificate number to any person who purchases, adopts or receives any animal from the certificate holder and include the certificate number on any receipt of sale or transfer document.

(d) No offspring may be sold, adopted, bartered, or otherwise transferred, whether for compensation or otherwise, until it has reached the age of at least eight weeks of age and not dependent on maternal care and has received its first immunization against common diseases.

(e) The following animals are exempt from breeder certificate requirements:

(1) Dogs documented as having been appropriately trained and actively used by law enforcement agencies for law enforcement and rescue activities;

(2) Dogs documented as guide, signal, or service dogs pursuant to California Penal Code Section 365.5(d), (e) and (f) and successor sections;

(3) Dogs and cats under the care of governmental animal control agencies; animal rescue organizations which have demonstrated to Animal Control Services Unit that they have implemented an ongoing spay/neuter plan, as well as an adoption plan; or humane societies or societies for the prevention of cruelty to animals, if such societies are incorporated under the provisions of California Corporations Code Section 10400 and the Nonprofit Public Benefit Corporation Law in Part 2 of the California Corporations Code, beginning at Section 5110, and successor sections;

(4) Dogs documented as enrolled in a guide, signal or service dog breeding program administered by a person licensed under Chapter 9.5 (commencing with Section 7200), Division 3 of the California Business and Professions Code; and

(5) When a veterinarian has determined that spay/neuter is inappropriate for the animal's age or health.

(f) When contacted by an Animal Control Officer, the owner of a pregnant or whelping dog or cat must either show proof of an impending spay/neuter appointment or agree to participate in a low-cost spay/neuter program, or purchase a breeder certificate.

(g) Breeder certificates shall not be issued to any person who has been convicted of animal cruelty or neglect.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.7003. Penalties and revocation—Breeder certificate.

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(a) The minimum penalty for violating Section 6-1.7002 shall be established by resolution of the City Council and shall not be waived upon the transfer or abandonment of the animal. This penalty shall be imposed in addition to any other applicable civil or criminal penalties.

(b) Any breeder certificate may be revoked if the owner is in violation of:

(1) Any of the provisions of this chapter relating to the keeping, care, or use of any animal;

(2) Any State health or safety law or regulation regarding animal care or control; or

(3) Any condition or requirement to pay any fee imposed under this chapter.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.7004. Commercial animal establishments.

(a) Every person who owns, conducts, or operates a pet shop, pet store, pet dealer, commercial kennel, private kennel, boarding kennel, grooming parlor, animal menagerie, or animal shelter shall comply with all provisions of the Lockyer-Polanco-Farr Pet Protection Act (California Health and Safety Code Section 122125 et seq.), the Pet Store Animal Care Act (California Health and Safety Code Section 122350 et seq.), any similar laws that may be subsequently enacted, and all applicable provisions of this chapter.

(b) It is unlawful for any person, firm, corporation, or association to erect, establish, or maintain any commercial animal establishment, commercial kennel, or pet shop without first obtaining a business license from the City. After inspection and approval of the conditions of the commercial animal establishment by the Animal Control Officer, the required business license may be issued by the City. Such license shall be issued pursuant to City licensing regulations, provided any inspection by the Animal Control Officer and other City officials does not reveal any violation of the provisions of this chapter, the City building codes and Zoning ordinances and any other ordinances, rules or regulations. Every person within the City who owns, conducts, manages, a commercial animal establishment for which a City business license or special use permit is required shall comply with each of the following conditions:

(1) Housing facilities shall be structurally sound and shall be maintained in good repair to protect animals from injury and restrict entrance of other animals;

(2) All animals and all animal buildings or enclosures shall be maintained in a clean and sanitary condition;

(3) Animals shall be supplied with sufficient good, and wholesome food and water as often as the feeding habits of the respective animals require;

(4) Animal buildings and enclosures shall be so constructed and maintained as to prevent escape of animals;

(5) All reasonable precautions shall be taken to protect the public from the animals and the animals from the public;

(6) Every building or enclosure wherein animals are maintained shall be properly ventilated to prevent drafts and to remove odors. Heating and cooling shall be provided as required according to the physical needs of the animals;

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(7) All animal rooms, cages, and runs shall be of sufficient size to provide adequate and proper housing for animals kept therein;

(8) All animal runs shall be of concrete and provided with adequate drainage into an approved sewer or individual sewer disposal installation;

(9) All animals shall be taken to a licensed veterinarian for an examination and treatment if so ordered by the Animal Control Officer;

(10) Every violation of applicable regulation shall be corrected within reasonable time to be specified by the Animal Control Officer;

(11) Commercial animal establishments shall comply with all other applicable Los Banos Municipal Codes and ordinances;

(12) All commercial animal establishments may be inspected from time to time by an Animal Control Officer to investigate any complaints of violations of the provisions of this section. Failure of the applicant for a license or special use permit to comply with any one of the foregoing conditions shall be deemed just cause for the denial of any business license, whether original or renewal and/or the issuance of a citation for violations pursuant to provisions of this section.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.7005. Reporting of animal records.

All persons who sell, adopt, or transfer ownership of animals must maintain records for a period of 12 months from sale, transfer, or adoption for all animals sold or adopted to be released to the Animal Control Services Unit upon request.

(§ 2, Ord. 1153, eff. May 19, 2017)

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ARTICLE 8
VICIOUS/POTENTIALLY DANGEROUS DOGS

§ 6-1.8001. Definitions.

For the purpose of this article, unless it is plainly evident from the context that a different meaning is intended, certain terms used in this chapter are defined as follows:

"Animal Control Services Unit" means that section of the Los Banos Police Department designated by the Chief of Police as being responsible for animal control and/or services within the City.

"Enclosure" means a fence or structure suitable to prevent the entry of young children, and which is suitable to confine a potentially dangerous dog or vicious dog. The enclosure shall be securely locked, shall have secure sides and bottom sufficient to prevent the dog from escaping, and shall be of sufficient size to provide the dog with an adequate exercise area. A top may be required for the enclosure if necessary to assure the dog's containment.

"Impoundment" means the taking into custody of an animal by an Animal Control Officer, Public Safety Officer or Code Enforcement Officer.

"Muzzle" means a device that is placed over the snout of an animal to keep it from biting. A muzzle is primarily solid with air holes to allow the animal to breathe and drink usually made in leather, wire, plastic, nylon or similar materials.

"Potentially dangerous dog" means:

(1) Any dog which, when unprovoked, on two separate occasions within the prior 36 month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or keeper of the dog; or

(2) Any dog when unprovoked, bites a person causing a less severe injury defined by State law as any physical injury that results in muscle tears, disfiguring, lacerations, or requires multiple sutures, corrective or cosmetic surgery; or

(3) Any dog when unprovoked on two separate occasions within the prior 36-month period, has killed, seriously bitten, inflicted injury, or otherwise caused injury while attacking a domestic animal off the property of the owner or keeper of the dog.

"Severe injury" means any physical injury to a human being that results in muscle tears or disfiguring lacerations or requires multiple sutures or corrective or cosmetic surgery.

"Unprovoked" means without being intentionally incited to aggressive action.

"Vicious dog" means:

(1) Any dog which has been trained to fight or which is owned or maintained for this purpose; or

(2) Any dog which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being; or

(3) Any dog previously determined to be and currently listed as a potentially dangerous dog which, after its owner or keeper has been notified of this determination, continues the behavior described in the definition of potentially dangerous dog or is maintained in

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violation of the requirements of a potentially dangerous dog set forth in this chapter or by State law.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.8002. Vicious behavior prohibited.

(a) It is unlawful for any person owning, possessing, controlling, harboring or keeping any dog or puppy to cause or permit said animal to exhibit or engage in vicious behavior as defined in this article.

(b) This article shall not apply to dogs while utilized by any police department or any law enforcement officer in the performance of police work.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.8003. Vicious dog abatement hearing procedure.

(a) Purpose and Intent. Within the City there are vicious dogs which constitute a public nuisance which should be abated. The provisions of this section provide an administrative procedure by which dogs found to be a nuisance may be abated following a hearing at which oral and documentary evidence is considered. This section is intended to supplement rather than supplant any other remedy available either under state law or this Code.

(b) Vicious Dog Defined. Any dog, except one assisting a peace officer engaged in law enforcement duties, which demonstrates any of the behavior as described in Section 6-1.8001 as set forth herein, is presumed vicious.

(c) Investigation. Any incident reported to the Los Banos Police Department concerning a vicious dog may be investigated by the Police Chief, or designee. The investigation may consist of the observations and/or reports of officers made at the time of the incident, or follow up reports. If, based on the investigation, the Police Chief or designee concludes that there is probable cause to believe that the dog is vicious, he or she shall so certify in writing within 10 business days following completion of the investigation to the person owning or controlling the dog. Thereafter a hearing may be held pursuant to subsections (e), (f) and (g) of this section.

(d) Confinement of Dog. If the Police Chief or designee, certifies that there is probable cause to believe that a dog is vicious and a risk to public safety, the Police Chief or designee may direct any Animal Control Officer, Public Safety Officer, Code Enforcement Officer or other authorized employee of the City to enter the yard of any private residence or business in order to seize any such dog, whether running at large or not, and confine the dog at an appropriate animal shelter pending the decision of the City Manager or designee, following the hearing provided for in subsections (e), (f) and (g) of this section. The cost of said confinement shall be paid by the person owning or controlling such dog. The dog shall not be released until such costs have been paid in full.

(e) Hearing—Schedule. A hearing shall be held promptly after the Police Chief's certification (subsection (c), within no less than five business days nor more than 10 business days after service of the notice upon the owner or keeper of the dog. The hearing shall be open to the public. The City Manager, or the appointed hearing officer, shall either personally or by first class mail return receipt requested serve notice of the hearing and the Police Chief certification to the owner or person controlling the dog in substantially the following form:

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NOTICE OF HEARING REGARDING VICIOUS DOG

TO: *(name)*;
(address).

NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 6-1.8003 of the Los Banos Municipal Code, the Police Chief has certified that there is probable cause to believe a dog owned or controlled by you, a (*breed*), is vicious.

FURTHER NOTICE IS HEREBY GIVEN that on _____ the _____ day of _____, 20_____, at the hour of _____o'clock, in the offices of the City Manager, City Hall, 520 J Street, Los Banos, California, the report of the Police Chief or designee, will be considered by the City Manager or an appointed hearing officer with such other oral and documentary evidence bearing upon the question of whether your dog is vicious. You may appear and may present evidence at the hearing. You may also be represented by an attorney. If you fail to appear without giving notice to the City Manager, the matter may proceed in your absence and such absence may be further considered a waiver of your right to present evidence and object to any decision made.

In the event your dog is found to be vicious, it will be ordered to be controlled, confined, destroyed, restricted, or otherwise abated as a public nuisance and any impoundment cost incurred shall be assessed against you.

A copy of this notice has been sent to property owners within 300 feet of your address.

Dated: _____

_____
City Manager

(f) Hearing—Procedure. At the hearing, which may be continued from time to time, both oral and documentary evidence may be taken from any interested person and considered in determining whether the dog is vicious. Any owner who fails to appear after notice as provided herein was given, without obtaining a continuance from the City Manager or an appointed hearing officer, may be deemed to have waived any right to introduce evidence or object to an order made by the City Manager. If the hearing is conducted by a hearing officer other than the City Manager, the hearing officer shall submit a report to the City Manager summarizing the evidence and making a recommendation as to disposition.

(g) Hearing—Findings—Public Nuisance. If, based upon the hearing, and the report of the hearing officer, if any, the City Manager upholds the findings of the Police Chief or designee, that the dog is vicious, the City Manager shall so specify in writing together with the reasons therefor. Any dog found to be vicious is deemed a public nuisance and shall be, pursuant to the order of the City Manager, humanely destroyed, be removed from the City, or the nuisance otherwise abated by appropriate order of the City Manager. The decision of the City Manager shall be made within 10 business days after the conclusion of the hearing and shall be final. A copy of the decision shall be sent by first class mail postage prepaid or personally served upon the person owning or controlling the dog.

(h) If the City or the owner or keeper of the dog contests the determination, he or she may, within five days of the receipt of the notice of determination, appeal the decision of the court or hearing entity of original jurisdiction. If the original hearing held was before a hearing entity other than a court of the jurisdiction, appeal shall be to the superior court. The appealing party shall serve personally or by first-class mail, postage prepaid, notice of

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the appeal upon the other party.

(i) Cost of Impoundment. If the City Manager finds the dog is vicious, the costs of impoundment incurred by the City, including any abatement period, shall be paid by the owner or the person controlling the dog and may become a lien against the real property upon which the dog was kept and maintained until said lien is paid. If the order includes the release of a dog found to be vicious to the owner or person controlling it, the dog shall not be released until such costs have been paid in full. If such costs have not been paid within 30 calendar days after the date of mailing or delivery of the order, the City Manager may dispose of the dog in any manner provided by law, or return the dog and pursue alternative collection procedures. The total amount of the impoundment charges may be entered on the next fiscal year tax roll as a lien against the property upon which the dog was maintained and shall be subject to the same penalties as are provided for other delinquent taxes, liens or assessments of the city, or an action may be brought in the name of the City to recover the costs of impoundment.

(j) Criminal Sanctions. Any violation of this Article 8 is a misdemeanor.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.8004. Time limit to meet requirements.

All requirements for owners of a dog determined vicious or potentially dangerous must be satisfied within 30 days of notice of determination or 35 days if mailed. Proof of compliance must be provided to Animal Control Services Unit. If all the requirements are not satisfied within the time limit set forth herein, or the animal owner is unable or unwilling to comply, the dog shall be humanely euthanized either by an Animal Control Officer or by a licensed veterinarian. Proof of euthanasia shall be provided to Animal Control Services Unit within two business days.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.8005. Insurance requirements for vicious or potentially dangerous dogs.

The owner or keeper of any dog determined to be vicious or potentially dangerous under this article or a Court of competent jurisdiction shall present to Animal Control Services Unit proof that the owner or keeper has procured liability insurance in the amount of at least $500,000. The liability insurance shall cover any damage or injury which may be caused by the vicious or potentially dangerous dog. The liability insurance coverage shall be evidenced by a certificate issued by the insurer. Liability insurance shall not be cancelled unless the owner or keeper ceases to keep the dog prior to expiration of that license. City to receive notice of the annual renewal and all cancellations of the required liability insurance.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.8006. Unlawful to own, harbor or keep a dog found by another jurisdiction to be vicious or potentially dangerous.

No dog, which has been determined to be vicious or potentially dangerous following an administrative hearing or court proceeding by another jurisdiction, will be allowed to be kept, owned or harbored in the City. A notice by the Animal Control Officer to remove any dog owned, harbored or maintained in violation of this section may be appealed to the City Manager or designee by filing a written statement for the appeal within five business days of the receipt of said notice. Decision of the City Manager or designee is final and not subject to an administrative appeal.

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(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.8007. Muzzling of a vicious or potentially dangerous dog.

In any case where a dog determined to be vicious pursuant to this chapter is outside an enclosure, except in cases where it is inside the dwelling of its owner or keeper, which dwelling is sufficient to contain the dog, or in custody of a veterinarian, the dog shall be securely and humanely muzzled and restrained with a harness and nylon leash sufficient to restrain the dog, having a minimum tensile strength of 300 pounds and not exceeding two feet in length, and shall be under the direct charge and control of its owner or keeper. For the purposes of this section, a dog which is humanely muzzled shall be able to drink, breathe and pant freely.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.8008. Civil penalties for violations of provisions regulating vicious or potentially dangerous dogs.

Any violation of this article involving a vicious or potentially dangerous dog shall be subject to an administrative citation and fine as set by resolution of the City Council and/or a misdemeanor.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.8009. Notice of escape or disposal of vicious or potentially dangerous dogs.

The owner or keeper of any dog found to be vicious or potentially dangerous shall notify the Police Department immediately if the dog has attacked another animal, has bitten a human being, has escaped the custody and control of the owner or keeper, or has died. If the dog is sold, transferred, or permanently removed from the City where the owner or keeper resides, the owner shall notify the Animal Control Officer of the changed condition and new location within two business days.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.8010. Sterilization requirement and microchip for vicious or potentially dangerous dogs.

The owner or keeper of any dog found to be vicious or potentially dangerous pursuant to this chapter shall, at their expense, have a microchip, assigned by Animal Control Officer, inserted into the dog for identification purposes. The identifying information listed on the microchip shall be noted in the City licensing files for that dog. A dog that has been found to be potentially dangerous or vicious pursuant to this article shall be sterilized at the owner's expense.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.8011. Penalties for willful violation of provisions regulating vicious and potentially dangerous dogs.

Any violation of this article involving a vicious or potentially dangerous dog shall be subject to an administrative citation and fine as set by resolution of the City Council.

The following violations may be punished as a misdemeanor for any owner or keeper of a determined vicious or potentially dangerous dog to intentionally fail to comply with Sections 6-1.8009 (Notice of escape or disposal of vicious or potentially dangerous dogs), 6-1.8005 (Insurance requirements for vicious or potentially dangerous dogs), 6-1.8010 (Sterilization requirement and microchip for vicious or potentially dangerous dogs), and 6-1.8007 (Muzzling

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of a vicious or potentially dangerous dog). Conviction for a violation of this article shall be punished by a fine of not more than $1,000, or by imprisonment not to exceed six months, or by both such fine and imprisonment. Upon conviction of a misdemeanor under this article, the court shall order the vicious or potentially dangerous dog to be seized and humanely destroyed. Any person convicted of a violation of this article shall be prohibited from owning or keeping any dog within the City for a minimum of three years.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.8012. Exemption for police dogs.

This article does not apply to any dog owned by a government agency, when the dog is used in the performance of law enforcement duties.
(§ 2, Ord. 1153, eff. May 19, 2017)

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ARTICLE 9
MISCELLANEOUS—REMEDIES—APPEALS

§ 6-1.9001. Livestock.

No person shall stable, keep, pasture or maintain livestock within the limits of the City, unless expressly allowed to do so by the Zoning Code. No person owning any interest in any lot or parcel of real property within the limits of the City shall permit livestock to be owned, kept, possessed or maintained upon such lot or parcel of real property unless expressly permitted by the zoning Code. This section shall not apply to any circus, carnival or show otherwise permitted to operate temporarily within the limits of the City.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.9002. Wild animals.

(a) No person shall have, keep, maintain, breed, sell, trade or let for hire, any wild, exotic, dangerous, or nondomestic animal without first applying to and receiving special authorization from the State of California, Department of Fish and Game and the City. The keeping or maintenance of such animals shall also conform to the City zoning code.

(b) The Animal Control Officer may authorize the keeping or maintaining of any wild, exotic, dangerous, or nondomestic animal when, in his or her opinion, any such animal may be kept or maintained without endangering the safety or any person, other animal or property, nor create a nuisance; provided, however, that the Animal Control Officer may require any such animal to be properly caged, tethered, or restrained, and that he or she may create such additional requirements that may be necessary and proper under the circumstances. Any privately owned wild, exotic, dangerous, or non-domestic animal shall require a license fee as specified in the city fee schedule; the initial fee to be paid at the time of application. The Animal Control Officer may revoke such authorization when, in his or her opinion, the safety of any person, other animal or property is endangered or that a nuisance is created by the keeping of such animal.

(c) The provisions of this chapter shall not apply to licensed circuses, carnivals, zoos or other collections of wild animals under jurisdiction of the City, State or Federal government.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.9003. Reptiles.

The keeping of reptiles is limited to turtles, lizards and snakes and excludes other reptiles such as crocodiles and alligators. It is unlawful for any person to own and keep within the City any reptile that is determined by the Animal Control Services Unit to be a nuisance or danger to persons or other animals.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.9004. Bees.

No person shall keep or maintain within the City any stand of bees.
(§ 2, Ord. 1153, eff. May 19, 2017)

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§ 6-1.9005. Dead animals.

When any animal owned by, or in the custody or control of any person, or found in any person's private property dies, such person shall within 24 hours, provide for the burial, incineration, or other disposition of the body of such dead animal in a safe and sanitary manner. It is unlawful for any person to dispose of the body of such dead animal in or on any public or private property, other than his or her own, without proper authorization from the Animal Control Officer.
(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.9006. Penalties and remedies.

(a) It is unlawful and a public nuisance to intentionally violate any of the provisions of this chapter. Violation of this chapter may be charged as either an infraction or a misdemeanor. Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code Section 36901.

(b) In addition to any other remedy or penalty set forth in this chapter or this Code, administrative penalties may be imposed pursuant to applicable provisions of Chapter 11 Title 4 of this Code against any responsible party, in violation of any of the provisions of this chapter. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 11 Title 4 of this Code.

(c) Remedies under this chapter are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

(§ 2, Ord. 1153, eff. May 19, 2017)

§ 6-1.9007. Appeals.

(a) Except where an appeals or hearing procedure is otherwise set forth in this chapter, a decision or action of the Animal Control Services Unit may be appealed by filing a written notice of appeal with the City Clerk, setting forth the specific grounds thereof.

(b) Notice of such appeal shall be filed with the City Clerk within 14 calendar days after the date written notice of such action appealed from was mailed or personally delivered to the appellant.

(c) The City Clerk shall forthwith set a date for hearing before City Manager or City Manager's designee and shall give the appellant at least five calendar days' notice of the time and place of said hearing.

(d) At such hearing the appellant shall show cause on the grounds specified in the notice of appeal why the action excepted to should not be approved. The City Manager or City Manager's designee, may continue the hearing from time to time. The findings on the appeal shall be final and conclusive in the matter.

(§ 2, Ord. 1153, eff. May 19, 2017)

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Chapter 2
Food Handlers

§ 6-2.01. Food handler defined.

For the purposes of this chapter, unless otherwise apparent from the context, "food handler" shall mean and include all cooks, dishwashers, waiters, pantry workers, busboys, soda dispensers, bakers, butchers, meat cutters, creamery workers handling dairy products offered for sale or sold in the City, and all persons who in any manner are engaged directly or indirectly in the preparation and/or the serving of food, drink, or confections for consumption by the public, either on or off the premises where such food, drink, or confections are sold or offered for sale, distributed, or dispensed.
(§ I, Ord. 172)

§ 6-2.02. Health certificates: Required.

It is unlawful for any person to employ any food handler or to permit any person to handle any food who does not have a valid health certificate signed by the Health Officer. A valid health certificate shall also be required by the operator of any business, which operator personally handles food.
(§ II, Ord. 172)

§ 6-2.03. Health certificates: Medical examinations.

All food handlers engaged in such occupation in the City shall report to any local duly licensed physician for a physical examination at least once every 12 months. If, in the opinion of the Health Officer, any additional examination is necessary, the Health Officer may at his or her discretion require the appearance of such person for an additional physical examination.

The cost incurred in such examination shall be paid directly by the person being examined to the physician at the time of making such examination. Any person receiving a report satisfactory to the Health Department shall be entitled to a health certificate.
(§ IV, Ord. 172)

§ 6-2.04. Health certificates: Issuance: Filing: Inspections: Expiration.

The Health Officer shall issue to each food handler a valid health certificate signifying that the person to whom the same is issued has undergone a physical examination and has satisfactorily met all health requirements. A copy of such certificate shall be filed with the Health Department and with the employer of the food handler, which latter copy shall at all times be available for inspection by any duly authorized officer of the Health Department. The certificate shall have inscribed upon the face thereof the date of expiration of the same, and the certificate shall be void after such date.
(§ III, Ord. 172)

§ 6-2.05. Health certificates: Responsibility of employers.

Any person using or employing a food handler shall require, as a condition precedent to the using or employment of such food handler, the filing of the copy of the health certificate required by the provisions of this chapter. Upon discharging or dispensing with the services of such food handler, the employer shall release and deliver to the food handler the health certificate so filed.

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(§ V, Ord. 172)

§ 6-2.06. Violations: Penalties.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.
(§ VI, Ord. 172)

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Chapter 3
Solid Waste Collection And Disposal

Note: Chapter 3 entitled "Garbage and Waste Matter", consisting of Sections 6-3.01 through 6-3.18, codified from Ordinance No. 171, as amended by Ordinance Nos. 205 and 206, repealed by Section 1, Ordinance No. 480, effective October 19, 1973.

§ 6-3.01. Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Refuse-solid waste" shall mean and include all of the solid waste of the community. It shall also include semiliquid or wet wastes with insufficient moisture and other liquid contents to be free and flowing. When the combined collection of garbage and rubbish is practiced, the term "refuse" and "solid waste" is appropriate. Excluded from hauling shall be rocks, concrete, bricks, dirt, plaster and similar building materials, human and animal excrement, and animal bodies and parts.

"Curb service" shall mean such service where solid waste containers are picked up by the City at the front curb line of the customer's property.

"Walk-in service" shall mean such service where solid waste containers may be placed for collection immediately adjacent to their house or garage and/or inside a rear yard gate.

"Alley service" shall mean such service where solid waste containers are placed in through alleys at the property line.

"Solid waste container" shall mean a watertight, tapered metallic can or rubber or plastic container for receiving and holding all of the solid waste which accumulates on the premises between the times of successive collections. Such cans shall have suitable handles and shall be equipped with a tight-fitting cover which will exclude water and which shall be kept in place. No container, other than in commercial places of business, shall exceed 30 gallons in capacity.

"Special hauls" shall mean the collection of solid waste in excess of the maximum amounts of solid waste to be collected by the City at a single collection, as set forth in this chapter, or any materials not defined as solid waste in this chapter.

"Combustible and semicombustible waste matter" shall mean papers, boxes, rags, clothing, old shoes, tree and shrub trimmings, dead flowers, lawn cuttings, feathers, and the like.

"Garbage" shall mean and include all animal and vegetable refuse from kitchens and household waste which shall have been prepared for, or intended to be used as, food or which shall have resulted from the preparation of food, and all animal and vegetable refuse from institutions where foodstuffs intended for human consumption shall be handled commercially.

"Noncombustible waste matter" shall mean bottles, crockery, tin cans, wire, broken glass, and the like.

"Person" shall mean any person acting as principal, agent, officer, servant, or employee for him or herself or another.
(§ 2, Ord. 480, eff. October 19, 1973)

§ 6-3.02. Mandatory service.

It shall be mandatory for every occupied property within the City to receive collection and

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disposal service and billing thereof excepting those commercial and industrial businesses whose volume of waste might exceed what services the City or its agent could offer.
(§ 2, Ord. 480, eff. October 19, 1973)

§ 6-3.03. Refuse-solid waste receptacles: Interference.

It is unlawful for any person, other than the owner, or any officer of the contractor for the City, or any employee of any person holding a contract with the City for the collection or removal of refuse-solid waste to interfere in any manner with any receptacle used for the accumulation or handling of refuse-solid waste, or to remove any such receptacle from the location where it shall have been placed by the owner or person lawfully in control thereof, or to remove the contents from any such receptacle.
(§ 2, Ord. 480, eff. October 19, 1973)

§ 6-3.04. Refuse-solid waste collection: Contract: Authorized.

For the purpose of carrying out the collection of refuse-solid waste, the Council may, by resolution, provide for entering into a contract with any suitable person for the exclusive right to collect and remove refuse-solid waste within the City, and such person shall be known as the "Refuse-Solid Waste Collector".
(§ 2, Ord. 480, eff. October 19, 1973)

§ 6-3.05. Refuse-solid waste collection: Contract: Termination.

Any violation of the provisions of this chapter or of the terms of his contract by the Refuse-Solid Waste Collector shall entitle the Council to cancel and terminate its contract with the Refuse-Solid Waste Collector and to relet such contract.
(§ 2, Ord. 480, eff. October 19, 1973)

§ 6-3.06. Refuse-solid waste collection: Vehicles.

Every wagon, cart, or vehicle used in the collection and disposal of refuse-solid waste shall be kept clean on both the inside and outside. All such vehicles shall have metallic or metal-lined beds or metal containers, shall be watertight, and shall be equipped with proper covers so that the refuse-solid waste shall not be offensive. Refuse-solid waste shall be protected from the wind and rain and shall be loaded so that none of it shall fall, drop, or spill upon the ground.
(§ 2, Ord. 480, eff. October 19, 1973)

§ 6-3.07. Collecting, transporting, and disposal of refuse-solid waste by unauthorized persons.

It is unlawful for any person, other than the duly authorized Refuse-Solid Waste Collector of the City, to gather, collect, transport, burn, bury, or dispose of any refuse-solid waste which has been placed for collection by the City.
(§ 2, Ord. 480, eff. October 19, 1973)

§ 6-3.08. Depositing refuse-solid waste or garbage in unlawful places.

It is unlawful for any person to throw or deposit, or cause to be thrown or deposited, any refuse-solid waste matter, other than building materials for which a permit has been granted, in or upon any vacant lot, street, alley, gutter, highway, park, or other public place or to keep any garbage,

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rubbish, or refuse-solid waste matter except in the manner provided in this chapter.
(§ 2, Ord. 480, eff. October 19, 1973)

§ 6-3.09. Burning garbage or refuse-solid waste material unlawful.

It is unlawful for any person to burn garbage at any place within the City, and it shall be unlawful for any person to burn any waste material in or on any alley, street, street right-of-way. or public place.
(§ 2, Ord. 480, eff. October 19, 1973)

§ 6-3.10. Refuse-solid waste containers: Unlawful to leave uncovered.

It is unlawful for any person to uncover or leave a container of refuse-solid waste uncovered.
(§ 2, Ord. 480 eff. October 19, 1973)

§ 6-3.11. Depositing burning objects in refuse-solid waste unlawful.

It is unlawful for any person to place live or hot coals or ashes or other burning matter in any garbage, rubbish, or refuse-solid waste set out for collection.
(§ 2, Ord. 480, eff. October 19, 1973)

§ 6-3.12. Enforcement.

The Director of Public Works, the Health Officer, the Fire Chief, and the Chief of Police are each empowered to enforce the provisions of this chapter and shall have the right to enter any and all premises for the purpose of determining whether the provisions of this chapter are being complied with. Any person denying or obstructing such entry shall be in violation of the provisions of this chapter. It shall also be unlawful for any person in any manner to interfere with the collection or disposal of refuse-solid waste by any person authorized to collect such refuse-solid waste by the City.
(§ 2. Ord. 480, eff. October 19, 1973, as amended by § 1, Ord. 759, eff. January 16, 1987)

§ 6-3.13. Rules and regulations authorized.

The Director of Public Works shall have the power to establish rules and regulations, not inconsistent with the provisions of this chapter, governing the collection, transportation, and disposal of refuse-solid waste.
(§ 2, Ord. 480, eff. October 19, 1973, as amended by § 1, Ord. 759, eff. January 16, 1987)

§ 6-3.14. Disputes and complaints.

All cases of disputes or complaints arising from or concerning the accumulation, collection, transportation, or disposal of refuse-solid waste or the cost of such collection shall be reported to and investigated by the Director of Public Works, and he shall, if necessary, make appropriate reports to the City Manager who will initiate corrective action.
(§ 2, Ord. 480, eff. October 19, 1973, as amended by § 1, Ord. 759, eff. January 16, 1987)

§ 6-3.15. Violations.

Any person who does any act declared to be unlawful by the provisions of this chapter, and any person who maintains, keeps, or collects refuse or solid waste in a manner declared to be

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unlawful by the provisions of this chapter, shall be guilty of a misdemeanor.
(§ 2, Ord. 480, eff. October 19, 1973)

§ 6-3.16. Refuse-solid waste collection charges: Establishment authorized.

The Council from time to time, in its discretion, and by ordinance and/or resolution, may fix, alter, change, amend, or revise the charges to be made for the hauling of refuse-solid waste, which charges shall be fair and reasonable at all times. The charges to be made shall be based upon the use of the service that is made available.
(§ 2, Ord. 480, eff. October 19, 1973, as amended by § 2, Ord. 612, eff. June 21, 1978)

§ 6-3.17. Refuse-solid waste collection service: Due dates: Billing: Delinquencies.

All charges provided for in this chapter shall be due and payable at the end of every two month billing period. All consumers of the City's water system shall be billed for the removal of refuse-solid waste on their bimonthly bill, and the refuse-solid waste collection bill shall be added to the water bill. The combined billing shall be payable as provided in the laws regulating the collection of water bills in the City. When such bills are not paid, they shall become delinquent upon the fifteenth (15th) day of the month next succeeding the period for which billed, at which time and in which event the refuse-solid waste service provided for by this chapter shall be subject to immediate discontinuance without further notice. In addition thereto, the City may sue in the civil courts for the collection of such charges.
(§ 2, Ord. 480, eff. October 19, 1973)

§ 6-3.18. Refuse-solid waste collection charges.

(a) Single-family dwellings: Monthly rates.

(1) Fee established at Three and No/100ths ($3.00) Dollars for minimum service of one thirty (30) gallon can picked up once per week (walk-in service).

(i) Additional 30 gallon cans shall be collected at the fee schedule:

(aa) Two cans per week, Four and 50/100ths ($4.50) Dollars;

(ab) Three cans per week, Six and 50/100ths ($6.50) Dollars;

(ac) Four cans per week, Eight and No/100ths ($8.00) Dollars;

(ad) Five cans per week, Ten and No/100ths ($10.00) Dollars; and

(ae) Six cans per week, Eleven and 50/100ths ($11.50) Dollars.

(ii) The contents of the above 30 gallon cans shall not weigh more than 60 pounds when filled.

(2) Each additional pickup service time per week at the rate of the number of cans times the frequency. Example:

(i) One can one time per week, Three and No/100ths ($3.00) Dollars;

(ii) One can two times per week, Six and No/100ths ($6.00) Dollars;

(iii) Two cans one time per week, Four and 50/100ths ($4.50) Dollars;

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(iv) Two cans two times per week, Nine and No/100ths ($9.00) Dollars;

(v) Three cans one time per week, Six and 50/100ths ($6.50) Dollars; and

(vi) Three cans two times per week, Thirteen and No/100ths ($13.00) Dollars.

(b) Apartments and multiple dwellings: Monthly rates: Commercial accounts not using container service.

(1) Fee established at Three and No/100ths ($3.00) Dollars per month per dwelling or business unit for designated minimum service.

(i) All apartments and multiple dwellings which exceed the service of six 30 gallon cans shall be required to use the one cubic yard containerized service.

(ii) Additional cans and the frequency of pickup will be charged the same rate as established for single-family dwellings.

(c) Commercial accounts: Monthly rates.

(1) One container to be picked up one time per week at the rate of Ten and 50/100ths ($10.50) Dollars per month.

(i) Each additional container at the rate of Ten and 50/100ths ($10.50) Dollars per month.

(ii) Number of pickups per week at the rate of Ten and 50/100ths ($10.50) Dollars per frequency of pickup.

Example:

(aa) One time per week, Ten and 50/100ths ($10.50) Dollars;

(ab) Two times per week, Twenty-One and No/100ths ($21.00) Dollars;

(ac) Three times per week, Thirty-One and 50/100ths ($31.50) Dollars;

(ad) Four times per week, Forty-Two and No/100ths ($42.00) Dollars;

(ae) Five times per week, Fifty-Two and 50/100ths ($52.50) Dollars; and

(af) Six times per week, Sixty-Three and No/100ths ($63.00) Dollars.

(2) Container rental rates. Accounts utilizing the one cubic yard containers shall be charged at Three and No/100ths ($3.00) Dollars per month rental fee per container.

(d) Special hauls. Special hauls shall be charged at the rate of Fifteen and No/100ths ($15.00) Dollars per hour, with a minimum haul charge of Five and No/100ths ($5.00) Dollars. Special hauling charges can be prorated by the City contractor relative to the established hourly rate. Special hauls shall incorporate "bulk pickup" service requirements for various establishments.

(§ 2, Ord. 480, eff. October 19, 1973)

§ 6-3.19. Refuse-solid waste and noncombustible waste matter collection and inspection:

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Charges.

A charge shall be collected from all occupied premises within the City for the collection, removal, and disposal of refuse-solid waste, garbage, and noncombustible waste matter and for the inspection of premises by the Health Officer. Such charge shall be established by ordinance by the Council. The charge shall be for making sanitary inspections of premises and for the collection and removal of garbage, refuse-solid waste, and noncombustible waste matter resulting from the normal use of occupied premises. Such established charge shall not be construed as preventing the City from imposing reasonable extra charges for special inspection work or for the removal of excessive amounts of garbage, refuse-solid waste, and noncombustible waste matter.
(§ 2, Ord. 480, eff. October 19, 1973)

§ 6-3.20. Accumulating refuse-solid waste and garbage.

It is unlawful for any person to deposit, keep, or accumulate, or cause or permit to be deposited, kept, or accumulated, any refuse-solid waste or garbage in or upon any lot or parcel of land, or any public or private drive, alley, or street, or any house, store, restaurant, or other place in the City unless such refuse-solid waste or garbage shall be enclosed in metal receptacles conforming to the provisions of this chapter.
(§ 2, Ord. 480, eff. October 19, 1973)

§ 6-3.21. Littering waste matter.

It is unlawful for any person to throw or deposit in the City any waste matter, whether combustible, semicombustible, or noncombustible, or to cause the same to be thrown or deposited upon any street, alley, gutter, park, or other public place in the City; provided, however, the provisions of this section shall not prohibit the practice of sweeping usual sidewalk dirt into adjoining gutters or raking leaves, which have fallen naturally on areas fronting on public streets, into the adjoining gutter.
(§ 2, Ord. 480, eff. October 19, 1973)

§ 6-3.22. Granting of franchise.

For the purpose of carrying out further the intent of Section 6-3.04 of this chapter, upon the consideration of an application or bid for a franchise the Council may refuse to grant the requested franchise or may grant a franchise to any such applicant or bidder as may appear from such application or bid to be, in the opinion of the Council, best qualified to render proper and efficient collection service.
(§ 1, Ord. 578, eff. September 7, 1977)

§ 6-3.23. Waste collection: Times specified for setting out containers, removal from street curb, and storage.

All persons occupying or in possession of any premises which do not abut an alley shall place all containers and cans for garbage disposal, including green waste, at the street curb edge no earlier than 6:00 p.m. on the day prior to the day of the scheduled collection of such waste materials and shall remove the empty container(s) no later than 11:59 p.m. on the day of scheduled collection. No container(s) shall be stored in any area visible from a public street except on the day of the scheduled collection.
(§ 2, Ord. 918, eff. April 18, 1997)

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Chapter 3.1
Curbside Recycling Program

§ 6-3.1.01. Curbside recycling program.

This curbside recycling program is established as a step to achieve diversion goals associated with AB 939 and is a key component in the efforts to comply with the mandates of AB 939.
(§ 1, Ord. 1045, eff. March 1, 2006)

§ 6-3.1.02. Definitions.

"Recyclable material," as used in this chapter, means any material that has been designated by the City for collection in a residential recycling program. Curbside recyclable materials include, but are not limited to, aluminum cans, glass, newspaper, mixed paper, steel/tin cans, cardboard, and authorized plastics. This list may change as markets change to accept more, or fewer, materials for processing in accordance with the administrative rules and procedures established by the Director of Public Services and approved by the City Manager without amendment of this chapter.
(§ 1, Ord. 1045, eff. March 1, 2006)

§ 6-3.1.03. Participation in residential recycling program.

(a) The curbside recycling program is mandatory to all single-family and multi-family residents to whom refuse collection containers are provided and a recycling fee is included as part of the refuse collection rate.

(b) Residential customers have the right to sell or donate their recyclable material. Nothing herein shall limit the right of residents or businesses to take cash redemption value of "CRV" or other material to a recycling center so long as the resident otherwise participates in the recycling program established by this chapter.

(§ 1, Ord. 1045, eff. March 1, 2006)

§ 6-3.1.04. Rules established.

The Director of Public Services is hereby authorized to promulgate administrative rules and procedures subject to the approval of the City Manager that are consistent with this chapter and necessary and proper to ensure the efficient operation of the recycling program. The City Council, in establishing this rule-making authority, specifically reserves unto itself the authority to set rates and charges.
(§ 1, Ord. 1045, eff. March 1, 2006)

§ 6-3.1.05. Containers.

Containers that are provided by the service provider shall be the exclusive containers for the deposit of recyclable material and shall be kept in good repair by the customer, reasonable wear and tear excepted. The cost to replace a container that is lost, damaged, or not returned to the City upon cessation of service shall be charged to the customer.
(§ 1, Ord. 1045, eff. March 1, 2006)

§ 6-3.1.06. Contractor responsibilities for recycling containers.

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(a) Distribution of containers. Contractor and City shall offer containers in approximately 95 gallon size for use by each residential dwelling for the collection recycling. The contractor, upon the request of a customer, shall provide additional containers for recycling. Additional recycling containers shall be provided at an additional cost to the customer. All containers shall remain the property of the contractor and/or the City.

(b) Containers for apartment and condominium complexes. Contractor shall provide one or more bins to apartment and condominium complexes according to their size and layout, recyclables accumulated, and in accordance with the appropriate building codes.

(c) Repair and replacement of containers. Contractor shall repair, at no additional cost, any container that is damaged, where such damage, as determined by the City, is not due to customer misuse or negligence. When a container is damaged with a determination that the damage was caused by customer misuse or negligence, the customer shall reimburse the City to replace the damaged container at the current invoice cost.

(d) Special handling provided for senior citizens and disabled customers. The contractor, at the request of the City, shall wheel out and return the containers for disabled households. There will be no additional charge for such service. For the purposes of this section, "disabled households" shall mean those households composed entirely of persons who, by reason of disability, are unable to wheel containers to the curbside for weekly collection. To qualify, a City representative will personally interview such individuals and verify their disability status and determine whether there is another individual residing in the household who is capable of taking the containers to the curbside. Once eligibility has been verified, a location acceptable to the customer and City will be chosen where the containers will be picked up and returned.

(e) Change in distribution methods and container sizes. City may approve changes in distribution methods and/or container sizes without amendment to this chapter.

(f) Collection. The contractor shall collect curbside recyclables once per week as set forth in the administrative rules.

(§ 1, Ord. 1045, eff. March 1, 2006)

§ 6-3.1.07. Customer responsibilities for recycling containers.

(a) Residents of the City will be provided recycling containers. The Finance Department of the City will provide each customer with the day of service, costs and regulations governing recycling service.

(b) Residents shall take their recycling containers to curbside for the automated or semi-automatic refuse collection service provided by the City's contractor. Once emptied, containers shall be removed from curbside by 11:59 p.m. on the day of pickup and placed behind a gate or at the side of the garage.

(c) All containers shall be kept in a clean and sanitary condition by the resident using the container. Containers shall be kept tightly covered at all times, except when recyclables are deposited therein and removed therefrom, to limit access by flies to the contents thereof.

(§ 1, Ord. 1045, eff. March 1, 2006)

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§ 6-3.1.08. Preparation of recyclable material.

Recyclable materials need to be kept as clean as possible and separated from other garbage and refuse, and placed at curbside on the regular refuse collection schedule. Recyclable materials will be co-mingled in the recycling container.
(§ 1, Ord. 1045, eff. March 1, 2006)

§ 6-3.1.09. Collection by unauthorized persons.

From time of placement of recyclables at the curb or in other designated recycling locations for collection in accordance with the terms hereof, recyclable items shall become and be the property of the City or its authorized contractor. It shall be a violation of this chapter for any person unauthorized by the City to collect or pick up or cause to be collected or picked up any such items.
(§ 1, Ord. 1045, eff. March 1, 2006)

§ 6-3.1.10. Use of another's receptacle.

No person shall place any recyclable material or permit or allow any recyclable material to be placed in the City's or any other person's receptacle without the consent of the City or such other person. No consent is given by the City for any person to place recyclable material in City receptacles intended for use of others.
(§ 1, Ord. 1045, eff. March 1, 2006)

§ 6-3.1.11. Residential curbside recycling rates and charges.

The fees and charges for collection of recyclable material and any adjustment thereto, including any increase or decrease pursuant to the Consumer Price Index, shall be established by resolution of the City Council.
(§ 1, Ord. 1045, eff. March 1, 2006)

§ 6-3.1.12. Enforcement.

Violations of the provisions of this chapter shall be subject to Title 4, Chapter 11 — Administrative Citations of the Los Banos Municipal Code.
(§ 1, Ord. 1045, eff. March 1, 2006)

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Chapter 3.2
Organic Waste Disposal Reduction

§ 6-3.2.01. Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Blue container" means a container where either: (1) the lid of the container is blue in color or (2) the body of the container is blue in color and the lid is either blue, gray, or black in color and shall be used for the purpose of storage and collection of source separated recyclable materials

"Commercial business" or "commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling.

"Commercial edible food generator" means a commercial edible food generator that is one of the following:

(1) Tier one.

(A) Supermarket.

(B) Grocery store with a total facility size equal to or greater than 10,000 square feet.

(C) Food service provider.

(D) Food distributor.

(E) Wholesale food vendor.

(2) Tier two.

(A) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.

(B) Hotel with an on-site food facility and 200 or more rooms.

(C) Health facility with an on-site food facility and 100 or more beds.

(D) Large venue is a large event that charges an admission price or is operated by a local agency.

(E) Large event is a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility.

(F) A state agency with a cafeteria with 250 or more seats or a total cafeteria facility size equal to or greater than 5,000 square feet.

(G) A local education agency with an on-site food facility.

"Compliance review" means a review of records by the City of Los Banos, or designee, to determine compliance with this chapter.

"Compost" means the product resulting from the controlled biological decomposition of organic

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solid wastes that are source separated from the municipal solid waste stream, or which are separated at a centralized facility.

"Container contamination" or "contaminated container" means a container, regardless of color, that contains prohibited container contaminants.

"C&D" means construction and demolition debris.

"Designee" means an entity that a City contracts with or otherwise arranges to carry out any of the City's responsibilities of this chapter. A designee may be a government entity, a hauler, a private entity, or a combination of those entities.

"Edible food" means food intended for human consumption. For the purposes of this chapter edible food is not solid waste if it is recovered and not discarded. Nothing in this chapter requires or authorizes the recovery of edible food that does not meet the food safety requirements of the California Retail Food Code.

"Enforcement action" means an action of the City to address noncompliance with this chapter, including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

"Enforcement official" means the City Manager, or his or her authorized designee(s) who is/are partially or wholly responsible for enforcing this chapter.

"Food distributor" means a company that distributes food to entities, including, but not limited to, supermarkets and grocery stores.

"Food facility" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level (refer to Section 113789 of the Health and Safety Code for a complete definition).

"Food recovery" means actions to collect and distribute food for human consumption that otherwise would be disposed.

"Food recovery organization" means an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for food recovery either directly or through other entities including, but not limited to:

(1) A food bank as defined in Section 113783 of the Health and Safety Code;

(2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety Code; and

(3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

"Food recovery service" means a person or entity that collects and transports edible food from a commercial edible food generator to a food recovery organization or other entities for food recovery.

"Food scraps" means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, rice, beans, pasta, bread, cheese, and eggshells. Food scraps excludes fats, oils, and grease when such materials are source separated from other food scraps.

"Food service provider" means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations.

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"Food-soiled paper" is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.

"Food waste" means food scraps, and food-soiled paper.

"Gray container" means container used only for the purpose of storage and collection of garbage.

"Green container" means a container used only for the purpose of storage and collection of source separated organic waste including food waste.

"Grocery store" means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments.

"Hauler route" means the designated itinerary or sequence of stops for each segment of the City's collection service area.

"Inspection" means a site visit where a City or City designee reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of organic waste or edible food handling to determine if the entity is complying with requirements set forth in this chapter.

"Multifamily residential dwelling" means residential premises with five or more dwelling units.

"Noncompostable paper" includes, but is not limited to, paper that is coated in a plastic material that will not break down in the composting process.

"Nonorganic recyclables" means nonputrescible and nonhazardous recyclable wastes, including, but not limited to, bottles, cans, metals, plastics and glass.

"Notice of violation (NOV)" means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties.

"Organic waste" means solid wastes containing material originated from living organisms and their metabolic waste products, including, but not limited to, food, green material, landscape and pruning waste, lumber, wood, paper products, printing and writing paper, and manure.

"Organic waste generator" means a person or entity that is responsible for the initial creation of organic waste.

"Prohibited container contaminants" means discarded materials that are not acceptable recyclable materials to be placed in the blue container; discarded materials that are not acceptable source separated organic waste to be placed the green container; and discarded materials that are not acceptable to be placed in the gray container and excluded waste placed in any container.

"Recovered organic waste products" means products made from California, landfill-diverted recovered organic waste processed in a permitted or otherwise authorized facility.

"Recovery" means any activity or process of diverting organic waste from the landfill, processed at an approved recycling center, composting facility, in-vessel digestion operation or facility, biomass conversion operation or facility, or used as soil amendment for erosion control, revegetation, slope stabilization, or landscaping.

"Recycled-content paper" means paper products and printing and writing paper that consists of at least 30%, by fiber weight, postconsumer fiber.

"Route review" means a visual inspection of containers along a hauler route for the purpose of determining container contamination and may include mechanical inspection methods such as

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the use of cameras.

"SB 1383" means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

"SB 1383 regulations" or "SB 1383 regulatory" means or refers to, for the purposes of this chapter, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CALRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

"Self-hauler" means a person, who hauls solid waste, organic waste or recyclable material he or she has generated to another person. Self-hauler also includes a person who back-hauls waste. Back-haul means generating and transporting organic waste to a destination owned and operated by the generator using the generator's own employees and equipment.

"Single-family" means of, from, or pertaining to any residential premises with fewer than five units.

"Solid waste" has the same meaning as defined in State Public Resources Code Section 40191, which defines solid waste as all putrescible and nonputrescible solid, semi-solid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semi-solid wastes, with the exception that solid waste does not include any of the following wastes:

(1) Hazardous waste, as defined in the State Public Resources Code Section 40141.

(2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).

(3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a solid waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be solid waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

"Source separated" means materials, including commingled recyclable materials and organic waste, that have been separated or kept separate from the solid waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace. For the purposes of this chapter, source separated shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that source separated materials are separated from gray container waste or other solid waste for the purposes of collection and processing.

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"Source separated blue container organic waste" means source separated organic wastes that can be placed in a blue container that is limited to the collection of those organic wastes and nonorganic recyclables.

"Source separated green container organic waste" means source separated organic waste that can be placed in a green container that is specifically intended for the separate collection of organic waste by the generator, excluding source separated blue container organic waste, carpets, noncompostable paper, and textiles.

"Source separated recyclable materials" means source separated nonorganic recyclables and source separated green container organic waste.

"State" means the State of California.

"Supermarket" means a full-line, self-service retail store with gross annual sales of Two Million and No/100ths ($2,000,000.00) Dollars, or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items.

"Tier one commercial edible food generator" means a commercial edible food generator that is one of the following:

(1) Supermarket.

(2) Grocery store with a total facility size equal to or greater than 10,000 square feet.

(3) Food service provider.

(4) Food distributor.

(5) Wholesale food vendor.

"Tier two commercial edible food generator" means a commercial edible food generator that is one of the following:

(1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.

(2) Hotel with an on-site food facility and 200 or more rooms.

(3) Health facility with an on-site food facility and 100 or more beds.

(4) Large venue.

(5) Large event.

(6) A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.

(7) A local education agency facility with an on-site food facility.

(§ 1, Ord. 1194, eff. March 1, 2022)

§ 6-3.2.02. Organic waste generators.

(a) Single-family dwellings shall subscribe to City's three-container organic waste collection services for all organic waste generated by placing garbage in the gray container, recyclables in the blue container, and organic materials such as green waste and food waste in the green container.

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(b) Multifamily residential dwellings shall subscribe to City franchise hauler's three-bin container organic waste collection services for all organic waste generated by placing garbage in the gray container, recyclables in the blue container, and organic materials such as green waste and food waste in the green container.

(1) Provide adequate number, size, and location of collection containers with sufficient labels or colors consistent with City's blue, green, and gray collection services containers for employees, contractors, and tenants.

(2) Provide education information before or within 14 days of occupation of the premises to new tenants that describes requirements to keep source separated green container organic waste and source separated recyclable materials separate from gray container waste (when applicable) and the location of containers and the rules governing their use at each property.

(c) Commercial businesses shall subscribe to City's three-bin container organic waste collection services for all organic waste generated by placing garbage in the gray container, recyclables in the blue container, and organic materials such as green waste and food waste in the green container.

(1) Provide adequate number, size, and location of collection containers with sufficient labels or colors consistent with City's blue, green, and gray collection services containers for employees, contractors, and tenants.

(2) Pursuant to AB 827, commercial businesses that generate organic waste and recyclable materials shall provide green containers for the collection of organic waste and blue containers for recyclable materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by the business.

(3) Provide education information before or within 14 days of occupation of the premises to new tenants that describes requirements to keep source separated green container organic waste and source separated recyclable materials separate from gray and the location of containers and the rules governing their use at each property.

(§ 1, Ord. 1194, eff. March 1, 2022)

§ 6-3.2.03. Waivers.

The City may waive a commercial business's, or property owner's obligation (including multifamily residential dwellings) to comply with some or all of the recyclable materials and/or organic waste requirements of this chapter.

(a) De Minimis Waivers. Commercial businesses requesting a de minimis waiver shall:

(1) Submit an application specifying the services that they are requesting a waiver from and provide either of the following documentation.

(A) The commercial business's, total solid waste collection service is two cubic yards or more per week and organic waste subject to collection in a blue container or green container comprises less than 20 gallons per week per applicable container of the business's, total waste; or

(B) The commercial business's total solid waste collection service is less than two

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cubic yards per week and organic waste subject to collection in a blue container or green container comprises less than 10 gallons per week per applicable container of the business's total waste.

(2) Notify City if circumstances change such that commercial business's organic waste exceeds threshold required for waiver, in which case waiver will be rescinded.

(3) Provide written verification of eligibility for de minimis waiver every five years if City has approved de minimis waiver.

(b) Physical Space Waiver.

(1) Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.

(2) Provide documentation that the premises lack adequate space for blue containers and/or green containers including documentation from its hauler, licensed architect, or licensed engineer.

(3) Provide written verification to City that it is still eligible for physical space waiver every five years if City has approved application for a physical space waiver. City will confer with staff, a hauler, licensed architect, or licensed engineer of the premises lack of adequate space for the collection containers required for compliance with the organic waste collection requirements.

(c) Review and approval of waivers shall be conducted by the Public Works Director, or designee.

(§ 1, Ord. 1194, eff. March 1, 2022)

§ 6-3.2.04. Commercial edible food generators.

(a) Tier one commercial edible food generators must comply with the requirements of this section commencing March 1, 2022, and tier two commercial edible food generators must comply commencing January 1, 2024.

(b) Large venue or large event operators not providing food services, but allowing for food to be provided by others, shall require food facilities operating at the large venue or large event to comply with the requirements of this section, commencing January 1, 2024.

(c) Commercial edible food generators shall comply with the following requirements:

(1) Arrange to recover the maximum amount of edible food that would otherwise be disposed.

(2) Contract with or enter into a written agreement with food recovery organizations or food recovery services for:

(A) The collection of edible food for food recovery; or

(B) Acceptance of the edible food that the commercial edible food generator self-hauls to the food recovery organization for food recovery.

(3) Shall not intentionally spoil edible food that is capable of being recovered by a food recovery organization or a food recovery service.

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(4) Allow City's designated entity to access the premises and review records.

(5) Keep records that include the following information:

(A) A list of each food recovery service or organization that collects or receives its edible food pursuant to a contract or written agreement.

(B) A copy of all contracts or written agreements with food recovery service or organization.

(C) A record of the following information for each of those food recovery services or food recovery organizations:

(i) The name, address and contact information of the food recovery service or food recovery organization.

(ii) The types of food that will be collected by or self-hauled to the food recovery service or food recovery organization.

(iii) The established frequency that food will be collected or self-hauled.

(iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a food recovery service or food recovery organization for food recovery.

(6) No later than September 1, 2022, submit an annual food recovery report to the City for the period of January 1, 2022 through June 30, 2022 that includes the list of food recovery organizations and services contracted to receive recovered edible food and the amount of edible food in pounds collected for each food recovery organizations and services. Submit annual food recovery report to the City July 1, 2023 and on or before July 1 each year thereafter for the period covering the entire previous calendar year.

(d) Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

(§ 1, Ord. 1194, eff. March 1, 2022)

§ 6-3.2.05. Food recovery organizations and services.

(a) Food recovery services collecting or receiving edible food directly from commercial edible food generators, via a contract or written agreement shall maintain the following records otherwise:

(1) The name, address, and contact information for each commercial edible food generator from which the service collects edible food.

(2) The quantity in pounds of edible food collected from each commercial edible food

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generator per month.

(3) The quantity in pounds of edible food transported to each food recovery organization per month.

(4) The name, address, and contact information for each food recovery organization that the food recovery service transports edible food to for food recovery.

(b) Food recovery organizations collecting or receiving edible food directly from commercial edible food generators, via a contract or written agreement shall maintain the following records:

(1) The name, address, and contact information for each commercial edible food generator from which the organization receives edible food.

(2) The quantity in pounds of edible food received from each commercial edible food generator per month.

(3) The name, address, and contact information for each food recovery service that the organization receives edible food from for food recovery.

(c) Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

(d) Food recovery organizations and food recovery services that have their primary address physically located in the City and contract with or have written agreements with one or more commercial edible food generators shall report to the City it is located in the following:

(1) The list of commercial edible food generators.

(2) The total pounds of edible food recovered in the previous calendar year from the tier one and tier two commercial edible food generators.

(3) The above report is due to the City by:

(A) September 1, 2022, for the period of January 1, 2022 through June 30, 2022.

(B) July 1, 2023 and on or before July 1 each year thereafter for the period covering the entire previous calendar year.

(e) Provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, food recovery capacity that could be accessed by the City and its commercial edible food generators. A food recovery service or food recovery organization contacted by the City shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the City.

(§ 1, Ord. 1194, eff. March 1, 2022)

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§ 6-3.2.06. Haulers and facility operators.

(a) Exclusive franchise hauler providing residential, commercial, or industrial organic waste collection services to generators within the City's boundaries shall meet the following requirements and standards as a condition of approval of a contract or agreement with the City to collect organic waste:

(1) Through written notice to the City annually on or before February 15 of each year, identify the facilities to which organic waste including facilities for source separated recyclable materials, source separated green container organic waste, and mixed waste.

(2) Transport source separated recyclable materials, source separated green container organic waste, and mixed waste to a facility, operation, activity, or property that recovers organic waste.

(3) Exclusive franchise hauler authorized to collect organic waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, license, or other agreement entered into with the City.

(§ 1, Ord. 1194, eff. March 1, 2022)

§ 6-3.2.07. Self-hauler requirements.

(a) Self-haulers shall source separate all recyclable materials and organic waste (materials that City otherwise requires generators to separate for collection in the City's organics and recycling collection program) generated on site from solid waste in a manner consistent with the three-container system (gray container for trash, blue container for recyclables, and green container for organic waste including food waste), or shall haul organic waste to a high diversion organic waste processing facility specified by the City.

(b) Self-haulers shall haul their source separated recyclable materials to a facility that recovers those materials; and haul their source separated green container organic waste to a solid waste facility, operation, activity, or property that processes or recovers source separated organic waste. Alternatively, self-haulers may haul organic waste to a high diversion organic waste processing facility specified by the City.

(c) Self-haulers that are commercial businesses (including multifamily residential dwellings) shall keep a record of the amount of organic waste delivered to each solid waste facility, operation, activity, or property that processes or recovers organic waste; this record shall be provided to the City, or designee, upon request. The records shall include the following information:

(1) Delivery receipts and weight tickets from the entity accepting the waste.

(2) The amount of material in cubic yards or tons transported by the generator to each entity.

(3) If the material is transported to an entity that does not have scales on site or employs scales incapable of weighing the self-hauler's vehicle in a manner that allows it to determine the weight of materials received, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the organic

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waste.

(§ 1, Ord. 1194, eff. March 1, 2022)

§ 6-3.2.08. Inspections and investigations by City.

(a) City representatives and/or its designated entity, including designees are authorized to conduct inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or source separated materials to confirm compliance with this chapter by organic waste generators, commercial businesses (including multifamily residential dwellings), property owners, commercial edible food generators, haulers, self-haulers, food recovery services, and food recovery organizations, subject to applicable laws.

(b) Regulated entity shall provide or arrange for access during all inspections (with the exception of residential property interiors) and shall cooperate with the City's employee or its designated entity/designee during such inspections and investigations. Such inspections and investigations may include confirmation of proper placement of materials in containers, edible food recovery activities, records, or any other requirement of this chapter described herein. Failure to provide or arrange for:

(1) Access to an entity's premises; or

(2) Access to records for any inspection or investigation is a violation of this chapter and may result in penalties described.

(c) Any records obtained by a City during its inspections, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section6250 et seq.

(d) City representatives, its designated entity, and/or designee are authorized to conduct any inspections, remote monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws.

(e) City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 regulations, including receipt of anonymous complaints.

(§ 1, Ord. 1194, eff. March 1, 2022)

§ 6-3.2.09. Enforcement.

(a) Violation of any provision of this chapter shall constitute grounds for issuance of a notice of violation and assessment of a fine by a City of Los Banos enforcement official or representative. enforcement actions under this chapter are issuance of an administrative citation and assessment of a fine. The City of Los Banos' procedures on imposition of administrative fines (Title 4, Chapter 11) are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter, except as otherwise indicated in this chapter.

(b) Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. The City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. The City may choose to delay court action

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until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of City staff and resources.

(c) Responsible Entity for Enforcement.

(1) Enforcement pursuant to this chapter may be undertaken by the City Enforcement Official, which may be the City Manager or his or her designated entity, legal counsel, or combination thereof.

(2) Enforcement may also be undertaken by a Regional or County Agency Enforcement Official, designated by the City, in consultation with the City Enforcement Official.

(A) The City Enforcement Official(s) (and Regional or County Agency Enforcement Official, if used) will interpret this chapter; determine the applicability of waivers, if violation(s) have occurred; implement enforcement actions; and, determine if compliance standards are met.

(B) The City Enforcement Official(s) (and Regional or County Agency Enforcement Official, if used) may issue notices of violation(s).

(d) Process for Enforcement.

(1) The City Enforcement Officials or Regional or County Enforcement Officials and/or their designee will monitor compliance with this chapter randomly and through compliance reviews, route reviews, investigation of complaints, and an inspection program (that may include remote monitoring). Section 6-3.2.08 establishes the City's right to conduct inspections and investigations.

(2) The City may issue an official notification to notify regulated entities of its obligations under this chapter.

(3) For incidences of prohibited container contaminants found in containers, the City will issue a notice of violation to any generator found to have prohibited container contaminants in a container. Such notice will be provided via a cart tag or other communication immediately upon identification of the prohibited container contaminants or within five days after determining that a violation has occurred. If the City observes prohibited container contaminants in a generator's containers on more than three consecutive occasion(s), the City may assess an administrative citation and fine, pursuant to subsection (e) of this section. Such fine shall be in addition to any contamination processing fee or penalty assessed by a hauler if authorized by its agreement or contract with the City.

(4) With the exception of violations of generator contamination of container contents addressed under subsection (d)(3), the City shall issue a notice of violation requiring compliance within 60 days of issuance of the notice.

(5) Absent compliance by the respondent within the deadline set forth in the notice of violation, The City shall commence an action to impose penalties, via an administrative citation and fine, pursuant to subsection (e) of this section. Notices shall be sent to the owner at the address of the dwelling or commercial property or to the party responsible for paying for the collection services, depending upon available information.

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(e) Penalty Amounts for Types of Violations. The penalty levels are as follows:

(1) For a first violation, the amount of the base penalty shall be Fifty and No/100ths ($50.00) Dollars per violation.

(2) For a second violation, the amount of the base penalty shall be One Hundred and No/100ths ($100.00) Dollars per violation.

(3) For a third or subsequent violation, the amount of the base penalty shall be Two Hundred Fifty and No/100ths ($250.00) Dollars per violation.

(f) Compliance Deadline Extension Considerations. The City may extend the compliance deadlines set forth in a notice of violation issued in accordance with this section if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

(1) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters.

(2) Delays in obtaining discretionary permits or other government agency approvals; or

(3) Deficiencies in organic waste recycling infrastructure or edible food recovery capacity and the jurisdiction is under a corrective action plan with CALRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

(g) Administrative Hearing. Persons receiving an administrative citation containing a penalty for an uncorrected violation may request an administrative hearing to contest the citation. A hearing will be held only if it is requested within the time prescribed and consistent with procedures in Title 4 Chapter 11 of the Los Banos Municipal Code.

(h) Education Period for Noncompliance. Beginning March 1, 2022 and through December 31, 2023, the City will conduct inspections to determine compliance, and if City determines that organic waste generator, self-hauler, hauler, tier one commercial edible food generator, food recovery organization, food recovery service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this chapter and a notice that compliance is required by March 1, 2022, and that violations may be subject to administrative penalties starting on January 1, 2024.

(i) Civil Penalties for Noncompliance. Beginning January 1, 2024, if the City determines that an organic waste generator, self-hauler, hauler, tier one or tier two commercial edible food generator, food recovery organization, food recovery service, or other entity is not in compliance with this chapter, it shall document the noncompliance or violation, issue a notice of violation, and take enforcement action pursuant to this chapter, as needed.

(§ 1, Ord. 1194, eff. March 1, 2022)

§ 6-3.2.10. Effective date.

This chapter shall be effective commencing on March 1, 2022.

(§ 1, Ord. 1194, eff. March 1, 2022)

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Chapter 4
Restaurants

§ 6-4.01. Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Employee" shall mean every person who is employed in a restaurant and who has any connection with the preparation and/or serving of food or drink to the general public and every person who handles, cleans, or otherwise uses any cooking utensil.

"Health Officer" shall mean the person designated by the City as the Health Officer of the City, or his authorized representative.

"Itinerant restaurant" shall mean a place of business which is being operated on a temporary basis for the purpose of preparing and selling food to the general public in connection with a fair, carnival, public exhibition, or other similar gathering.

"Restaurant" shall mean any coffee shop, cafeteria, short order cafe, luncheonette, tavern, or soda fountain and shall include any place of business wherein food is prepared or served for consumption by the general public.

"Utensil" shall mean and include any and all articles used in connection with the preparation and/or serving of food or drink.
(§ I, Ord. 170)

§ 6-4.02. Permits: Required.

It is unlawful for any person to operate a restaurant or an itinerant restaurant in the City unless such person first secures from the Health Officer a permit to conduct such business.
(§ II, Ord. 170)

§ 6-4.03. Permits: Issuance.

The Health Officer shall inspect the premises for which a permit to operate a restaurant or an itinerant restaurant is requested, and he shall issue such permit if the applicant for the permit complies with the provisions of this chapter.
(§ II, Ord. 170)

§ 6-4.04. Permits: Posting.

The permit to operate a restaurant or an itinerant restaurant shall be displayed in a conspicuous position in the place of business being conducted so that the permit can be readily seen by the general public.
(§ II, Ord. 170)

§ 6-4.05. Permits: Suspension and revocation.

In the event a complaint is filed by the Health Officer against any person operating a restaurant or an itinerant restaurant for failure to comply with the provisions of this chapter, a citation shall be issued directing that the violator appear in the appropriate court for a hearing of the complaint, and, after a hearing thereon, if the facts of the violation are established, the permit issued by the

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Health Officer may be temporarily suspended or completely revoked if the complaint filed has been proven.
(§ II, Ord. 170)

§ 6-4.06. Permits: Suspension: Reinstatement.

Any person operating a restaurant, the permit and license of which have been suspended, may at any time make an application for the reinstatement of the permit. Within one week after the receipt of such application, accompanied by a statement signed by the applicant to the effect that the violated provisions of this chapter have been conformed with, the Health Officer shall make a reinspection and, in the event the findings indicate compliance, shall reinstate the permit.
(§ VIII, Ord. 170)

§ 6-4.07. Business licenses: Applications: Issuance: Suspension and revocation.

Within 10 days after the issuance of a permit to operate a restaurant or an itinerant restaurant, the permittee shall apply to the City Clerk for a business license to conduct such restaurant business.

The Chief of Police shall issue to the applicant a license to operate a restaurant for the calendar year, or part thereof, in which the license is issued provided the applicant pays the license tax at the time of making the application. In the event the permit shall be suspended or revoked, the Chief of Police shall be immediately notified and is hereby authorized to suspend or revoke the restaurant license immediately.
(§ II and III, Ord. 170)

§ 6-4.08. Inspections.

(a) Required. The Health Officer shall inspect every restaurant in the City at such times as may be necessary and at least once every four months.

(b) Violations. If the Health Officer discovers any violation of sanitation, he shall inform the operator of such violation and shall direct the correction thereof.

(c) Correction of violations: Reinspections. The Health Officer shall allow such time as may be necessary for the operator to correct the violation and shall inspect the premises at the end of such time to determine if the correction has been complied with.

(d) Issuance of citations. In the event the operator of the restaurant has failed to comply with the request of the Health Officer, he shall immediately cause a citation to be issued against the operator and shall proceed in the manner set forth in Section 6-4.05 of this chapter.

(e) Reports. Upon the completion of his inspection, the Health Officer shall make a duplicate report of his findings, one copy of which shall be placed upon an inside wall of the restaurant where the report can readily be seen by the general public and from which place the report shall not be defaced or removed by any person other than the Health Officer. A copy of the inspection report shall also be filed with the records of the Health Department.

(f) Right of entry. The operator of a restaurant shall permit free access to the Health Officer to any and all parts of the restaurant and shall permit, if the Health Officer requires, the copying of any records concerning the purchase of food.

(§ V, Ord. 170)

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§ 6-4.09. Unwholesome or adulterated food or drink.

Samples of food, drink, and other substances may be taken and examined by the Health Officer as often as may be necessary for the detection of unwholesomeness or adulteration. The Health Officer may condemn and forbid the sale of, or cause to be removed or destroyed, any food or drink which is unwholesome or adulterated.
(§ IV, Ord. 170)

§ 6-4.10. Sanitation rules and regulations.

All restaurants shall comply with the following sanitation rules and regulations:

(a) Floors. The floors of all rooms in which food or drink is stored, prepared, or served or in which utensils are washed shall be of such construction as to be easily cleaned, shall be smooth, and shall be kept clean and in good repair.

(b) Walls and ceilings. Walls and ceilings of all rooms shall be kept clean and in good repair. All walls and ceilings of rooms in which food or drink is stored or prepared shall be finished in a light color. The walls of all rooms in which food or drink is prepared or utensils are washed shall have a smooth, washable surface up to the level reached by splash or spray.

(c) Doors and windows. When flies are prevalent, all openings into the outer air shall be effectively screened, and doors shall be self-closing unless other effective means are provided to prevent the entrance of flies.

(d) Lighting. All rooms in which food or drink is stored or prepared or in which utensils are washed shall be well lighted.

(e) Ventilation. All rooms in which food or drink is stored, prepared, or served or in which utensils are washed shall be well-ventilated.

(f) Toilet facilities. Every restaurant shall be provided with adequate and conveniently located toilet facilities for its employees. Toilet rooms shall not open directly into any room in which food, drink, or utensils are handled or stored. The doors of all toilet rooms shall be self-closing. Toilet rooms shall be kept in a clean condition, in good repair, and well-lighted and ventilated. Hand-washing signs shall be posted in each toilet room used by employees.

Adequate and convenient hand-washing facilities shall be provided, including hot and cold running water, soap, and approved sanitary towels. The use of a common towel shall be prohibited. No employee shall resume work after using the toilet room without first washing his hands.

(g) Water supply. Running water under pressure shall be easily accessible to all rooms in which food is prepared or utensils are washed, and the water supply shall be adequate and of a safe, sanitary quality.

(h) Construction of utensils and equipment. All multi-use utensils and all show and display cases, windows, counters, shelves, tables, refrigerating equipment, sinks, and other equipment or utensils used in connection with the operation of a restaurant shall be so constructed as to be easily cleaned and shall be kept in good repair. Utensils containing or plated with cadmium or lead shall not be used, but solder containing lead may be used for joining.

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(i) Cleaning and bacterial treatment of utensils and equipment. All equipment, including display cases, windows, counters, tables, shelves, refrigerators, stoves, hoods, and sinks, shall be kept clean and free from dust, dirt, insects, and other contaminating material. Single-service containers shall be used only once.

All multi-use eating and drinking utensils shall be thoroughly cleaned and effectively subjected to an approved bacterial process after each usage. Immersion for at least two minutes in clean, hot water at a temperature of at least 170 degrees Fahrenheit or immersion in a chlorine solution of at least 100 parts per million for two minutes shall be required.

All multi-use utensils used in the preparation or serving of food and drink shall be thoroughly cleaned and effectively subjected to an approved bacterial process immediately following the day's operation. Drying cloths, if used, shall be clean and shall be used for no other purpose.

No article, polish, or other substance containing any cyanide preparation or other poisonous materials shall be used for the cleaning or polishing of utensils.

(j) Storage and handling o/ utensils and equipment. After bacterial treatment, utensils shall be stored in a clean, dry place protected from flies, dust, and other contamination and shall be handled in such a manner as to prevent contamination as far as practicable. Single-service utensils shall be purchased only in sanitary containers, shall be stored therein in a clean, dry place until used, and shall be handled in a sanitary manner.

(k) Disposal of wastes. All wastes shall be properly disposed of, and all garbage and trash shall be kept in suitable receptacles in such a manner as not to become a nuisance.

(l) Refrigeration. All readily perishable food and drink shall be kept at or below 50 degrees Fahrenheit except when being prepared or served. For the purposes of this subsection, "readily perishable food and drink" shall mean and include custard or cream-filled pies and pastries, meat and meat products, shellfish and shellfish products, salads, and other products which may cause food poisoning. The provisions of this subsection shall not include unopened, properly canned or otherwise preserved products.

Waste water from refrigeration equipment shall be disposed of in a sanitary manner.

(m) Wholesomeness of food and drink. All food and drink shall be clean, wholesome, free from spoilage, and so prepared as to be safe for human consumption. All milk, fluid milk products, ice cream, and other frozen desserts served shall be from sources complying with the sanitation laws of the State relative to dairies and dairy products. Milk and fluid milk products shall be served in the individual original containers in which they were received from the distributor; provided, however, cream may be served from the original bottle or from a dispenser approved for such service. All oysters, clams, and mussels, if shucked, shall be kept, until used, in the containers in which they were placed at the shucking plant.

(n) Storage, display, and serving of food and drink. All food and drink shall be so stored, displayed, and served as to be protected from dust, flies, vermin, depredation, and pollution by rodents, unnecessary handling, droplet infection, overhead leakage, and other contamination. The pouring lips of bottles containing milk or other beverages in non-leakproof containers shall not be submerged in water for cooling. All means necessary for the elimination of flies, roaches, and rodents shall be used. No animal or fowl shall be kept or allowed in any restaurant or in any room in which food or drink is prepared, stored,

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served, or sold; provided, however, specially trained dogs used as guides for blind persons need not be excluded.

(o) Cleanliness of employees. All employees shall wear clean outer garments and shall keep their hands clean at all times while engaged in handling food, drink, utensils, or equipment. Employees shall not expectorate or use tobacco in any form in rooms in which food is prepared.

(p) Premises. The premises of all restaurants shall be kept clean and free of litter and rubbish. None of the operations connected with a restaurant shall be conducted in any room used as living or sleeping quarters.

(q) Dressing and linen facilities. Adequate lockers or dressing rooms shall be provided for clothing of employees and shall be kept clean. Soiled linens, coats, and aprons shall be kept in containers provided for the purpose.

(§ VI, Ord. 170)

§ 6-4.11. Sanitation rules and regulations: Itinerant restaurants.

Itinerant restaurants shall be constructed and operated in a manner approved by the Health Officer on standards as nearly as practicable to those set forth in Section 6-4.10 of this chapter.
(§ VI, Ord. 170)

§ 6-4.12. Employees: Physical examinations.

Every person before being employed in any restaurant shall submit to a physical examination and comply with the provisions of Chapter 2 of this title.
(§ XI, Ord. 170)

§ 6-4.13. Employees: Communicable diseases.

No person who is afflicted with any disease in a communicable form or who is a carrier of such disease shall work in any restaurant, and no restaurant shall employ any person suspected of being afflicted with any disease in a communicable form or of being a carrier of such disease. If an employee has contracted any disease in a communicable form or has become a carrier of such disease, he shall notify the Health Officer immediately.

A placard containing the provisions of this section shall be posted in all toilet rooms.
(§ IX, Ord. 170)

§ 6-4.14. Employees: Infections.

When the Health Officer has reason to believe a possibility exists of transmission of infection from any restaurant employee, the Health Officer is hereby authorized to require any or all of the following measures:

(a) The immediate exclusion of the employee from all restaurants;

(b) The immediate closing of the restaurant concerned until no further danger of disease outbreak exists in the opinion of the Health Officer; or

(c) Adequate medical examinations of the employee and his associates, with such laboratory examinations as may be indicated, at the expense of the restaurant or employee.

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(§ X, Ord. 170)

§ 6-4.15. Enforcement.

The Health Officer shall administer and enforce the provisions of this chapter. He shall have the power, subject to the approval of the Council to make and prescribe such rules and regulations not inconsistent with the provisions of this chapter as may be necessary to carry out the purposes and provisions of this chapter.
(§ XII, Ord. 170)

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Chapter 5
Sewer System

Note: Sections 6-5.01 through 6-5.10, codified from Ordinance No. 273, as amended by Ordinance No. 497, effective May 31, 1974, and urgency Ordinance No. 616, effective June 21, 1978, repealed by Section 1, Ordinance No. 615, effective August 21, 1978.

§ 6-5.01. Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"BOD" (biochemical oxygen demand) shall mean the quantity of oxygen utilized in biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Centigrade expressed in milligrams per liter.

"Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer. The building drain ends where it connects to the building sewer two (2′) feet outside the building wall.

"Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal, including the connection to the public sewer.

"Business classification code" shall mean a classification of discharges based on the 1972 Standard Industrial Classification Manual, Bureau of the Budget of the United States of America.

"City" shall mean the City of Los Banos represented by its designated agent.

"Council" shall mean the Council of the City.

"City Engineer" shall mean that person or firm employed by the City for the purpose of rendering engineering services to the City.

"COD" (chemical oxygen demand) shall mean the quantity of oxygen utilized in the chemical oxidation of inorganic and organic matter under standard laboratory procedures in milligrams per liter.

"Combined sewer" shall mean a sewer receiving both surface runoff and waste water.

"Contamination" shall mean an impairment of the quality of the waters of the United States by wastes to a degree which creates a hazard to the public health or safety through poisoning or through the spread of disease.

"Critical industry" shall mean a discharger whose waste water requires special regulations or contains industrial wastes requiring source control or whose average waste water strength cannot be established on a business classification basis. (See subsection (i) of subsection (1) of subsection (a) of Section 6-5.06 of this chapter.

"Discharger" shall mean any person who discharges or causes the discharge of waste water to the sewage collection system.

"Director" shall mean the City Manager or his authorized deputy, agent, or representative.

"Dwelling unit" shall mean each single-family house, each apartment, mobile home unit, or factory-built housing, or each living quarters having its own separate kitchen facility.

"Garbage" shall mean putrescible solid wastes from the domestic and partial preparation,

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cooking, and dispensing of food and from the handling, storage, and sales of produce.

"Industrial waste" shall mean the water-carried putrescible wastes from industrial manufacturing or industrial processing as distinct from sanitary sewage. "Industrial waste" shall include the trade wastes produced by, but not limited to, food processing and bottling plants, food manufacturing plants, slaughtering plants, tallow works, disposal services, industrial clearing plants, fertilizer plants, car and truck washes, laundries, cleaning establishments, cooling plants, industrial plants, factories, and chemical treatment installations. "Industrial waste" shall not include sanitary sewage, such as might be discharged from residences, hotels, or restaurants or from business establishments or premises engaged solely in the sale, storage, or repair of goods, wares, or merchandise, nor shall it include water of quality acceptable for discharge to the storm drainage system.

"Industrial waste sewer" shall mean a sewer receiving industrial wastes only.

"Inspector" shall mean the City Inspector or other authorized agent.

"Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.

"Nuisance" shall mean a discharge of waste water in violation of City regulations or orders, or which is or could be harmful to or unreasonably affect the sewage disposal facilities of the City, or which impairs or unreasonably affects the operation and maintenance of such facilities, or which violates the quantity, quality, or flow standards adopted by the City, and all waste water discharges which unreasonably affect the quality of the City's treatment plant effluent in such a manner that receiving water quality requirements established by law cannot be met by the City.

"Person" shall mean any individual, firm, company, association, society, corporation, or group.

"pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

"Premises" shall mean a parcel of real property, or portion thereof, including any improvement thereon, which is determined by the City to be a single unit for the purposes of receiving, using, and paying for sewage disposal service. In making such determination, the City shall take into consideration such factors as whether the unit could reasonably be subdivided, the number and location of side sewers, and whether the unit is being used for a single activity and, if not, what is the principal activity for sewage disposal services, but in any case the City determination shall be final.

"Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of foods which have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2") inch in any dimension.

"Public sewer" shall mean a sewer in publicly-owned land or easements and controlled by the City and shall not include that portion of the building sewer lying within publicly-owned land or easement.

"Sanitary sewage" shall mean the water-carried putrescible wastes from residences, hotels, restaurants, or eating houses or from business establishments or premises engaged solely in the sale, storage, or repair of goods, wares, or merchandise and which contains garbage, human wastes, or animal wastes.

"Sanitary sewer" shall mean a sewer which carries sanitary sewage and to which storm, surface, and ground waters are not intentionally admitted.

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"Sewage" shall mean a combination of the water-carried wastes from residences, businesses, institutions. and industrial establishments, together with such ground and surface waters as may be present.

"Sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.

"Sewage works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

"Sewer" shall mean a pipe or conduit for carrying sewage.

"Shall" shall be mandatory. "May" is permissive.

"Slug" shall mean any discharge of water, sewage, or industrial waste which, in concentration of any given constituent or in quantity of flows, exceeds for any period of duration longer than 15 minutes more than five times the average 24 hour concentration of flows during normal operations.

"Standard Methods" shall mean the procedures described in the latest edition of "Standard Methods for the Examination of Water and Wastewater", as published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation. Elements of waste water strength shall be measured by Standard Methods unless otherwise expressly stated.

"Storm drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage but which excludes sewage and industrial wastes other than uncontaminated cooling water.

"Suspended solid" shall mean the concentration of nonfilterable residue dried at 103 degrees to 105 degrees Centigrade on a filter in conformance with Standard Methods.

"Watercourse" shall mean the channel in which a flow of water occurs, either continuously or intermittently.

"Waste" shall mean sewage and any and all other waste substances, liquid, solid, or gaseous, associated with human habitation, or of human or animal origin, or from any producing, manufacturing or processing operation of whatever nature.

"Waste water" shall mean all sewage, industrial, and other wastes and waters, whether treated or untreated, discharged into or permitted to enter the sewage works for treatment. As used in this chapter, unless the context specifically indicates otherwise, "waste water" shall mean sewage and industrial wastes discharged to the sewage works by any person.

"Waste water strength" shall mean the quality of waste water discharged as measured by its elements, including its constituents and characteristics.

"POTW" shall mean publicly-owned treatment works.
(§ 2, Ord. 615, eff. August 21, 1978, as amended by § 1, 2, 3, and 4, Ord. 757, eff. October 31, 1986 and § 1, Ord. 842, eff. March 22, 1991)

§ 6-5.02. Use of public sewers required: Exceptions.

(a) Unsanitary disposal of wastes prohibited. It is unlawful for any person to place, deposit, or permit to be deposited in any manner, on public or private property within the City or in any area under the jurisdiction of the City, any human or animal excrement or other objectionable waste, except in the public sewer; however, no prohibited waste shall be

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discharged to a public sewer or be held or disposed of in any manner within the City.

(b) Disposal of sewage to natural outlets prohibited. It is unlawful to discharge to any natural outlet any sewage or other polluted water, except where suitable treatment has been provided in accordance with the provisions of this chapter.

(c) Septic tanks and the like prohibited. It is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage, except as provided in this chapter.

(d) Public sewer use required. The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is located or may in the future be located a public sanitary sewer of the City, are hereby required, at the expense of the owner, to install suitable toilet facilities directly connected with the proper public sewer, in accordance with the provisions of this chapter, within 90 days after the date of official notice to do so, provided such public sewer is within 200 feet of the property line.

(e) Private waste water disposal systems. Where a public sanitary sewer is not available under the provisions of this section, the building sewer shall be connected to a private waste water disposal system complying with the provisions of this section. Before the commencement of the construction of a private waste water disposal system, the owner shall first obtain a written permit from the City. The application for such permit shall be made on a form furnished by the City which the applicant shall supplement by any plans, specifications, and other information as deemed necessary by the City. A permit and inspection fee of Twenty-Five and No/100ths ($25.00) Dollars shall be paid to the City at the time the application is filed. A permit for a private waste water disposal system shall not become effective until the installation is complete and approved by the City. The City shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the City when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within one working day after the receipt of notice by the City. The type, capacities, location, and layout of a private waste water disposal system shall comply with all the requirements and recommendations of the Department of Public Health of the State. No permit shall be issued for any private waste water disposal system employing subsurface soil absorption facilities where such facilities would endanger or affect the public water supply. No septic tank or cesspool shall be permitted to discharge to any natural outlet. At such time as a public sewer becomes available to a property served by a private waste water disposal system, a direct connection shall be made to the public sewer within 90 days in compliance with this chapter, and any septic tank, cesspool, and similar private waste water disposal facility shall be cleaned of sludge and be filled with suitable material. The owner shall operate and maintain the private waste water disposal facilities in a sanitary manner at all times at no expense to the City. No statement contained in this section shall be construed to interfere with any additional requirement which may be imposed by a Health Officer.

(§ 2, Ord. 615, eff. August 21, 1978, as amended by § 5, Ord. 757, eff. October 31, 1986)

§ 6-5.03. Building sewers and connections.

(a) Permits for sewer connections required. No person, except City employees or contractors directly employed by the City who are authorized to do so by the Director, shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or

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appurtenance thereof without first obtaining a written permit from the Director. A building sewer permit shall be obtained before installing a building sewer or connecting a building sewer to the public sewer.

(b) Classes of building sewer permits. There shall be two classes of building sewer permits. One class shall be for residential and commercial service, and the other class shall be for service to establishments producing industrial wastes.

(c) Application forms for sewer permits. The owner or his agent shall make an application for a residential or commercial building sewer permit, or for an industrial building sewer permit, on a form furnished by the City. Such form may be combined with forms for other permits required by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Director. The approval of the application shall be contingent upon the payment of connection fees to the City.

(d) Owners responsible for costs. All costs and expenses incident to the installation, connection, and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage which may directly or indirectly be occasioned by the installation of the building sewer.

(e) Building sewers required for each lot. A separate and independent building sewer shall be provided for every premises, except that the joint use of building sewers may be permitted at the discretion of the Director for developments, such as condominiums, where provisions have been made for joint maintenance by all owners served.

(f) Existing building sewers. Old building sewers may be used in connection with new buildings only when such sewers are found on examination and test by the Director to meet all the requirements of this chapter.

(g) Applicable construction Codes for building sewers. The size, slope, alignment, and materials of construction of a building sewer and the methods to be used in excavating, placing the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the Uniform Plumbing Code and the Improvement Standards and specifications of the City currently in effect at the time of the installation. Permits for building sewers which do not conform in design to the Plumbing Code may be granted if the plans have been approved by the City Engineer.

(h) Surface runoff prohibited in sewers. No person shall make connections of roof down spouts, exterior foundation drains, areaway drains, or other sources of surface runoff or ground waters to a building sewer or building drain which in turn is connected directly or indirectly to the public sanitary sewer or industrial waste sewer.

(i) Applicable construction Codes for sewer connections. The connection of the building sewer into the public sewer shall conform to the requirements of the Building and Plumbing Codes currently in effect in the City and to the Improvement Standards and Specifications of the City currently in effect. All such connections shall be made gas-tight and watertight and shall be tested in accordance with the Improvement Standards and Specifications of the City to insure a maximum allowable infiltration rate of two hundred gallons per day per inch of diameter of sewer per mile. Any deviation from the prescribed procedures and materials shall be approved by the Director before the installation. Each building sewer shall be provided with a one way cleanout at the property line.

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(j) Inspections of building sewer construction. The applicant for the building sewer permit shall notify the Inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made during the presence and under the inspection of the Inspector or his representative.

(k) Protective devices required. All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. The permittee shall agree to assume responsibility for any public liability or property damages which may result from the work. Streets, sidewalks, parkways, or other public property disturbed in the course of the work shall be restored in accordance with the Improvement Standards and Specifications currently in effect. Permits for building sewers shall also be considered as encroachment permits as required by other provisions of this Code.

(l) Abandonment of building sewers. When sewer service is abandoned, the property owner shall be responsible for plugging the building sewer at the property line in accordance with City standards. If the property owner fails to plug the building sewer within 30 days following abandonment, the City shall cause the building sewer to be plugged, and the costs thereof shall be billed to the property owner.

(§ 2, Ord. 615, eff. August 21, 1978, as amended by § 6, 7, 8, 9, and 10, Ord. 757, eff. October 31, 1986, and § 2, 3, Ord. 842, eff. March 22, 1991)

§ 6-5.04. Discharges to public sewers.

(a) Clean water prohibited from sanitary sewers. No person shall discharge, or cause to be discharged, any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water, or uncontaminated industrial process water to any sanitary or industrial waste sewer.

(b) Storm water disposal. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the City Engineer. Industrial cooling waters or uncontaminated process waters may be discharged on the approval of the City Engineer to a storm sewer or natural outlet.

(c) Materials prohibited in sewers. No person shall discharge, or cause to be discharged, any of the following described waters or wastes to any public sewer:

(1) Any gasoline, benzene, naphtha, fuel, oil, or other flammable or explosive liquid, solid, or gas;

(2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity (either singly or interaction with other wastes) to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, create any hazard in the receiving area of the sewage treatment plant, or exceeding the limitations set forth in a Categorical Pretreatment Standard;

(3) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damages or hazards to the structures, equipment, or personnel of the sewage works;

(4) Solid or viscous substances or substances which may precipitate, solidify, or become viscous at temperatures existing within the sewer collection system in quantities or of such size capable of causing obstructions to the flow in sewers or other interference

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with the proper operation of the sewage works, such as, but not limited to, ashes, bones, cinders, glue, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and whole or ground paper dishes, cups, milk containers, and the like;

(5) Any waters containing agricultural spray residuals or wash water from commercial spraying operations;

(6) Any waters or wastes containing strong acids, iron pickling wastes, or concentrated plating solutions, whether neutralized or not;

(7) Any radioactive wastes or isotopes;

(8) Any excessive amount of petroleum or mineral based cutting oils, commonly called soluble oils, and which form persistent water emulsions;

(9) Any strongly odorous waste or waste tending to create odors;

(10) Any waste containing dissolved sulfides above a concentration of 0.1 milligrams per liter;

(11) Hospital or medical wastes which are defined as "infectious wastes" by the Hospital Council of Southern California;

(12) Disposable hypodermic needles, syringes, and associated articles following their use in hospitals, out-patient clinics, or medical and dental offices, whether ground or not;

(13) Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the Federal Standard, if more stringent than limitations imposed by this chapter for sources in such subcategory, shall immediately supersede the limitations imposed by this chapter;

(14) No person shall discharge waste water to the sewage works which waste water contains pollutants in excess of those limits set by the Council from time to time by separate resolution; and

(15) State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those set forth in this chapter.

(d) Disposal of prohibited materials. The materials set forth in subsection (c) of this section which are removed from waste water or which are prohibited from entering the sewers shall be legally disposed of. Satisfactory proof of legal disposal shall be required and shall be submitted to the City.

(e) Materials the City Engineer may prohibit in sewers. No person shall discharge, or cause to be discharged, into any sewer the following described substances, materials, waters, or wastes if it appears likely, in the opinion of the City Engineer, that such wastes can harm either the sewers, sewage treatment plant process, or equipment, have an adverse effect on the receiving area, or otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of such wastes, the City Engineer will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, the materials of construction of the sewers, the nature of the

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sewage treatment process, the capacity of the sewage treatment plant, the degree of treatability of wastes in the sewage treatment plant, and other pertinent factors:

(1) Any liquid or vapor having a temperature higher than 104 degrees Fahrenheit (40 degrees Centigrade);

(2) Any waters or wastes containing fats, wax, grease, or oils of animal origin, whether emulsified or not, in excess of 100 mg/1 or containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees Fahrenheit (zero and sixty-five (65) degrees Centigrade);

(3) Any garbage which has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of 3/4 HP (0.76 HP metric) or greater shall be subject to the review and approval of the Director:

(4) Any waters or wastes containing phenols or other paste or odor-producing substances which will cause offensive odors in the sewer collection system or at the sewage treatment plant;

(5) Any waters or wastes having a pH in excess of 9.5;

(6) Materials which exert or cause:

(i) Unusual concentrations of suspended solids (such as, but not limited to, Fullers earth, lime slurries and lime residues, and organic materials) or of dissolved solids (such as, but not limited to, starch, sugar, sodium chloride, and sodium sulfate);

(ii) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);

(iii) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works; and

(iv) Unusual volumes of flow or concentrations of wastes constituting slugs as defined in Section 6-5.01 of this chapter;

(7) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or which are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharges to the receiving area; and

(8) Any water added for the purpose of diluting wastes which would otherwise exceed applicable maximum concentration limitations set by the City, the Federal Categorical Pretreatment Standards, or any other applicable criteria, guidelines, or regulations affecting the discharge of wastes.

(f) Interceptors and separators. Interceptors and separators required in order to comply with subsections (c) and (e) of this section or as required in the judgment of the City Engineer shall comply with the applicable sections of the most recently adopted edition of the Uniform Plumbing Code.

(g) Accidental discharges. Each user shall provide protection from the accidental discharge of

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prohibited materials or other substances regulated by this chapter. Facilities to prevent the accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing the facilities and operating procedures to provide for such protection shall be submitted to the City for review and shall be approved by the City before the construction of the facility. No user who commences a contribution to the POTW after October 31, 1986, shall be permitted to introduce pollutants into the system until the accidental discharge procedures have been approved by the City. The review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge, it shall be the responsibility of the user to immediately telephone and notify the City of the incident. The notification shall include the location of the discharge, type of waste, concentration and volume, and corrective actions.

Within five days following an accidental discharge, the user shall submit to the City a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to persons or property; nor shall such notification relieve the user of any fine, civil penalty, or other liability which may be imposed by this chapter or other applicable laws.

A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(h) Charges and fees. The City may impose charges and fees which may include:

(1) Fees for the reimbursement of costs of setting up and processing discharge permit applications;

(2) Fees for the reimbursement for monitoring, inspections, and surveillance procedures;

(3) Fees for reviewing accidental discharge procedures and construction;

(4) Fees for permit applications;

(5) Fees for filing appeals;

(6) Fees for consistent removal (by the City) of pollutants otherwise subject to Federal Pretreatment Standards; and

(7) Other fees as the City may deem necessary to carry out the requirements contained in this chapter.

Such fees shall relate solely to the matters covered by this chapter and shall be separate from all other fees chargeable by the City.

(§ 2, Ord. 615, eff. August 21, 1978, as repealed and reenacted by §§ 11 and 12, Ord. 757, eff. October 31, 1986)

§ 6-5.05. Discharger classifications and calculations of sewage disposal charges.

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(a) Discharger classifications. All dischargers shall be classified for sewage disposal purposes in accordance with the principal activity conducted upon the premises, as determined by the City Engineer. The purpose of classification is to facilitate the regulation of waste water dischargers based on quality, quantity, and flow, to provide an effective means of industrial waste source control, and to establish a system of sewage disposal service charges based upon the flow and waste strength which will insure an equitable recovery of City capital and operating costs.

(b) Calculation of user charges. All dischargers shall pay a user charge for City sewage disposal services. The charges will reflect the quantity, quality, and flow of the waste water of the dischargers and will be based on City capital and operating costs to collect, treat, and dispose of waste water.

Additionally, all industrial dischargers shall pay their share of the total amount of the grant fund awarded, divided by a 30 year period. The determination of each industrial user's share of the grant funded facilities shall be determined by the utilization of unit rate formulas which are in compliance with subsection (1) of subsection (b) of Section 204 of the Federal Water Pollution Control Acts Amendments of 1972, in particular, Sections 35.928, 35.928-1, 35.928-2, and 35.935-13. (Copies of said sections of said Act are on file with the City Clerk.) Such unit charge formulas are essentially as set forth in the revenue program attached as Appendix B to the City of Los Banos Amended Projected Report for Sewage Disposal System Enlargement, dated February, 1974, corrected to agree with the Federal Water Pollution Control Acts Amendments of 1972 and the final amount of the grant as estimated during the interim period of construction and as determined to be the final grant amount at the end of the construction period.

Flat charges and unit charges shall be established by the City from time to time and set forth in a schedule of rates and charges. Unit charges will be established for each element of waste water strength which incurs City costs of collection, treatment, and disposal. Commencing on August 21, 1978, such elements will be biochemical oxygen demand and suspended solids. Unit charges for additional elements, including chemical oxygen demand, may be established from time to time as the City incurs additional costs for collection, treatment, and disposal. A unit charge for volume also will be established which reflects City costs of collection, treatment, and disposal of the total volume of waste water.

The total sewage disposal charge for each discharger shall be calculated as follows:

(1) Dischargers from residential premises with four or less dwelling units. A uniform flat monthly charge per dwelling unit for sewage disposal service will be made to dischargers of waste water in this class, regardless of the source of water, except for mobile home subdivisions.

(2) Dischargers from residential premises with five or more dwelling units and dischargers from nonresidential premises. All dischargers of waste water in this class will be assigned a business classification code depending on the principal activity conducted on the premises, except for mobile home subdivisions which will be classed as residential. All dischargers conducting the same principal activity and discharging similar flows and loadings will receive the same business classification code. The City Engineer shall determine the typical waste water strength for each business classification code, and each discharger within that classification will be assumed, for sewage disposal charge purposes, to have the same typical waste water

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strength.

A classification charge shall be established by the City for each business classification code which will be based on the unit charges for the elements of waste water strength, including volume, as applied to the typical waste water strength of the particular classification.

The sewage disposal charge to a discharger in this class will be calculated by multiplying the classification charge by the volume of water used by the discharger. Any discharger in this class who is issued a waste water discharge permit will thereafter pay a sewage disposal charge as a permit discharger.

(3) Permit dischargers. Dischargers of waste water who arc required to obtain a permit under the provisions of this chapter, excluding permits issued solely for flow estimation, shall pay a sewage disposal charge which shall be the sum of the products of the following: the unit charge for each element of waste water strength, multiplied by the estimated or measured amount per volume of water of each element, multiplied by the volume of water used; and the unit charge for volume, multiplied by the volume of water used as determined herein. The sewage disposal charge for permit dischargers, including both waste water strength and water use, shall be calculated by an apportionment by the City Engineer of strength and use to each building sewer at the discharger's premises.

Dischargers requiring permits solely for flow estimation shall pay a sewage disposal charge calculated by multiplying the classification charge by the volume of water determined by the estimation.

In addition to a sewage disposal charge, the permit discharger shall pay all applicable City permit charges. Commencing on August 21, 1978, all dischargers required to obtain a permit shall pay a sewage disposal charge in accordance with their business classification code until a permit is issued. Dischargers receiving flow estimations on August 21, 1978, shall apply and be issued a permit before the expiration of the existing flow estimate.

(c) Determinations of water used. The applicable volume of water upon which sewage disposal charges shall be based will be determined as follows:

(1) Water discharged to sewers. For premises where no portion of the water received from any source is consumed in the principal activity of the discharger or removed from the premises by means other than sewers, the sewage disposal charge shall be applied against the total amount of water used from all sources. The amount of City water received will be determined from City records. The amount of water used from other sources will be determined by means of a meter installed at the expense of the discharger and approved by the City or by an estimate prepared by the City, after obtaining a permit in accordance with this chapter. The discharger shall report to the City the sources of all water used at his premises other than that supplied by the City and shall notify the City of any changes in such sources.

(2) Water not discharged to City sewers. For premises where a portion of the water received from any source does not flow into sewers because of the principal activity of the discharger or removal by other means, the charge for sewage disposal service will be applied against the volume of water discharging from such premises into

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sewers. Written notification and proof of the diversion of water shall be provided by the discharger if he is to avoid the application of the sewage disposal charge against the total amount of water used from all sources. He may be required to install a meter, of a type and at a location approved by the City, at his own expense, to determine the quantity of water flowing into the sewers. However, where it is impractical to install meters and where the quantity of water diverted from the sewers amounts to more than 20% of the total water used, the charge for sewage disposal services may be based upon an estimate prepared by the City, after obtaining a permit in accordance with this chapter.

(§ 2, Ord. 615, eff. August 21, 1978)

§ 6-5.06. Waste water discharge permits.

(a) Permits required. All dischargers, other than residential, whose waste water requires special regulation or contains industrial wastes requiring source control, and all dischargers requiring an estimation of water use, shall secure a waste water discharge permit.

(1) Mandatory permits. All dischargers in the following categories shall obtain a waste water discharge permit:

(i) Dischargers who are designated as critical industries and whose water use for any two consecutive months during the preceding 12 month period has equaled or exceeded a cumulative two month volume of 1,500 cubic feet. A critical industry is a discharger whose waste water requires special regulation or contains industrial wastes requiring source control or whose average waste water strength cannot be established on a business classification basis. Critical industries, for the purposes of this chapter, are all dischargers whose business classification code is within the type of industries classified in Division D, Standard Industrial Classification Manual, Bureau of the Budget of the United States of America;

(ii) Dischargers whose average waste water strength cannot be established on a business classification basis because of seasonal or other variations in operations;

(iii) Dischargers whose waste water strength exceeds the normal range of waste water strength for the business classification code to which the discharger is assigned;

(iv) Dischargers using an unmetered source of water:

(v) Dischargers who have in their water toxic pollutants as defined pursuant to Section 307 of the Act or Chapter 3 of Title 23 of the California Administrative Code or are found by the City, the California Water Resources Control Board, or the Environmental Protection Agency (EPA) to have a significant impact on the sewage treatment system;

(vi) Other dischargers determined by the City to require special regulation or source control; and

(vii) Liquid waste haulers hauling liquids or materials resulting from liquid wastes or industrial wastes which may be liquid borne and which are prohibited from

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discharge to the sewage treatment system shall obtain a waste discharge permit subject to the following additional permit conditions:

(aa) A liquid waste hauler shall prepare a manifest before transporting the waste off the site.

(ab) The manifest shall contain all the following information:

(1.1) The transporter's waste water discharge permit number, name, and address;

(1.2) The generator's name, mailing address, telephone number, and waste water discharge permit number;

(1.3) The name and address of the disposal site; and

(1.4) A description and the total quantity of waste hauled from the site.

(ac) The generator shall sign and date the manifest before transporting the waste.

(ad) The manifest shall consist of at least three copies, one copy for the generator, one copy for the transporter, and one copy to be mailed to the City by the transporter within 30 days after the acceptance of the waste, indicating by signature and date the acceptance of the waste.

(2) Optional permits. (Repealed by Section 13, Ordinance No. 757, effective October 31, 1986)

(b) Applications. Dischargers seeking a waste water discharge permit shall complete and file with the City a completed application form, accompanied by the applicable City fees, within 60 days after notification by the City, unless such time is extended for good cause. The application may require the following information: estimated waste water strength, estimated waste water flow, and average and peak waste water discharge flow for each building sewer; a plot plan showing the locations of building sewers, sampling points, and pretreatment facilities; descriptions of activities, facilities, and plan processes on the premises, including raw materials, processes, and types of materials which are or could be discharged; the total product produced, by type; the number and type of employees; and any other information the City shall deem necessary to evaluate the permit application.

The City will evaluate the data furnished by the discharger and may require additional information. After the evaluation and approval of the data furnished, the City will determine the allowable average and maximum limits on the elements of the waste water strength and flow to each building sewer at the discharger's premises. The City may issue a waste water discharge permit subject to the terms and conditions provided in subsection (c) of this section.

(c) Terms and conditions.

(1) Terms. All waste water discharge permits shall be expressly subject to all the provisions of this chapter and all rates and charges established by the City. All permits shall be valid for one year and shall be renewed annually; provided, however, the City may establish renewal dates from 12 to 24 months after the issuance of the initial

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permits issued after August 21, 1978. All permits, except those issued solely for the estimation of water used, shall contain the following terms:

(i) The typical waste water strength and the water use for the flow in each building sewer; and

(ii) The average and maximum limits on the elements of the discharger's waste water strength.

(2) Conditions. Waste water discharge permits may contain any or all of the following conditions:

(i) Limits on the rate and time of discharge or requirements for flow regulation and equalization or other pretreatment;

(ii) Requirements for inspection and sampling facilities, including City access to such facilities as set forth in this chapter;

(iii) Monitoring programs which may include sampling locations; frequency and method of sampling; number, types, and standard of tests; and establishing a reporting schedule. The discharger assigned a monitoring program in conformance with this chapter shall pay all applicable City charges;

(iv) The submission of technical reports or discharge reports;

(v) The maintenance of plant records relating to waste water discharges, as specified by the City, and affording City access thereto; and

(vi) Other conditions deemed appropriate by the City to insure compliance with this chapter and the terms and conditions of the permit.

(d) Change of terms and conditions. The City may change the terms and conditions of a waste water discharge permit, including changing the average limits on the elements of waste water strength, from time to time as circumstances may require. The City shall allow a discharger reasonable time to comply with any City required changes in the permit, except that a change in the average limits of waste water strength shall immediately affect the calculation of the sewage disposal charge.

(e) Transfer of permits prohibited. A waste water discharge permit shall not be assigned or transferred.

(f) Termination. The City Engineer may terminate any waste water discharge permit for the violation of the terms and conditions of the permit or the provisions of this chapter. A permit shall be terminated by the City if the discharger exceeds the maximum allowable discharge limits. A discharger whose permit has been terminated shall apply for a new permit within 30 days following a notice of termination.

Any discharger whose permit has been terminated shall pay sewage disposal charges based upon his former permit or on his assigned business classification code, whichever is higher, until a new permit has been applied for, approved, and issued.

(§ 2, Ord. 615, eff. August 21, 1978, as amended by § 13, Ord. 757, eff. October 31, 1986)

§ 6-5.07. Administration.

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(a) Authority. The City is charged with the responsibility for the City's waste water control program and the administration and enforcement of the provisions of this chapter.

(b) Waste water source control requirements. In order to effectively administer and enforce the provisions of this chapter, the City may require any discharger to comply with any or all of the following requirements:

(1) Discharge reports. The City may require discharge reports, including, but not limited to, questionnaires, technical reports, sampling reports, test analyses, and periodic reports of waste water discharges.

When a report filed by a person pursuant to this section is not adequate in the judgment of the City, the City may require such person to supply such additional information as the City deems necessary.

The discharge report may include, but not be limited to, the nature of the process, volume, and rates of waste water flow, elements, constituents, and characteristics of the waste water, together with any information required in an application for a waste water discharge permit.

(2) Monitoring programs. The City may require of dischargers such technical or monitoring programs, including the submission of periodic reports, as is deemed necessary; provided, however, the burden, including the costs, of such programs and reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained therefrom. The discharger shall pay the applicable City charge for the monitoring program, in addition to the sewage disposal and other charges established by the City.

The monitoring program may require the discharger to conduct a sampling and analysis program of a frequency and type specified by the City to demonstrate compliance with the prescribed waste water discharge limits. The discharger may either:

(i) Conduct his own sampling and analysis program provided he demonstrates to the City that he has the necessary qualifications and facilities to perform the work; or

(ii) Engage a private consulting firm or laboratory certified by the Department of Public Health of the State.

(3) Inspection facilities. The City may require any nonresidential discharger to construct, at his own expense, a sampling facility or inspection manhole, together with the necessary related measuring and sampling equipment, in accordance with the Standard Specifications of the City. The sampling facility or inspection manhole shall be constructed on the building sewer of the discharger or other location approved by the City; provided, however, the City may permit the installation of such facilities on the premises of the discharger at a location which will permit City access to the facility at all times.

Such construction shall be completed within 60 days following written notification from the City, unless such time is extended by the City for good cause. The City may require the discharger to install such sampling facilities or inspection manholes on

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each building sewer.

(4) Pretreatment facilities. Pretreatment systems or devices may be required by the City to treat waste water prior to its discharge to the public sewer when it is necessary to restrict or prevent the discharge to the public sewer of waste water having strength in violation of the prohibitions or exceeding the limits established by this chapter or to distribute waste water discharges over a period of time.

Pretreatment systems or devices shall be required to treat waste water prior to its discharge to the public sewers in order to comply with Federal pretreatment standards, pursuant to Section 307(B) of the Federal Water Pollution Control Act Amendments of 1972. Pretreatment standards for incompatible pollutants discharged into the public sewer shall be consistent with the "Effluent Limitation Guidelines" published pursuant to Sections 301(B) and 304(B) of said Act.

All pretreatment systems or devices shall be approved by the City, but such approval shall not relieve a discharger of the responsibility for taking all steps necessary to comply with the waste water limitations established by the City. All required pretreatment equipment shall he installed and operated at the discharger's expense.

(c) Trade secrets. When requested by the person furnishing a report or permit application or questionnaire, the portions of the report, or other document, which might disclose trade secrets or secret processes shall not be made available to governmental agencies for use in making studies; provided, however, such portions of a report, or other document, shall be available for use by the City or the State or any State agency in judicial review or enforcement proceedings involving the person furnishing the report.

(d) City inspections. The City may inspect the facilities of any discharger to ascertain whether the provisions of this chapter are being met and the waste water discharge limits are being complied with. Such inspections shall be made with the consent of the owner or possessor of such facilities or, if such consent is refused, with a warrant duly issued pursuant to the procedure in accordance with general law; provided, however, in the event of any emergency affecting the public health or safety, such inspections may be made without consent or the issuance of a warrant.

To verify the waste water flows and strengths reported by dischargers or to determine compliance with this chapter, inspections, measurements, and samplings may be conducted from time to time by the City. The City shall have the right to install, maintain, and operate the necessary sampling and measuring equipment on the premises of the discharger.

(e) New connections. Dischargers will be assigned a business classification code and informed of the applicable prohibitions, limits, or conditions and the applicable rates and charges governing sewage disposal service at the time of an application for water service from the City.

All nonresidential dischargers seeking a new sewer connection to a public sewer and any new discharger requiring information prior to applying for water service shall contact the City. The City will inform the discharger of the regulations governing sewage disposal service and the applicability of requirements for inspections, samplings, and pretreatment facilities.

(§ 2, Ord. 615, eff. August 21, 1978)

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§ 6-5.08. Enforcement and penalties.

(a) Enforcement. The City may adopt procedures and rules for the implementation and administration of this chapter. The City shall enforce the provisions of this chapter, including requirements established or permits issued hereunder, as provided in this section.

(1) Requiring dischargers to submit schedules of remedial or preventive measures. When the City finds that a discharge of waste water is taking place or threatening to take place that violates or will violate the prohibitions or limits prescribed by this chapter or the waste water source control requirements or the provisions of a waste water discharge permit, the City may require the discharger to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions the discharger shall take in order to correct or prevent a violation of such requirements.

(2) Issuance of cease and desist orders. When the City finds that a discharge of waste water is taking place or threatening to take place in violation of the prohibitions or limits of this chapter or the waste water source control requirements or the provisions of a waste water discharge permit, the City may issue an order to cease and desist and direct that those persons not complying with such prohibitions, limits, requirements, or provisions (1) comply forthwith; (2) comply in accordance with a time schedule set by the City; or (3) in the event of a threatened violation, take appropriate remedial or preventative action.

(b) Appeal procedures. Any permit applicant, permit holder, or other discharger affected by any decision, action, or determination, including cease and desist orders, made by the City in interpreting or implementing the provisions of this chapter, or any permit issued hereunder, may file with the Council a written request for reconsideration within 10 days after such decision, action, or determination, setting forth in detail the facts supporting the request. The City may elect to hold a hearing on the request. The request for reconsideration shall be acted upon by the Council within 30 days after the date of filing. The decision, action, or determination shall remain in effect during such period of review by the Council.

The Council may elect to hear the appeal or refer the matter to a neutral hearing officer for an advisory opinion. The Council shall make a final ruling on the appeal within 30 days after the close of the hearing or receipt of the advisory opinion.

The City may adopt rules and regulations to implement the provisions of this section.

(c) Criminal penalties. Any person who intentionally discharges waste water in any manner in violation of any order issued by the City, which discharge results in contamination, pollution, or a nuisance, as defined in this chapter, shall be guilty of a misdemeanor.

(d) Civil enforcement remedies and penalties. The City may pursue any of the following alternative civil remedies against any discharger who violates the provisions of this chapter:

(1) Damages to facilities: Charges. When the discharge of waste water causes an obstruction, damages, or other impairment to City disposal facilities, the City may assess a charge against the discharger for the work required to clean or repair the facility and add such charge to the discharger's sewage disposal charge.

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(2) Fines. A fine of Six Thousand and No/100ths ($6,000.00) Dollars per day may be assessed against any person who intentionally or negligently violates any order issued by the City for violations of the provisions of this chapter or regulating or prohibiting the discharge of waste water which causes, or threatens to cause, a condition of contamination, pollution, or nuisance, as defined in this chapter.

(§ 2, Ord. 615, eff. August 21, 1978)

§ 6-5.09. Charges: Amendments.

(a) Sewer rental charges shall be based in part upon the use of the City sewer system.

(b) The Council from time to time, in its discretion, and by ordinance and/or resolution, may fix, alter, change, amend, or revise the charges and rates for services and facilities in connection with the sanitation, sewer, and drainage system of the City.

(§ 2, Ord. 615, eff. August 21, 1978)

§ 6-5.10. Prohibited activities involving waste water facilities.

No person shall maliciously, wilfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the waste water facilities. Any person violating this provision shall be subject to immediate arrest under a charge of disorderly conduct.

(§ 2, Ord. 615, eff. August 21, 1978)

§ 6-5.11. Severability.

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of this chapter, or the application of such provision to other persons or circumstances, shall not be affected thereby.

(§ 2, Ord. 615, eff. August 21, 1978)

§ 6-5.12. Wastewater collection and treatment fees.

The City Council finds it necessary and proper to recoup, as near as possible, actual expenses incurred or that will be incurred in providing proper and adequate wastewater collection and treatment facilities. The City does hereby decree that appropriate fees shall be charged to cover the cost of operations, maintenance, repair, and construction of such wastewater collection and treatment facilities. The specific fees to be charged and the guidelines governing the manner of collection shall be in accordance with the provisions set forth by Council Resolution.

(§ 1, Ord. 806, eff. September 1, 1989)

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Chapter 6
Trailer Coaches

§ 6-6.01. Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Auto and trailer park" shall mean any area or tract of land where space is rented or held for rent to two or more owners or users of trailer coaches or where free parking is permitted owners or users of trailer coaches for the purpose of securing their trade.

"Trailer coach" shall mean any camp car, trailer, or other vehicle, with or without motive power, designed and constructed to travel on the public thoroughfares at the maximum allowable speed limit and in accordance with the provisions of the Vehicle Code of the State and designed or used for human habitation, or any portable structure used or designed for human habitation or the preparation of food.
(§§ 1 and 2, Ord. 252)

§ 6-6.02. Unlawful parking.

It is unlawful to park or place any trailer coach overnight on any public street, alley, or any parcel of real property within the City, except at an auto and trailer park for which a permit has been obtained from the Division of Housing of the State, as required by Section 18500 of the Health and Safety Code of the State, or unless the conditions set forth in Section 6-6.03 of this chapter are complied with.
(§ 3, Ord. 252)

§ 6-6.03. Lawful parking.

(a) On-street parking. Trailer coaches may be parked on City streets only under the following conditions:

(1) Trailer coaches shall not be parked so as to constitute a hazard to traffic or pedestrians.

(2) Occupied trailer coaches shall not be left: parked in the same position for more than 24 consecutive hours.

(b) Off-street parking. The owner or occupant of any parcel of property within the City, or his bona fide guest, may park a trailer coach on such property under the following conditions:

(1) The trailer coach shall not be used for sleeping purposes more than seven nights in any 90 day period.

(2) Cooking facilities, if any, located in the trailer coach shall not be used under any circumstances.

(c) Special conditions. Trailer coaches and other types of recreational vehicles may be parked on property owned or leased by a governmental agency when such parking is authorized and sanctioned by the governmental agency having the control of such property. Trailer coaches parked pursuant to this subsection shall not be subject to the provisions of subsections (a) and (b) of this section.

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(§ 4, Ord. 252, as amended by § 2, Ord. 625, eff. November 17, 1978)

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Chapter 7
Water System

§ 6-7.01. Director of Public Works: Office established: Appointment: Compensation: Powers and duties.

The office of Director of Public Works is hereby established and shall be filled by appointment by the City Manager. The Director of Public Works shall be the administrative officer of the Water Department and shall discharge such duties as directed by the Council and receive such compensation as shall be provided by resolution or ordinance of the Council.

The Director of Public Works shall not have authority over any duty in connection with the billing and collection of charges for water service other than to provide necessary meter readings and other required data.
(§ 1, Ord. 186, as amended by § 2, Ord. 759, eff. January 16, 1987)

§ 6-7.02. Water services: Applications.

Before water service will be supplied by the Water Department to any person, firm, or corporation, which service requires a connection from the water mains of the Water Department to water pipes on any real property, the owner or occupant of the property shall make a written application for such service and a service connection upon a form provided by the Water Department. Such application shall set forth the following information:

(a) The name and address of the applicant;

(b) A description of the real property by lot number, block and tract, and the official house number assigned to the premises for which water is desired; and

(c) A statement of the applicant's relation to the property, whether as owner, occupant, lessee, or otherwise.

(§ 7, Ord. 186)

§ 6-7.03. Water services: Applications: Deposits.

(§ 8, Ord. 186, as amended by § 1, Ord. 353; repealed by § 1, Ord. 709, eff. May 1, 1983)

§ 6-7.04. Water services: Applications: Connection charges.

(§ 9, Ord. 186, as amended by § 1, Ord. 292, § 1, Ord. 617, eff. August 21, 1978, and § 1, Ord. 663, eff. June 20, 1980; repealed by § 1, Ord. 709, eff. May 1, 1983)

§ 6-7.05. Water services: Extensions.

(a) Responsibility of the Water Department. (Repealed by § 1, Ord. 641, eff. June 15, 1979)

(b) Responsibility of the consumer. The consumer, at his own expense, shall install that portion of the service inside the curb or property line. Such installation shall include a shutoff valve inside the property line at a location accessible in case of emergency. The materials furnished by the consumer in the construction of such service extension at all times shall be and remain the sole property of the consumer and, when necessary, shall be maintained and repaired by the consumer at his own expense.

(c) Option of the Water Department. The Water Department may install, but shall not be

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required to install, more than one service to any one consumer.
(§ 17, Ord. 186, as amended by § 1, Ord. 641, eff. June 15, 1979)

§ 6-7.06. Water services: Main extensions.

Applicants for water main extensions to serve premises, tracts, or subdivisions where a main extension is necessary shall:

(a) Enter into a written contract for such extensions;

(b) Deposit with the Water Department the estimated reasonable cost of the necessary facilities, as estimated by the City Engineer, before construction is commenced; and

(c) Transfer and convey to the City all water, water mains, and easements existing in connection therewith. The size, type, and quality of the materials and the location of the lines shall be specified by the Council.

In the event any water main extension shall be run appurtenant to any lot or parcel of land, and the owner of such land refuses to enter into a contract as provided in this section, the Council, at its option, may accept the contract of the remaining applicants for the water main extension and authorize the Water Department to pay the proportionate part of the costs of such extension attributable to the property owned by the nonparticipating owner out of Water Department funds. The Director of Finance shall keep a suitable record of such contracts and payments and the lots or parcels of land for which payments were made. Such record shall remain in the office of the Director of Finance and be open to public inspection during regular business hours. No service connection shall be made between the water system of the Water Department and that lot or parcel of land owned by the nonparticipating owner until the proportionate share of the main extension to such property, as recorded by the Director of Finance, shall have been paid in full.

(§ 18, Ord. 186)

§ 6-7.07. Water services: Connections to outside sources.

It is unlawful for any person to permit a connection to be made, or to permit a connection to exist, for any purpose whatever between the water system of the Water Department and any other source of supply, unless such connection is fitted with a suitable device, approved by the Director of Public Works, which will prevent water from the other source of supply entering the system of the Water Department.
(§ 23, Ord. 186, as amended by § 2, Ord. 759, eff. January 16, 1987)

§ 6-7.08. Water services: Temporary connections.

Contractors or any person desiring to use water in construction work where nonmetered connections must be made shall in each case obtain a written permit from the Director of Public Works. The Director of Public Works will then designate the connection and the cost of the meter installation. All water shall then be charged at the prevailing rate. The minimum charge shall be Ten and No/100ths ($10.00) Dollars.

All water used in the development of new subdivisions shall be estimated by the City Engineer and Director of Public Works and charged at the prevailing rate.
(§ 25, Ord. 186, as amended by § 2, Ord. 617, eff. August 21, 1978, and § 2, Ord. 759, eff.

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January 16, 1987)

§ 6-7.09. Water services: Shutoffs for repairs and extensions.

The City and the Water Department reserve the right to shut off the water in the mains at any time for the purposes of making repairs to mains or services or for extensions or other reasons. It shall be the duty of the Director of Public Works to make a reasonable effort to notify the consumers in advance that water service is to be suspended.
(§ 21, Ord. 186, as amended by § 2, Ord. 759, eff. January 16, 1987)

§ 6-7.10. Water services: Connections and disconnections by unauthorized persons.

No person, other than duly authorized employees of the Water Department, shall connect the consumer's service to, or disconnect the consumer's service from, the water mains of the Water Department.
(§ 28, Ord. 186)

§ 6-7.11. Water services: Discontinuance.

(a) Nonpayment of bills for prior services. Water services to consumers shall be discontinued for the nonpayment of bills for services rendered at previous locations served by the Water Department if such bills are not paid within 30 days after presentation at the new location.

(b) Defective appliances or apparatus. The Water Department shall have the right to refuse or discontinue to deliver water to a consumer if any part of the consumer's service appliances or apparatus shall at any time be unsafe, or if the utilization of water by means thereof shall be prohibited by any law or regulation, until such law or regulation shall be declared invalid by a court of competent jurisdiction, and may refuse service until the consumer shall put such part of such appliance or apparatus in good and safe condition and comply with all the laws and regulations applicable thereto.

(c) Fraud or abuse. The Water Department shall have the right to refuse to serve water to any premises and at any time to discontinue service if found necessary to do so in order to protect itself against fraud or abuse.

(d) Failure to observe rules and regulations. If a consumer shall fail to comply with any of the rules of the Water Department from time to time enforced, the Water Department shall advise the consumer of such failure. If the consumer does not remedy the failure within a reasonable time, the Water Department shall have the right, after giving notice, to discontinue service to the consumer.

(§ 30, Ord. 186)

§ 6-7.12. Water services: Disputes.

If a dispute shall arise between any water customer and the Water Department concerning water service, such dispute may be settled by the Director of Public Works, subject to the approval of the Council. The final decision and settlement of any such dispute shall be recorded in the minutes of the Council. The provisions and procedure provided for in this section shall be permissive only and shall in no way affect the other provisions of this chapter.
(§ 6, Ord. 186, as amended by § 2, Ord. 759, eff. January 16, 1987)

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§ 6-7.13. Meters: Size.

In all cases the size of the meter to be installed shall be determined by the Director of Public Works.
(§ 10, Ord. 186, as amended by § 2, Ord. 759, eff. January 16, 1987)

§ 6-7.14. Meters: Multiple consumers: Rates.
(§ 11, Ord. 186, as amended by § 1, Ord. 519, eff. January 2, 1975; repealed by § 1, Ord. 709, eff. May 1, 1983)

§ 6-7.15. Meters: Tests.
(§ 12, Ord. 186; repealed by § 1, Ord. 709, eff. May 1, 1983)

§ 6-7.16. Meters: Failure to register.

When a meter fails to register during any period, a charge shall be made based upon the water consumed during the same month of the previous year. In the event a meter had not been installed for the same month of the previous year, the charge shall be made based upon the water consumed during the last month, or portion thereof, the meter was registering.
(§ 13, Ord. 186)

§ 6-7.17. Meters: Repairs.

After water service has been provided and a meter installed on the property, any damage to the meter resulting from any carelessness on the part of the consumer shall be paid for by the consumer to the Water Department upon the presentation of a bill therefor. It is unlawful to interfere with, cut off, or remove the water meter from any service where it has been installed without first receiving written permission from the Director of Public Works. Such permission shall be granted only for the purposes of testing, replacements, repairs to meters or service pipes, readjustments of service, or similar emergencies.

All meters shall be the property of the City, and the Water Department shall make such repairs as in its judgment are needed.

The Water Department, at its own expense, shall make all the repairs necessary to water mains, meters, and pipelines connecting with water mains. The Water Department shall make no repair or do any work whatsoever on water pipelines beyond the meter connection. Any repair made necessary by any act, negligence, or carelessness of the consumer or other persons shall be charged to, and collected from, the consumer or the person guilty thereof.

Owners of real property shall be responsible for any and all damages to water meters and all related parts in the event the meters are damaged by outside individuals or circumstances.
(§ 19, Ord. 186, as amended by § 3, Ord. 617, eff. August 21, 1978, and § 2, Ord. 759, eff. January 16, 1987)

§ 6-7.18. Water rates.
(§ 5, Ord. 186, as amended by § 1, Ord. 475, eff. August 4, 1973, § 1, Ord. 498, eff. May 31, 1974, § 1, Ord. 600, eff. April 5, 1978, § 4, Ord. 617, eff. August 21, 1978, and § 1, Ord. 618, eff. June 21, 1978; repealed by § 1, Ord. 709, eff. May 1, 1983)

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§ 6-7.19. Water rates: Nonuse: Vacant property.

In the event no water is used through a water meter or property becomes vacant, the regular minimum rate shall be charged and collected from the owner thereof or the applicant for service. Service shall be discontinued by the Director of Public Works within 48 hours after receiving notice to discontinue water service.
(§ 14, Ord. 186, as amended by § 2, Ord. 759, eff. January 16, 1987)

§ 6-7.20. Water bills: Payment: Delinquencies: Penalties.

All water bills shall be due and payable bimonthly at the office of the Water Department on the first day of each and every other calendar month. Any consumer who fails to pay such water bill within 30 days after such bill becomes due shall, in addition thereto, pay a penalty of 10% of the amount of the bill. Water bills shall have printed thereon a notice that, if the amount is not paid, a penalty of 10% will be added after the due date and service may be discontinued as set forth in this chapter. If the consumer has a deposit placed with the Water Department, the amount of the bill and penalty shall be deducted therefrom, and the consumer shall be required to restore the deposit. If the deposit is not restored, service shall be discontinued when the original deposit is absorbed.
(§ 15, Ord. 186, as amended by § 1, Ord. 476, eff. August 4, 1973, and § 1, Ord. 729, eff. August 4, 1984)

§ 6-7.21. Water bills: Payment: Delinquencies: Remedies.

If a consumer who has initially established his credit as set forth in this chapter, or who has received service prior to December 21, 1949, later fails to pay his water bill to the Water Department, a cash deposit shall be demanded, irrespective of whether or not the consumer owns the premises supplied by the service, in addition to the payment of all delinquent bills and penalties. If such consumer fails to pay his delinquent bills and make a cash deposit, his water service shall be discontinued after the expiration of 15 days' notice to discontinue service. If water service is discontinued, the service may again be established only in the event the consumer or applicant for service pays all delinquent bills, makes the required cash deposit, and pays, in addition thereto, the sum of One and No/100ths ($1.00) Dollar. Thereupon, and not otherwise, shall service be resumed.
(§ 16, Ord. 186)

§ 6-7.22. Water bills: Final following shutoffs.

Upon the written application of the owner or occupant of a building or premises to have the water shut off on the supply side of a meter, the Water Department shall have the water shut off and at the same time record the reading of the meter and render a bill in a sum which shall be the greater of the amount of water used or for the minimum due for the fractional part of the month.
(§ 27, Ord. 186)

§ 6-7.23. Reconnection charges.
(§ 29, Ord. 186; repealed by § 1, Ord. 709, eff. May 1, 1983)

§ 6-7.24. Wholesale purchases.

Any person, firm, or corporation desiring to purchase water at wholesale from the Water Department shall make a written application to the Council for a contract therefor, specifying

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the time, place, and nature of the intended use of the water. The Council shall consider the application and, if in its judgment the application may be granted without detriment to the City, a contract may be entered into for the sale and delivery of water at wholesale at times, or over a period of time, and at places and charges which, in the opinion of the Council, will be to the best interests of the City.
(§ 5, Ord. 186)

§ 6-7.25. Fire hydrants.

Fire hydrants shall be provided for the purpose of extinguishing fires and shall be opened and used only by the Water Department, Fire Department, and Street Department of the City and by such persons as may be officially authorized by the Director of the Public Works. To insure the safety of the fire hydrants, any person authorized to open fire hydrants shall be required to use only an approved spanner wrench, and failure to do so shall be sufficient cause to prohibit further use of the fire hydrants. Every person authorized to open fire hydrants shall replace the caps on the outlets when not in use, and failure to do so is hereby declared to be sufficient cause to prohibit the further use of the fire hydrants by such persons. It is unlawful for any person to conduct or carry water in any way from any fire hydrant without written permission to do so from the Director of Public Works.
(§ 20, Ord. 186, as amended by § 2. Ord. 759, eff. January 16, 1987)

§ 6-7.26. Fluoridation.

The Council is hereby authorized and directed to apply to the Board of Health of the State for an amendment to the water permit of the City to provide for the addition of fluoride to the water supplied by the Water Department to its customers in amounts necessary to maintain the fluoride content of the water at the recognized standards recommended by the Board of Health of the State for the best interests of the public health and dental health of the residents of the City.

The Council is further authorized and directed, after such amended permit is obtained, to take all necessary steps to add fluoride to the water supplied by the Water Department.
(§§ 1 and 2, Initiative Ord. 241, adopted April 16, 1957)

§ 6-7.27. Direct connections to boilers, pumps, and similar equipment.

It is unlawful for any person to draw water from any pipe or water main of the Water Department directly into any stationary steam boiler, hydraulic elevator, power pump, or similar apparatus. The provisions of this section shall not apply to hot water heaters used exclusively for domestic or mercantile purposes.
(§ 22, Ord. 186)

§ 6-7.28. Lawn irrigation.

The Council, by resolution, may require that private lawns be watered or irrigated between such hours as the Council shall fix and at no other time. It is unlawful for any person to irrigate or water any private lawn at any other time than as set forth in such resolution.
(§ 32, Ord. 186)

§ 6-7.29. Right of entry.

Authorized employees of the Water Department shall have reasonable access to any premises

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supplied with water for the purpose of making inspections of the water system and meter upon such premises.
(§ 24, Ord. 186)

§ 6-7.30. Liability of consumers.

The consumer shall, at his own risk and expense, furnish, install, and keep in repair free from leakage and in safe condition all service pipes, fixtures, stopcocks, and other apparatus and appliances which may be required for receiving, controlling, applying, and utilizing the water services of the City. The Water Department shall not assume the duty of inspecting the service appliances or apparatus or any part thereof, of the consumer and shall assume no liability therefor. The Water Department shall not be responsible for any loss or damage caused by the improper installation of such apparatus and appliances or for any negligence, want of proper care, or wrongful act of the consumer or his agents, employees, or licensees in installing, maintaining, using, operating, or interfering with any such apparatus or appliances. Consumers shall be liable for all damages which shall result from their failure to comply with the provisions of this section.
(§ 31, Ord. 186)

§ 6-7.31. Liability of City.

Neither the City nor the Water Department shall be responsible for damages to buildings or their contents caused by any break beyond the street service cock, or for damages caused by the breaking of any pipe or service cock, or for damages caused by any interruption of the supply of water by reason of the breaking of machinery or stoppage for necessary repairs.
(§ 33, Ord. 186)

§ 6-7.32. Supplementary rules and regulations authorized.

The Council may, by resolution, provide such rules and regulations as it may deem necessary or advisable to accomplish the intent and purposes of this chapter.
(§ 34, Ord. 186)

§ 6-7.33. Violations: Penalties.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.
(§ 35, Ord. 186)

§ 6-7.34. Schedule of rates: Amendments.

The Council from time to time, in its discretion, and by ordinance and/or resolution, may fix, alter, change, amend, or revise the schedule of rates and compensation for water furnished by the Water Department of the City.
(§ 2, Ord. 618, eff. June 21, 1978)

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Chapter 8
Water Well Standards And Cathodic Protection Well Standards

§ 6-8.01. Adoption of standards for protection of water wells.

That certain document, a copy of which is on file in the office of the City Clerk, entitled "Bulletin No. 74, Water Well Standards: State of California", published by the State of California, The Resources Agency, Department of Water Resources, and more particularly Chapter II thereof, "Standards", is hereby adopted as the standards of the City for regulating the construction, reconstruction, and destruction of water wells in the City, and all of the terms, provisions, definitions, and requirements of said Chapter II of Bulletin No. 74, Water Well Standards, State of California, are hereby referred to, incorporated in, and made a part of this Code as if fully set forth in this Code.
(§ 1, Ord. 479, eff. September 5, 1973)

§ 6-8.02. Adoption of standards for protection of cathodic protection wells.

That certain document, a copy of which is on file in the office of the City Clerk, entitled "Bulletin No. 74-1, Cathodic Protection Well Standards, State of California", published by the State of California, The Resources Agency, Department of Water Resources, and more particularly Chapter II thereof, "Standards", is hereby adopted as the standards of the City for regulating the construction, reconstruction, and destruction of cathodic protection wells in the City, and all of the terms, provisions, definitions, and requirements of said Chapter II of Bulletin No. 74-1, Cathodic Protection Well Standards, State of California, are hereby referred to, incorporated in, and made a part of this Code as if fully set forth in this Code.
(§ 1, Ord. 479, eff. September 5, 1973)

§ 6-8.03. Enforcing agency.

The Public Works Department is hereby designated as the agency to administer all laws or ordinances pertaining to water wells and cathodic protection wells in the City.
(§ 1, Ord. 479, eff. September 5, 1973)

§ 6-8.04. Permits: Fees.

No water well or cathodic protection well shall be constructed, reconstructed, or destroyed within the City without first applying for and obtaining a permit so to do from the City and paying the fees prescribed therefor. Such fees shall be established by ordinance or resolution and shall be sufficient in amount to provide for the costs of the clerical functions of issuing and handling the permits, the inspection of the work by personnel designated by the Public Works Department, the checking of plans, and any expenses or costs incidental thereto. In no event shall such fees be less than Ten and No/100ths ($10.00) Dollars.
(§ 1, Ord. 479, eff. September 5, 1973)

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Chapter 9
Cross-Connection Control

Note: Sections 6-7.35.1 through 6-7.35.6, as added by Ordinance No. 878, effective August 5, 1994, renumbered to be new Chapter 9,` § 6-9.01 through 6-9.06 by codifier to conform with the numbering system of the Code.

§ 6-9.01. Purpose.

The purpose of this chapter is to protect the public water supply system from contamination due to potential and actual cross-connections. This shall be accomplished by the establishment of a cross-connection control program as required by State regulations. The ordinance codified in this chapter is adopted pursuant to Title 17, Section 7583 through7606, inclusive, of the California Code of Regulations, entitled "Regulations Relating to Cross-Connections."
(§ 1, Ord. 878, eff. August 5, 1994)

§ 6-9.02. Responsibility.

The Director of Public Works shall be responsible for implementing and enforcing the cross-connection control program. An appropriate backflow prevention assembly shall be installed by and at the expense of the water user at each user connection where required to prevent backflow from the water user's premises to the domestic water system. It shall be the water user's responsibility to comply with the City of Los Banos requirements.
(§ 1, Ord. 878, eff. August 5, 1994)

§ 6-9.03. Administration.

The Program Administrator for the cross-connection control program shall be the Director of Public Works or his designee. The Program Administrator will establish and maintain a list of approved backflow prevention assemblies as well as a list of approved backflow prevention assembly testers. The Program Administrator shall conduct necessary surveys of water user premises to evaluate the degree of potential health hazards. The Program Administrator shall notify users when an assembly needs to be tested. The notice shall contain the date when the test must be completed.
(§ 1, Ord. 878, eff. August 5, 1994)

§ 6-9.04. Cross-connection protection requirements.

The type of protection that shall be provided to prevent backflow into the public water supply system shall be commensurate with the degree of hazard, actual or potential, that exists on the water user's premises. Unprotected cross-connections with the public water supply are prohibited. The type of backflow prevention assembly that may be required (listed in decreasing level of protection) includes: Air-gap separation (AG), Reduced Pressure Principal Backflow Prevention Assembly (RP), and a Double Check Valve Assembly (DC). The water user may choose a higher level of protection than required by the water supplier. The minimum types of backflow protection required to protect the approved water supply at the user's water connection to premises with varying degrees of hazard are listed in Table 1 of Section 7604, Title 17 of the California Code of Regulations. Situations which are not covered in said Table 1 shall be evaluated on a case-by-case basis and the appropriate backflow protection shall be determined by the water supplier or health agency.
(§ 1, Ord. 878, eff. August 5, 1994)

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§ 6-9.05. Backflow prevention assemblies.

Only backflow prevention assemblies which have been approved by the City of Los Banos shall be acceptable for installation by a water user. A list of approved backflow prevention assemblies shall be installed in a manner prescribed in Section 7603, Title 17 of the California Code of Regulations. Location of the assemblies shall be as close as practical to the user's connection. The City of Los Banos shall have the final authority in determining the required location of a backflow prevention assembly.

Testing of backflow assemblies shall be conducted only by qualified testers and testing will be the responsibility of the water user. Backflow prevention assemblies must be tested at least annually and immediately after installation, relocation or repair. More frequent testing may be required if deemed necessary by the City. No assembly shall be placed back in service unless it is functioning as required. These assemblies shall be serviced, overhauled, or replaced whenever they are found to be defective and all costs of testing, repair, and maintenance shall be borne by the water user. Approval must be obtained from the City prior to removing, relocating or replacing a backflow prevention assembly.
(§ 1, Ord. 878, eff. August 5, 1994)

§ 6-9.06. Water service termination.

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

(1) Refusal to install or to test a backflow prevention assembly, or to repair or replace a faulty backflow prevention assembly;

(2) Direct or indirect connection between the public water system and a sewer line;

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

(4) Unprotected direct or indirect connection between the public water system and an auxiliary water system.

(b) For Condition 1, the City will terminate service to a water user's premises after proper notification has been sent. If no action is taken within the allowed time period, water services shall be terminated.

(c) For Conditions 2, 3, or 4, the City shall take the following steps:

(1) Make reasonable effort to advise the water user of intent to terminate water service;

(2) Terminate water service and lock service valve. The water service shall remain inactive until correction of violations has been approved by the City.

(§ 1, Ord. 878, eff. August 5, 1994)

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Chapter 10
(Reserved)

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Chapter 11
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Chapter 12
(Reserved)

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Chapter 13
Los Banos Urban Storm Water Management And Discharge Control

§ 6-13.101. Title and purpose.

(a) This chapter shall be known as the "Los Banos Urban Storm Water Management and Discharge Control Ordinance."

(b) The purpose and intent of this chapter is to ensure the health, safety, and general welfare of citizens, and protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.) by reducing pollutants in storm water discharges to the maximum extent practicable and by prohibiting non-storm water discharges to the storm drain system. This chapter shall provide a comprehensive and integrated plan to regulate urban storm water quality management and discharge control.

(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.102. Definitions.

The terms used in this chapter have the meaning set forth below:

"Best management practices (BMPs)" mean schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and education practices, maintenance procedures, and other management practices designed to prevent or reduce, to the maximum extent practicable, the discharge of pollutants directly or indirectly to the municipal storm drain system and waters of the United States. "Best management practices" include, but are not limited to: treatment facilities to remove pollutants from storm water; operating and maintenance procedures; facility management practices to control runoff, spillage or leaks of non-storm water, waste disposal and drainage from materials storage; erosion and sediment control practices; and the prohibition of specific activities, practices, and procedures and such other provisions as the City determines appropriate for the control of pollutants.

"City" means the City of Los Banos.

"Clean Water Act" means the Federal Water Pollution Control Act (33 U.S.C. Sections 1251 et seq.), and any subsequent amendments thereto.

"Construction activity" means activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating and demolition.

"Development" means the building or placement of any structure or portion thereof. Development includes excavation and grading.

"Enforcement Official" means the Director of Public Works, or designee, or any agent of the City authorized to enforce compliance of this chapter.

"Hazardous material" means any material, including any substance, waste or combination thereof, that, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment, when improperly treated, stored, transported, disposed of, or otherwise managed. (Cal. Health and Safety Code Section 25117).

"Illegal discharge" means any direct or indirect non-storm water discharge to the storm water

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system that violates this chapter, or is prohibited by Federal, State and local laws, or that degrades the quality of receiving waters except as exempted in Section 6-13.106 of this chapter.

"Illicit connections" means either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the City.

"National Pollution Discharge Elimination System (NPDES) permit" means a permit issued by the Regional Water Quality Control Board or the State Water Resources Control Board, pursuant to Division 7, Chapter 5.5 of the California Water Code (commencing with Section13370), to control discharges from point sources to waters of the United States.

"Person" means any person, firm, corporation, business entity, or public agency, whether principal, agent, employee, or otherwise.

"Pollutant" means anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes, either from domestic or wild animals or birds; wastes and residues that result from constructing a building or structure, including, but not limited to, dirt, sediment, slurry, and concrete residuals; and noxious or offensive matter of any kind.

"Pollution" means the human-made or human-induced alteration of the quality of waters by waste or pollutants, or the presence of a substance in the environment that, because of its chemical composition or quantity, prevents the functioning of natural processes and produces undesirable environmental and health effects or alters the quality of the water to a degree that unreasonably affects the waters for beneficial uses or the facilities which serve these beneficial uses. (California Water Code Section 13050)

"Premises" mean any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

"Storm water" means surface runoff and drainage associated with storm events, which is free of pollutants to the maximum extent possible.

"Storm drain system" means the collection and conveyance of non-polluted water by artificial and natural facilities within the City, whether publicly or privately owned, to a watercourse or waters of the United States, including any roads, streets, catch basins, natural and artificial channels, curbs, gutters, ditches, open fields, parking lots, impervious surfaces used for parking, and storm drains.

"Storm Water Pollution Prevention Plan (SWPPP)" is a document that describes the best management practices to be implemented by the owner or operator of a business to eliminate

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non-storm water discharges and/or to reduce, to the maximum extent practicable, pollutant discharges to the storm water system.
(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.103. Applicability.

This chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands lying within the City limits of the City of Los Banos. This chapter shall be construed in a manner which is consistent with the requirements of the Federal Clean Water Act and amending acts, any applicable implementing regulations thereto and any NPDES permit for storm water discharges for the City of Los Banos issued by the State Water Resources Control Board or the Regional Water Quality Control Board, and any amendment, revision or re-issuance of the permit.
(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.104. Responsibility for administration.

The Public Works Director shall administer, implement and enforce the provisions of this chapter. Any powers granted or duties imposed upon the Public Works Director may be delegated by the Public Works Director to persons or entities acting in the beneficial interest of or in the employ of the City.
(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.105. Ultimate responsibility of discharger.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the U.S. caused by said person. This chapter shall not create liability on the part of the City, or any agent or employee thereof for any damages that result from any discharger's reliance on this chapter or any administrative decision lawfully made thereunder.
(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.106. Prohibition of illegal discharges.

(a) No person shall discharge or cause to be discharged into the municipal storm drain system or water courses any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described herein.

(b) Discharges from the following activities will not be considered a source of pollutants to the storm drain system and to waters of the United States when properly managed to ensure that no potential pollutants are present, and therefore they shall not be considered illegal discharges unless determined to cause a violation of the provisions of the Porter-Cologne Act, Clean Water Act, or this chapter:

(1) Potable water line flushing;

(2) Uncontaminated pumped groundwater and other discharges from potable water sources;

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(3) Landscape irrigation and lawn watering;

(4) Rising groundwater;

(5) Groundwater infiltration to the storm drain system;

(6) Uncontaminated foundation and footing drains;

(7) Uncontaminated water from crawl space and basement pumps;

(8) Air conditioning condensation;

(9) Uncontaminated non-industrial roof drains;

(10) Individual residential and occasional non-commercial car washing;

(11) Swimming pool water that is clear and has no chlorine or other disinfectant residual;

(12) Natural flows from riparian habitats and wetlands;

(13) Flows from fire suppression activities, including fire hydrant flushing and flows;

(14) Waters not otherwise containing wastes as defined in California Water Code Section 13050(d) and California Health and Safety Code Section25117;

(15) Any discharge that the Enforcement Official, the local Health Officer or the Regional Water Quality Control Board determines, in writing, is necessary for the protection of the public health and safety;

(16) Any discharge caused by flooding or other natural disaster, which could not have been reasonably foreseen or mitigated for in advance by the discharger, as determined by the enforcement official.

(c) The prohibition against illegal discharge to the storm drain system shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the State of California under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the City for any discharge to the storm drain system.

(d) Written concurrence of the Regional Board, shall be required for the City to provide a written exemption that a non-storm water discharge does not constitute a source of pollutants to the storm drain system or waters of the U.S.

(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.107. Groundwater discharges.

Discharges of pumped groundwater not subject to a NPDES permit may be permitted to discharge into the storm drain system, upon written approval by the Public Works Director and in compliance with conditions of approval set forth by the City.

(§ 1, Ord. 1094, eff. June 19, 2010)

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§ 6-13.108. Illicit connections prohibited.

The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection was first made.
(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.109. Concealment and abetting.

Causing, permitting, allowing, aiding, abetting or concealing a violation of any provision of this chapter shall constitute a violation of this chapter.
(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.110. Waste disposal prohibitions.

No person shall discard, throw, deposit, leave, maintain, keep or permit to be discarded, thrown, deposited, left or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system or water of the United States, any refuse, rubbish, garbage, litter or other discarded or abandoned objects, articles, accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste containers for the purposes of collection are exempted from this prohibition.
(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.111. Compliance with industrial or construction NPDES storm water discharge permit.

(a) Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of said permit. Proof of compliance with said permit may be required in a form acceptable to the Enforcement Official prior to or as a condition of a subdivision map, site plan, building permit, grading and drainage plan or development and improvement plan upon inspection of the facility during any enforcement proceeding or action; or for any other reasonable cause.

(b) All construction projects which disturb one or more acres of soil or disturb less than one acre but are part of a larger common plan of plan that in total disturbs one or more acres, are required to develop Storm Water Pollution Prevention Plans (SWPPP) created in accordance with Section A of the State Water Resources Control Board Order No. 99-08-DWQ, a copy of which must be filed with the Public Works Department before construction begins.

(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.112. Reduction of pollutants in storm water.

Any person engaged in activities that may result in pollutants entering the storm drain system shall, to the maximum extent practicable, undertake the measures set forth below to reduce the risk of non-storm water discharge and/or pollutant discharge.

(a) Business-Related Activities.

(1) Storm Water Pollution Prevention Plan (SWPPP). The enforcement official may require any business in the City engaged in activities that may result in pollutant

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discharges to develop and implement a SWPPP, which must include an employee training program. Business activities that may require a SWPPP include, but are not limited to, maintenance, storage, manufacturing, assembly, equipment operations, vehicle loading or fueling, or cleanup procedures carried out partially or wholly out of doors.

(2) Coordination with Hazardous Materials Release Response Plan and Inventory. Any business requiring a hazardous materials response plan, under Chapter 6.95 (commencing with Section 25500) of Division 20 of the California Health and Safety Code, shall include in that plan provisions for compliance with this chapter, including the provisions prohibiting non-storm water discharges and illegal discharges, and requiring the release of pollutants to be reduced to the maximum extent practicable.

(3) Coordination with Hazardous Waste Generator Contingency Plan and Emergency Procedures. Any business requiring a hazardous waste generator contingency plan and emergency procedures, pursuant to California Code of Regulations, Title 11, Sections 66265.51 to 66265.56, shall include in that plan provisions for compliance with this chapter, including the provisions prohibiting non-storm water discharge and illegal discharges, and requiring the release of pollutants to be reduced to the maximum extent practicable.

(4) Any person conducting business or industrial activities in the city shall prevent pollutants from entering the storm drain system and shall comply with all applicable federal, state and local laws, ordinances or regulations.

(b) Development.

(1) The Enforcement Official may develop controls as appropriate to minimize the long-term, post-construction discharge of storm water pollutants from new development(s). Controls may include source control measures to prevent pollution of storm water and/or treatment controls designed to remove pollutants from storm water.

(2) Any person performing development or construction in the City shall prevent pollutants from entering the storm water system and comply with all applicable Federal, State and local laws, ordinances or regulations, including, but not limited to, the general permit for storm water discharges associated with development or construction activity.

(c) Compliance with Best Management Practices (BMP).

(1) Every person owning or occupying a premises that may cause or contribute to storm water pollution or contamination, illegal discharges, or non-storm water discharges shall comply with the best management practices guidelines or pollution control requirements, including the storage and parking of vehicles, as may be reasonably established by the enforcement official.

(2) It is the responsibility to implement best management practices by any person engaged in activities or operations, or owning facilities or property which will or may result in pollutants entering storm water, the storm drain system, or waters of the United States shall implement best management practices to the extent they are technologically achievable to prevent and reduce such pollutants. The owner or operator of a commercial or industrial establishment shall provide reasonable

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protection from accidental discharge of prohibited materials or other wastes into the storm drain system or watercourses. Facilities to prevent accidental discharges of prohibited materials or other wastes shall be provided and maintained at the owner or operator's expense.

(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.113. Containment and notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. from said facility, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of a hazardous material said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (e.g., calling "911"). In the event of a release of nonhazardous materials, said person shall notify the City's Public Works Department in person or by phone or facsimile no later than 5:00 p.m. of the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed, postage paid, to the City's Public Works Department within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. A copy of such records shall be provided to the City on an annual basis. Such records shall be retained for at least three years.

(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.114. Authority to inspect, sample and monitor.

(a) Right of Entry.

(1) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever an authorized Enforcement Official has reasonable cause to believe that there exists in any building or upon any condition constituting a violation of this chapter, the Enforcement Official may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the officer by this chapter.

(2) Any request for entry shall state that the property owner or occupant has the right to refuse entry, and that in the event such entry is refused, inspection may be made upon issuance of a warrant issued by a court of competent jurisdiction.

(3) In the event the owner or occupant refuses entry after such request has been made, the Enforcement Official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

(b) Sampling Authority.

(1) During any inspection, the Enforcement Official may take samples as necessary in order to implement and enforce the provisions of this chapter.

(2) This authority may include the installation of sampling and metering devices on private property, or requiring the person owning or occupying the premises to supply

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samples.

(c) Monitoring, Analysis and Reporting Authority.

(1) The Enforcement Official may require monitoring, analysis and reporting of discharges from any premises to the storm water system.

(2) If testing of samples confirms illegal discharge, the person responsible for the discharge may be held financially responsible for the testing, sampling, and related activities.

(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.115. Enforcement Authority.

The Director of Public Works is authorized to enforce the provisions of this chapter and to exercise any enforcement powers authorized or provided in this chapter, including without limitation, the imposition of administrative requirements, orders and penalties pursuant to this chapter, as may be necessary to effectively implement and enforce this chapter. Without limitation on the Enforcement Authority set forth above, the Director of Public Works is authorized to exercise any and all of the following supplemental enforcement powers as he or she determines may be necessary or appropriate in the Director of Public Works' judgment under the circumstances:

(a) Notice of Violation. Whenever the Enforcement Official finds that any person owning or occupying a premises has violated or is violating this chapter or order issued hereunder, the Enforcement Official may serve a written notice of violation upon such person. Within 30 days of the receipt of this notice, or shorter period as may be prescribed in the notice of violation, an explanation of the violation and a plan for satisfactory correction and prevention thereof, which shall include specific required actions, shall be submitted to the Enforcement Official. Submission of this plan shall in no way relieve the person of liabilities for violations occurring before or after receipt of the notice of violation.

(b) Cease and Desist Orders. The Enforcement Official may require any person owning or occupying a premises to cease and desist all activities that may cause or contribute to discharge in violation of this chapter. This order may also require such person to: (1) comply with the applicable provisions of the chapter within a designated period of time; or (2) take appropriate remedial or preventative action to keep the violation from reoccurring.

(c) Notice to Clean and Abate. The Enforcement Official may require any person owning or occupying a premises to clean up and abate any release on those premises of pollutants that may result in a violation of this chapter. The Enforcement Official may also order abatement of activities or practices that may reasonably result in such a violation.

(d) Mitigation. The Enforcement Official shall have authority to order the mitigation of circumstances that may result in or contribute to illegal discharges.

(e) Storm Water Pollution Prevention Plan (SWPPP). The Enforcement Official shall have the authority to establish elements of a SWPPP, and to require any business to adopt and implement such a plan, as may be reasonably necessary to fulfill the purposes of this chapter.

(f) Best Management Practices (BMPs). The Enforcement Official may establish the

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requirements of BMPs for any premises.

(g) Seasonal and Recurrent Nuisance. If any violation of this chapter constitutes a seasonal and recurrent nuisance, the Enforcement Official shall so declare. Thereafter, such seasonal and recurrent nuisance shall be abated every year without the necessity of any further hearing.

(h) Emergency Orders and Abatements. The Enforcement Official may order the abatement of any discharge from any source to the storm water system when, in the opinion of the Enforcement Official, the discharge causes or threatens to cause a condition that presents an imminent danger to the public health, safety, welfare or environment, or a violation of a NPDES permit. In emergency situations, where the property owner or other responsible party is unavailable and time constraints are such that service of a notice and order to abate cannot be effected without presenting an immediate danger to the public health, safety, welfare or environment, or a violation of a NPDES permit, the City may perform or cause to be performed such work as shall be necessary to abate the threat or danger. The costs of any such abatement shall be borne by the owner, and shall be collectable in accordance with the provisions of Section 6-13.119 of this chapter.

(i) Contents of Notice. Any notice of violation, cease and desist order, or other civil notice or civil order issued by the Enforcement Official pursuant to this chapter shall include a copy of Section 6-13.116 outlining appeal rights.

(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.116. Appeal.

(a) Any person served with a notice of violation, subject to a cease and desist order, subject to an abatement order, required to perform monitoring, analysis, reporting and/or other corrective activities by an authorized Enforcement Official, or otherwise grieved by the decision of the authorized Enforcement Official, may appeal the decision, within 15 days following its effective date, by filing a written appeal with the City Manager.

(b) The City Manager or designee shall request a report and recommendation from the authorized Enforcement Official, and shall set the matter for hearing at the earliest practical date.

(1) Due notice of the hearing shall be provided to the person appealing the decision of the authorized Enforcement Official.

(2) At the hearing, the City Manager or designee may hear additional evidence, and may reject, affirm or modify the authorized Enforcement Official's decision.

(3) The City Manager's or designee decision shall be final.

(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.117. Abatement by City.

(a) If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal under Section 6-13.116, within 10 calendar days of the decision of the City Manager upholding the decision of the Public Works Director, then the City or a contractor designated by the Public Works Director is authorized to enter upon the subject private property, and is authorized to take any and all measures necessary to abate the violation and/or restore the property.

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(b) It is unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the City or designated contractor to enter upon the premises for the purposes set forth above.

(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.118. Urgent abatement.

The Public Works Director is authorized to require immediate abatement of any violation of this chapter that constitutes an immediate threat to the health, safety or general welfare of the public. If any such violation is not abated immediately as directed by the Public Works Director, the City or a contractor designated by the Public Works Director is authorized to enter onto private property and to take any and all measures required to abate the violation. Any relief obtained under this section shall not prevent the City from seeking other and further relief authorized under this chapter. Any expense related to such remediation undertaken by the City shall be fully reimbursed by the property owner in accord with this chapter.

(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.119. Charging cost of abatement—Liens.

(a) The City shall be entitled to reimbursement from any person violating any requirement or provision of this chapter for all costs and expenses incurred in connection with the enforcement of this chapter. Such reimbursable costs and expenses shall include, but are not limited to, costs of investigation, administrative overhead, out-of-pocket expenses, costs of administrative hearings, costs of suit, salaries, attorney fees, expert fees, testing and monitoring expenses, and other expenses recoverable under state law, incurred during any inspection or investigation conducted pursuant to this chapter. In addition to any and all other costs and expenses, any person who or entity that violates any provision of this chapter shall be liable and responsible for, and shall pay to the City, a civil penalty of One Thousand and No/100ths ($1,000.00) Dollars for each violation. The owner of the subject premises or property, as well as any responsible person(s) shall be jointly and severally liable and responsible for, and required to pay, all such costs, expenses and civil penalties. The amount due shall be a personal obligation of the responsible person and the property owner and may be recovered by the city by any available legal remedy.

(b) Within 30 days after abatement of the nuisance by the City, the Public Works Director shall notify the property owner of the property or responsible person of the cost of abatement, including reimbursable costs.

(c) Within 15 days, the property owner or responsible person may file with the City Clerk a written protest objecting to the amount of the assessment.

(1) The City Clerk shall set the matter for public hearing by the City Council.

(2) The decision of the City Council shall be set forth by resolution and shall be final.

(d) If the amount due is not paid within 30 days of the decision of the City Council, the charges shall become a special assessment against the property, together with interest at the rate of 10% per annum and shall constitute a lien on the property for the amount of the assessment.

(e) A copy of the resolution shall be turned over to the County Auditor so that the Auditor may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the Tax Collector shall include the amount of the assessment on the

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bill for taxes levied against the parcel of land.
(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.120. Administrative penalties.

In addition to any other remedy or penalty set forth in this chapter or this code, administrative penalties may be imposed pursuant to applicable provisions of Chapter 11, Title 4 of this Code against any responsible party, in violation of any of the provisions of this chapter. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 11, Title 4 of this Code.
(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.121. Civil actions.

In addition to any other remedies provided in this chapter, any violation of this chapter may be enforced by civil action brought by the City Attorney. In any such action, the City may seek, as appropriate, any or all of the following remedies:

(a) A temporary and/or permanent injunction;

(b) Assessment of the violator for the costs of any investigation, inspection or monitoring survey that led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this chapter including attorney fees;

(c) Costs incurred in removing, correcting or terminating the adverse effects resulting from the violation;

(d) Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life. Monies recovered under this subsection shall be paid to the City to be used exclusively for costs associated with monitoring and establishing storm water discharge pollution control systems and/or implementing or enforcing the provisions of this chapter;

(e) A civil penalty of One Thousand and No/100ths ($1,000.00) Dollars for each violation.
(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.122. Violations constituting misdemeanors.

(a) The violation of any provision of this chapter, or failure to comply with any of the mandatory requirements of this chapter shall constitute a misdemeanor; except that notwithstanding any other provisions of this chapter, any such violation constituting a misdemeanor under this chapter may, at the discretion of an authorized Enforcement Officer be enforced pursuant to any available legal remedy including the City's administrative enforcement ordinance of this Code.

(b) Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code Section 36901.

(c) Unless otherwise provided, a person, firm, corporation or organization shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this chapter is committed, continued or permitted by the person, firm, corporation or organization and shall be punishable accordingly as herein provided.

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(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.123. Remedies not exclusive.

Remedies under this chapter are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.
(§ 1, Ord. 1094, eff. June 19, 2010)

§ 6-13.124. Acts potentially resulting in violation of Federal Clean Water Act and/or Porter-Cologne Act.

Any person who violates any provision of this chapter or any provision of any permit issued pursuant to this chapter or any cease and desist order, prohibition, or effluent limitation, or who discharges waste or wastewater that contains pollutants, may also be in violation of the Federal Clean Water Act (33 U.S.C. Section 1251 et seq.) and/or Porter-Cologne Water Quality Control Act (California Water Code Section13000 et seq.) and may be subject to the sanctions and remedies of those acts including civil and criminal penalties. The provisions or enforcement of this chapter shall not affect or limit in any way the applicability of those acts nor the enforcement of any sanctions, remedies or penalties under those acts.
(§ 1, Ord. 1094, eff. June 19, 2010)

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SANITATION AND HEALTH

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LOS BANOS CODE

Title 7

PUBLIC WORKS

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Chapter 1
Airport

§ 7-1.01. Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Airport" shall mean the Los Banos Municipal Airport.

"Airport Manager" shall mean the person duly appointed by the City Manager to the position of Airport Manager.

"Based aircraft" shall mean any aircraft assigned a reserved parking space or tie-down or hangar space, whether or not such assignment is made under a written lease with the City.

"Local aircraft" shall mean an aircraft which has on file in the office of the City Manager a complete standard form of registration for permanent storage.

"Maintain aircraft" shall mean any form of service to, or maintenance or repair of, aircraft.

"Operate aircraft" shall mean the self-propelled, pushed, or towed movement of aircraft on the ground or the movement of aircraft in flight.

"Other hangar facilities" shall mean the main hangar, the shop building due west of Group 1 of the T hangars, and the hangar between Groups 1 and 2 of the T hangars.

"Person" shall mean any individual, corporate entity, or public agency.

"T hangars" shall mean the hangars constructed by the City for the purpose of aircraft storage.

"Transient aircraft" shall mean an aircraft not qualified as a local aircraft.
(§ 1, Ord. 385)

§ 7-1.02. Commercial activities restricted.

No person shall use the airport in any manner whatsoever for any commercial, profit, gainful, or revenue producing purpose, including, without limitation, flight instruction or mechanical work, without the written approval of the City. No person shall distribute, post, or display any commercial or noncommercial sign, circular, handbill, or advertisement on the airport without the consent of the Airport Manager. No person shall solicit funds for any purpose on the airport.
(§ 2 (a), Ord. 385)

§ 7-1.03. Damages: Liability.

Any person causing any damage to the airport or any airport property shall be responsible for the cost of repairs or replacements. No person shall destroy or damage any building, structure, facility, sign, marker, tree, flower, shrub, lawn, or other property on the airport. All damages shall be promptly reported to the Airport Manager.
(§ 4 (f) and (h), Ord. 385)

§ 7-1.04. Roads, walks, and paths.

No person shall operate any vehicle or travel on the airport in any manner except on the roads, walks, paths, and areas provided for the particular means of travel. No obstructions shall be

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permitted on any road, walk, or path without the prior permission of the Airport Manager.
(§ 4 (i), Ord. 385)

§ 7-1.05. Firearms.

No person, except peace officers, authorized Federal, State, and County employees, or members of the armed forces of the United States on official duty, shall carry any firearm or explosive on the airport without the prior permission of the Airport Manager. No person shall hunt, conduct target practices, or discharge firearms on the airport.
(§ 4 (j), Ord. 385)

§ 7-1.06. Sales of aviation fuel.

The City shall be the sole distributor of aviation fuel at the airport or shall provide by contract for the manner of distribution of aviation fuel. All sales of aviation fuel shall be for cash or by approved credit card and shall be paid for or charged at the time of the delivery of the fuel into the aircraft.
(§ 4 (k), Ord. 385)

§ 7-1.07. T hangars: Registration for tenancy.

No person shall occupy or use a T hangar at the airport without first registering in the office of the City Manager his aircraft for permanent storage.
(§ 3 (a), Ord. 385)

§ 7-1.08. T hangars: Transfer of tenancy.

Tenancy in T hangars shall not be transferred or sublet to any third party for any purpose without the written consent of the Airport Manager and/or the City Manager.
(§ 3 (c), Ord. 385)

§ 7-1.09. T hangars: Tenancy for other than aviation uses.

No person shall be permitted to use a T hangar for parking or the storage of miscellaneous vehicles or materials unrelated to aviation so long as there shall be applicants for the rental of such hangars for aviation purposes. Any authorized tenancy for other than aviation uses shall be considered temporary and shall be subject to cancellation by the Airport Manager and/or the City Manager upon 30 days' written notice.
(§ 3 (b), Ord. 385)

§ 7-1.10. T hangars: Use restrictions.

(a) T hangars shall not be used for painting, spraying, or other treatment of aircraft, vehicles, or articles.

(b) No power tools (other than hand-held polishers, wrenches, drills, or electrical motors of less than five-eighths (5/8) horsepower) shall be used in T hangars or be connected to the electrical distribution system at any time.

(c) No alterations shall be made in T hangars without the prior written approval of the City Manager.

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(d) No pull-up slings or other lifting devices shall be attached to the building frame, supports, or other structural members of a T hangar for the purpose of engine removal, aircraft support, or the suspension of weight at any time.

(e) Individual aircraft owners, partnerships, formally organized aviation clubs, and hired company pilots may work on privately owned, aviation club owned, or company owned aircraft in the performance of routine and minor maintenance and inspection, but no tenant shall engage or hire outside help or mechanical service other than those persons specifically authorized and possessing a valid permit to perform such work on the airport.

(f) Tenants may park personal vehicles within T hangars while absent on trips or flights, but no vehicle may be parked in or around the paved surfaces of the T hangar area unless the owner of such vehicle is in constant and adjacent attendance.

(g) No aircraft may be parked and left unattended on the pavement adjacent to T hangars.

(h) No spillage of oil, drainage of fuel, use of solvents and detergents, aircraft washing, paint removal, or other acts leading to unsightliness or damages to pavement shall be permitted in the T hangar area other than on wash racks or other specifically designated locations. Accidental spillage shall be immediately washed down or otherwise neutralized.

(i) All T hangar tenants shall be responsible for hangar damages caused by their tenancy, other than proven vandalism or acts of God. Such damages refer particularly to rough use or misuse of hangar doors by tenants or visitors.

(j) Each tenant shall be liable for damages caused to other aircraft by accidental or careless movements or by the operation of the tenant's vehicle or aircraft in the T hangar area.

(k) No aircraft engine may be operated inside a T hangar at any time, and no aircraft engine shall be run up to high-power settings in or about T hangars unless the aircraft engine is moved and tailed to unobstructed and non-dust-producing areas.

(l) No private or independent fueling system shall be permitted in or about T hangars, and no refueling shall be done by other than authorized fuel dispensers using standard refueling safety precautions. No storage of highly volatile liquids or explosives shall be permitted within T hangars.

(m) No unattended children shall be permitted within any airport hangar, and no unescorted children shall be permitted at any time to loiter about, play on, or otherwise occupy the T hangar pavement or other aircraft parking or movement areas of the airport.

(n) An existing commercial operation carried on within a T hangar prior to the adoption of the Airport Master Plan may be continued by the owner of such operation for a period of three years, beginning on June 15, 1977, or thereafter, subject to Council approval.

(§ 3 (d), Ord. 358, as amended by § 1, Ord. 530, eff. August 20, 1975, §§ 1 and 2, Ord. 573, eff. August 5, 1977, and § 1, Ord. 657, eff. April 18, 1980)

§ 7-1.11. Aircraft: Compliance with laws, rules, and regulations.

No person shall operate or maintain any aircraft at the airport, except in strict conformity with all laws, rules, and regulations of the City and the regulations of the Federal Aviation Agency. All aircraft shall be operated in accordance with air traffic patterns established by the City and the Federal Aviation Agency. All operators of aircraft shall be responsible for a complete knowledge

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of all laws, rules, and regulations relating to the operation of aircraft. Unusual performance tests of aircraft may be conducted only upon the prior permission of the Airport Manager and only upon such conditions as the Airport Manager shall impose.
(§ 4 (a), Ord. 385)

§ 7-1.12. Aircraft: Landings and takeoffs.

All aircraft shall land and take off only on designated runways unless specifically authorized by the Airport Manager to use other areas of the airport. All takeoffs shall commence at the extreme end of the runway or area authorized for use. No person shall land on or take off from the airport unless the aircraft is equipped with properly functioning brakes or other positive means to assure adequate ground control. "Touch and go" landings may be conducted only upon the prior permission of the Airport Manager and only upon such conditions as the Airport Manager shall impose.
(§ 4 (b), Ord. 385)

§ 7-1.13. Aircraft: Engine starting and runups.

No aircraft engine shall be started or run up in any hangar or when the aircraft is tailed toward hangar doors or positioned in such a manner as to constitute a danger to persons or property. All engine runups and tests shall be performed only in such areas and at such times as shall be designated by the Airport Manager. No engine affixed to an aircraft shall be started or operated unless a competent aircraft operator is in the aircraft attending to the controls and the parking brakes are set or the wheels properly blocked to prevent movement.
(§ 4 (c), Ord. 385)

§ 7-1.14. Aircraft: Taxiing.

Aircraft shall be taxied at all times at a slow and reasonable speed, in a safe manner, and under the control of a competent aircraft operator. Except as may be specifically directed otherwise, all aircraft operators shall taxi at their own discretion.
(§ 4 (d), Ord. 385)

§ 7-1.15. Aircraft: Loading.

No passengers or freight shall be loaded or unloaded from any aircraft until all engines on the aircraft have come to a complete stop.
(§ 4 (e), Ord. 385)

§ 7-1.16. Aircraft: Parking.

No person shall park any aircraft in any area not designated for such purpose without the prior consent of the Airport Manager. Parked aircraft shall have parking brakes set or wheels properly blocked to prevent movement and shall be firmly secured to the ground by ropes or other appropriate means when left unattended. No aircraft shall be taxied under its own power into or out of any hangar. Aircraft shall be halted and all engines stopped a minimum of twenty-five (25′) feet before entering any hangar or building.
(§ 2 (b), Ord. 385)

§ 7-1.17. Aircraft: Parking: Charges.

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(a) The monthly charges for parking an aircraft in the approved tie-down area or the T hangars shall be determined by the City Manager and approved by the Council.

(b) Other hangar facilities shall be leased at a rental determined by the City Manager and approved by the Council for a term to be approved by the Council.

(§ 2 (c), Ord. 385)

§ 7-1.18. Aircraft: Parking: Charges: Payment.

Payments for monthly reserved aircraft parking spaces shall be due and payable in advance for each calendar month. The charges for commencing or terminating the use of parking spaces other than on the first day of any calendar month shall be prorated for that month.

(§ 2 (d), Ord. 385)

§ 7-1.19. Accidents.

Witnesses to and participants in any accident or damages to aircraft occurring at the airport shall promptly make a full report of such damages or accidents to the nearest Federal Aviation Agency Safety Officer and to the Airport Manager. Aircraft operators, owners, or their agents shall be responsible for, and shall cooperate and assist in, the prompt removal of damaged aircraft, parts, property, or debris resulting from any accident; provided, however, the Airport Manager or officials of the Federal Aviation Agency may prohibit the movement or removal of any damaged aircraft or property.

(§ 4 (g), Ord. 385)

§ 7-1.20. Nonliability of the City.

The privileges of using the airport and its facilities shall be conditioned upon the assumption of full responsibility, liability, and risk by the user thereof, and the City and its agents and employees shall not be liable for any loss, damage, or injury to persons or property arising out of any accident of any nature whatsoever, or from any cause whatsoever, including, but not limited to, fire, theft, vandalism, wind, flood, earthquake, collision, or act of God.

(§ 5 (a), Ord. 385)

§ 7-1.21. Violations: Penalties.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.

(§ 6, Ord. 385)

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Chapter 2
Street And Alley Work

§ 7-2.01. Permits: Required.

It is unlawful for any person to perform any work within the right-of-way of any street, alley, or other public property unless a permit for the proposed work shall have first been obtained from the City.
(§ 1, Ord. 428)

§ 7-2.02. Permits: Applications.

Applications for the permits required by the provisions of this chapter shall be made in writing prior to the commencement of the work and shall provide the following minimum information:

(a) The name and address of the applicant;

(b) The name, address, and telephone number of the person directly responsible for the work;

(c) A map, adequately dimensioned, showing the location, depth, and any other information required to positively identify and indicate the nature of the work and its location;

(d) The starting and completion dates of the proposed work; and

(e) A statement of the necessity of the proposed work, indicating why the proposed installation can or should not be located otherwise.

If emergency work is done by a public utility, the application for a permit shall be made on the next working day.

(§ 2, Ord. 428)

§ 7-2.03. Permits: Inspection fees.

A fee shall be charged for each permit as specified in Table No. 1-A of Chapter 1 of the Uniform Building Code, as adopted in Section 8-1.01 of this code.
(§ 3, Ord. 428, as amended by § 1, Ord. 913, eff. April 4, 1997)

§ 7-2.04. Bonds and deposits.

Before any permit required by the provisions of this chapter shall be issued to any person, firm, or corporation, other than a public utility having franchise rights within the City or a contractor having had a City business license in force five years before the date of the application for such permit, the applicant shall deposit with the City Clerk a bond, cashier's check, or certified check, in an amount approved by the Director of Public Works, as a guarantee for the faithful performance of the work specified in the application. Such bond or check shall be retained for one year following the completion of the work to guarantee the maintenance and repair of such work to the satisfaction of the City, normal wear and tear excepted.
(§ 4, Ord. 428, as amended by § 3, Ord. 759, eff. January 16, 1987)

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§ 7-2.05. Conformance with permit requirements and applicable laws.

The work shall be prosecuted in strict conformance with the statements set forth on the permit and the application for the permit required by the provisions of this chapter. Variations made from the permit shall be considered a willful violation of the provisions of this chapter. The Safety Orders of the Industrial Accident Commission of the State, State laws, and City laws applicable to the work shall be considered to be in full force and effect, even though not particularly enumerated in this chapter.
(§§ 5 and 6, Ord. 428)

§ 7-2.06. Inspections.

An inspection shall be requested prior to beginning any work regulated by the provisions of this chapter. The City Inspector shall specify the various stages of the work when he wishes to be notified for inspections. The City Inspector shall revoke the permit and stop construction for noncompliance with any of the provisions of this chapter or the specifications for the work.
(§ 7, Ord. 428)

§ 7-2.07. Warning devices.

The safety of the public during the work regulated by the provisions of this chapter shall be guaranteed through the use of flares at not greater than 100 foot intervals, adequate barricades, flags, and other appropriate warning devices agreeable to the City Inspector. The permittee, upon written notice from the City Inspector, shall furnish additional safety devices when, in the opinion of the City Inspector, the safety of the public requires more protection than normally supplied or required by the provisions of this section. The City Inspector shall determine the safety requirements of the public, and his judgment shall be final.
(§ 8, Ord. 428)

§ 7-2.08. Public inconvenience.

The public inconvenience caused by the work regulated by the provisions of this chapter shall be minimized through proper and thoughtful procedure, bearing in mind the public inconvenience connected with such construction work. The work shall be completed within the time specified in the permit. Cuts, excavations, or other destruction of public property shall not be made until all material for the proposed work is delivered to the job site, stored locally, or is known to be immediately available to the installation.
(§ 9, Ord. 428)

§ 7-2.09. Relocation of facilities.

The relocation of permitted facilities or their appurtenant structures, connections, outlets, and the like shall be at the sole expense of the permittee when such facilities or appurtenances conflict with improvements for the public convenience or the general good of the community.
(§ 12, Ord. 428)

§ 7-2.10. Damages to public property.

The City shall be indemnified by the permittee paying to the City, upon demand, the cost of all repairs to public property made necessary by, or proximately resulting from, any operation of the permittee pursuant to the permit required by the provisions of this chapter, ordinary wear and

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tear excepted.
(§ 11, Ord. 428)

§ 7-2.11. Excavations.

The following provisions shall govern excavations made pursuant to the provisions of this chapter:

(a) Cutting. The cutting of surfaces, pavements, curbs, or walks shall be as straight as possible in order that resurfacing difficulties may be minimized. Excavations shall be vertical below the edge of the surface cut. Excavations on cave-ins under pavement shall be considered a surface or pavement cut.

(b) Removal of excavated materials. All excavated materials shall be truck hauled from the site and disposed of by the permittee.

(c) Backfilling. Backfill shall be considered a critical element to regulate and govern the installation of underground facilities within publicly-owned rights-of-way. The backfill methods set forth in the Improvement Standards and Specifications shall be considered the absolute minimums.

(d) Surfacing. The surfacing shall conform to that in existence at the time the cut was permitted, except that a surfacing may be substituted, upon approval by the City, as being equal to, or better than, the previously existing surfacing.

(e) Maintenance. Maintenance by the permittee shall be required for one year after the date of the completion of the work. Such maintenance shall be performed upon notice by the City that maintenance is required. Any delay in performing the required maintenance shall be considered ample reason for the City to perform, or have performed, such required maintenance, and the City shall bill the permittee for the full cost of the work, plus the labor and materials directly chargeable to the deficiency but not included in the actual repair. Liability for the maintenance of all installations shall be the responsibility of the permittee, regardless of time limitations.

(f) Emergency repairs. Emergency repairs may be made by the City when, in its judgment, such repairs are an emergency and are necessary to safeguard the public. The permittee may be charged for such emergency repairs as determined by the City.

(g) Resurfacing by the City. Resurfacing and base material may be placed by the City upon the request of the permittee after the permittee has back filled to the elevation of the street surface pursuant to the provisions of this section. The costs for such resurfacing shall be set by resolution of the Council. The maintenance of the resurfacing performed pursuant to the provisions of this subsection shall not be chargeable to the permittee; provided, however, the permittee shall not be relieved of any responsibility or liability other than the resurfacing thus purchased.

(§ 13, Ord. 428, as amended by § 8, Ord. 732, eff. May 3, 1985)

§ 7-2.12. Nonliability of the City.

The liability of the City and its officers and authorized agents and/or employees shall be protected by the permittee, and the permittee shall indemnify and hold harmless the City and its officers and employees from any damages or suits for damages arising from, or connected with,

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the granting of the permit required by this chapter.
(§ 10, Ord. 428)

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Chapter 3
Underground Utility Facilities

§ 7-3.01. Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Commission" shall mean the Public Utilities Commission of the State.

"District" or "underground utility district" shall mean that area in the City within which poles, overhead wires, and associated overhead structures are prohibited as such area is described in a resolution adopted pursuant to the provisions of Section 7-3.03 of this chapter.

"Person" shall mean and include individuals, firms, corporations, partnerships, and their agents and employees.

"Poles, overhead wires, and associated overhead structures" shall mean poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances, attachments, and appurtenances located aboveground within a District and used or useful in supplying electric, communication, or similar or associated services.

"Utility" shall mean and include all persons or entities supplying electric, communication, or similar or associated services by means of electrical materials or devices.
(§ 1, Ord. 420)

§ 7-3.02. Hearings.

The Council may from time to time set public hearings to ascertain whether the public necessity, health, safety, or welfare requires the removal of poles, overhead wires, and associated overhead structures within designated areas of the City and the underground installation of wires and facilities for supplying electric, communication, or similar or associated services. The City Clerk shall notify by mail all affected property owners, as shown on the last equalized assessment roll, and utilities concerned of the time and place of such hearings at least 10 days prior to the date thereof. Each such hearing shall be open to the public and may be continued from time to time. At each such hearing all persons interested shall be given an opportunity to be heard. The decision of the Council shall be final and conclusive.
(§ 2, Ord. 420)

§ 7-3.03. Designation of Underground Utility Districts.

If, after any such public hearing, as set forth in Section 7-3.02 of this chapter, the Council finds that the public necessity, health, safety, or welfare requires such removal and such underground installation within a designated area, the Council shall, by resolution, declare such designated area an Underground Utility District and order such removal and underground installation. Such resolution shall include a description of the area comprising such district and shall fix the time within which such removal and underground installation shall be accomplished and within which affected property owners shall be ready to receive underground services. A reasonable time shall be allowed for such removal and underground installation, having due regard for the availability of the labor, materials, and equipment necessary for such removal and for the installation of such underground facilities as may be occasioned thereby.

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(§ 3, Ord. 420)

§ 7-3.04. Unlawful acts.

Whenever the Council creates an Underground Utility District and orders the removal of poles, overhead wires, and associated overhead structures therein, as set forth in Section 7-3.03 of this chapter, it shall be unlawful for any person or utility to erect, construct, place, keep, maintain, continue, employ, or operate poles, overhead wires, and associated overhead structures in the District after the date when such overhead facilities are required by resolution to be removed, except as such overhead facilities may be required to furnish services to an owner or occupant of property prior to the performance by such owner or occupant of the underground work necessary for such owner or occupant to continue to receive utility services, as set forth in Section 7-3.09 of this chapter, and for such reasonable time required to remove such facilities after such work has been performed, and except as otherwise provided in this chapter.
(§ 4, Ord. 420)

§ 7-3.05. Exceptions: Emergencies or unusual circumstances.

Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period, not to exceed 10 days, without authority of the Council in order to provide emergency services. The Council may grant special permission, on such terms as the Council may deem appropriate, in cases of unusual circumstances, without discrimination as to any person or utility, to erect, construct, install, maintain, use, or operate poles, overhead wires, and associated overhead structures.
(§ 5, Ord. 420)

§ 7-3.06. Other exceptions.

The City may authorize any or all of the following exceptions in any resolution adopted pursuant to the provisions of Section 7-3.03 of this chapter:

(a) Any municipal facilities or equipment installed under the supervision and to the satisfaction of the City Engineer;

(b) Poles or electroliers used exclusively for street lighting;

(c) Overhead wires (exclusive of supporting structures) crossing any portion of a District within which overhead wires have been prohibited, or connecting to buildings on the perimeter of a District, where such wires originate in an area from which poles, overhead wires, and associated overhead structures are not prohibited;

(d) Poles, overhead wires, and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of 34,500 volts;

(e) Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building or to an adjacent building without crossing any public street;

(f) Antennae, associated equipment, and supporting structures used by a utility for furnishing communication services;

(g) Equipment appurtenant to underground facilities, such as surface-mounted transformers,

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pedestal-mounted terminal boxes and meter cabinets, and concealed ducts; and

(h) Temporary poles, overhead wires, and associated overhead structures used or to be used in conjunction with construction projects.

(§ 6, Ord. 420)

§ 7-3.07. Notices to property owners and utility companies.

Within 10 days after the effective date of a resolution adopted pursuant to the provisions of Section 7-3.03 of this chapter, the City Clerk shall notify all affected utilities and all persons owning real property within the District thereby created of the adoption of the resolution. The City Clerk shall further notify such affected property owners of the necessity that, if they, or any person occupying such property, desire to continue to receive electric, communication, or similar or associated services, they, or such occupant, shall provide all necessary facility changes on their premises so as to receive such services from the lines of the supplying utilities at a new location, subject to the applicable rules, regulations, and tariffs of the respective utility or utilities on file with the Commission.

Such notification by the City Clerk shall be made by mailing a copy of the resolution adopted pursuant to the provisions of Section 7-3.03 of this chapter, together with a copy of the provisions of this chapter, to affected property owners as they are shown on the last equalized assessment roll and to the affected utilities.

(§ 7, Ord. 420, as amended by § 1, Ord. 730, eff. May 3, 1985)

§ 7-3.08. Responsibility of utility companies.

(a) If underground construction is necessary to provide utility services within a District created by any resolution adopted pursuant to the provisions of Section 7-3.03 of this chapter, the supplying utility shall furnish that portion of the conduits, conductors, and associated equipment required to be furnished by it under its applicable rules, regulations, and tariffs on file with the Commission.

(b) Upon the request of the Council, the utility will pay for the installation of no more than 100 feet of each customer's underground electric service lateral occasioned by the undergrounding. The Council may establish a smaller footage allowance or may limit the amount of money to be expended on a single customer's electric service, or the total amount to be expended on all electric service installations in a particular project.

(§ 8, Ord. 420, as amended by § 2, Ord. 730, eff. May 3, 1985)

§ 7-3.09. Responsibility of property owners.

(a) Every person owning, operating, leasing, occupying, or renting a building or structure within a District shall construct and provide that portion of the service connection on his property between the facilities referred to in Section 7-3.08 of this chapter and the termination facility on or within such building or structure being served, all in accordance with the applicable rules, regulations, and tariffs of the respective utility or utilities on file with the Commission.

(b) In the event any person owning, operating, leasing, occupying, or renting such property does not comply with the provisions of subsection (a) of this section within the time provided for in the resolution enacted pursuant to the provisions of Section 7-3.03 of this

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chapter, the City Engineer shall post written notice on the property being served and 30 days thereafter shall have the authority to order the disconnection and removal of any and all overhead service wires and associated facilities supplying utility services to such property.

(c) In the event any person owning, operating, leasing, occupying, or renting such property does not comply with the provisions of subsection (a) of this section within the time provided for in the resolution enacted pursuant to the provisions of Section 7-3.03 of this chapter, the City Clerk may give notice in writing to the person in possession of such premises, and a notice in writing to the owner thereof as shown on the latest equalized County assessment roll, or as is known to the City Clerk, to provide the required underground facilities within 10 days after the receipt of such notice.

(1) The notice to provide the required underground facilities may be given either by personal service or by certified mail, return receipt requested. If notice is given by mail to either the owner or occupant of such premises, the City Clerk, within 48 hours after the mailing thereof, shall cause a copy thereof, printed on a form not less than eight (8″) inches by ten (10″) inches in size, to be posted in a conspicuous place on the premises.

(2) The notice shall particularly specify what work is required to be done and shall state that if the work is not completed within 30 days after the receipt of such notice, the City will provide such required underground facilities, in which case the cost and expense thereof will be assessed against the property benefited and become a lien upon such property.

(3) If, upon the expiration of the 30 day period, the required underground facilities have not been provided, the City shall forthwith proceed to do the work. Upon the completion of the work by the City, the City Clerk shall file a written report with the Council setting forth the fact that the required underground facilities have been provided and the cost thereof, together with a legal description of the property against which such cost is to be assessed.

The Council shall thereupon fix a time and place for hearing protests against the assessment of the cost of such work upon such premises.

(4) The City Clerk shall forthwith, upon the time for hearing such protests having been fixed, give written notice to the person in possession of such premises and to the owner thereof in the manner provided in subsection (1) of this subsection. The notice shall describe the work completed, the legal description of the property, the amount of the proposed assessment, the time and place of the hearing wherein the Council will consider the adoption of the proposed assessment, and a statement that the assessee shall have an opportunity at the time of such hearing to attend and to protest the proposed assessment. The hearing shall not be earlier than 10 days after the giving of the notice thereof.

(5) Upon the date and hour set for the hearing of the protests, the Council shall hear and pass upon the report as provided in this subsection.

(6) Within 10 days after the confirmation of the assessment by the Council, the assessment shall be payable to the City Treasurer. If all or any portion of the assessment is not paid to the City Treasurer within 10 days after its confirmation, the

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amount of the assessment shall become a lien upon the property as provided in this subsection.

(7) In the event all or any portion of the assessment is not paid within 10 days after its confirmation, the collection of the assessment may be payable in installments upon the adoption of a resolution therefor according to the procedure described in this subsection.

(§ 9, Ord. 420, as amended by § 3, Ord. 730, eff. May 3, 1985)

§ 7-3.10. Responsibility of City.

The City shall remove at its own expense all City-owned equipment from all poles required by the provisions of this chapter to be removed in ample time to enable the owner or user of such poles to remove the poles within the time specified in the resolution enacted pursuant to the provisions of Section 7-3.03 of this chapter.

(§ 10, Ord. 420)

§ 7-3.11. Extension of time.

In the event any act required by the provisions of this chapter or by a resolution adopted pursuant to the provisions of Section 7-3.03 of this chapter cannot be performed within the time provided on account of shortages of materials, war, restraint by public authorities, strikes, labor disturbances, civil disobedience, or any other circumstance beyond the control of the actor, the time within which such act shall be accomplished shall be extended for a period equivalent to the time of such limitation.

(§ 11, Ord. 420)

§ 7-3.12. Violations: Penalties.

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of tins chapter. Any person violating any of the provisions of this chapter or failing to comply with any of its requirements shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.

(§ 12, Ord. 420)

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PUBLIC WORKS

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LOS BANOS CODE

Title 8

BUILDING REGULATIONS

Note: Ordinance 1098 restructured Title 8 by repealing §§ 8-1.06, 8-3.02, 8-8.02, 8-11.02, 8-11.04, 8-11.05 and renumbering §§ 8-1.07—8-1.10 to be 8-1.06—8-1.09, 8-3.01 to be 8-1.14, 8-8.01 to be 8-1.15, 8-8.03 and 8-8.04 combine to become 8-1.18, 8-11.01 to be 8-1.16, 8-11.03 to be 8-1.19, 8-12.01 to be 8-1.17 and Chs. 8-10 to be 8-3, 8-12 to be 8-4 and 8-13 to be 8-5.

Ch. 4, Electrical Code, is located in § 8-1.07; Ch. 5, Fire Zones, is located in Title 4, § 4-3.08; Ch. 6, Housing Code, is located in § 8-1.08; and Ch. 7, Mechanical Code, is located in § 8-1.09.

Ch. 8, Plumbing Code, codified from Ordinance Nos. 431, 473, 556, 750, 780, 822, 856, 895, 951, 997 and 1065, is now located in §§ 8-1.15 and 8-1.18.

Ch. 9, Sign Code, codified from Ordinance No. 416, 428, 529 and 535 was repealed by Ordinance No. 771, effective December 4, 1987.

Ch. 10, Improvement Standards and Specifications, codified from Ordinance Nos. 291 and 732 is located in Ch. 8-3.

Ch. 11, Swimming Pool Code, codified from Ordinance Nos. 556, 584, 881, 895, 951, 997 and 1065 is located in §§ 8-1.16 and 8-1.19.

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Chapter 1
Building Codes

Note: Prior ordinance history: Ords. 430, 486, 556, 689, 751, 780, 822, 856, 895, 951, 997, 1065, 1098, 1116, 1150 and 1179.

§ 8-1.01. Adoption of the California Building Code 2025 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Building Code, 2025 Edition, Volumes 1 and 2 (Part 2 of Title 24 of the California Code of Regulations), based on the 2024 International Building Code as published by the International Code Council, together with Appendices Chapter F – Rodent Proofing, Chapter G – Flood-Resistant Construction, Chapter H – Signs, Chapter I – Patio Covers, Chapter J – Grading, Chapter K – Central Valley Flood Protection Plan, Chapter N – Replicable Buildings, Chapter O – Performance-Based Application, Chapter P – Emergency Housing Sleeping Lofts, and Chapter Q – Emergency Housing and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Building Code of the City of Los Banos.

(§ 1, Ord. 1065, eff. February 1, 2008, as amended by § 1, Ord. 1098, eff. August 20, 2011, § 1, Ord. 1116, eff. March 19, 2014, § 1, Ord. 1150, eff. December 16, 2016, § 1, Ord. 1179, eff. February 15, 2020, and § 1, Ord. 1199, eff. November 19, 2022; Ord. 1212, eff. 12/19/2025)

§ 8-1.02. Violations: Penalties.

Any person violating any of the provisions of this chapter or of the Building Code, or who shall fail to comply with any provision thereof, or who shall violate or fail to comply with any order made thereunder, or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the Council or by a court of competent jurisdiction within the time fixed therein shall, for each and every separate violation and noncompliance, respectively, be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code. The imposition of one penalty for any violation of the provisions of this chapter or the Building Code shall not excuse the violation or permit it to continue, and any such person violating the provisions of this chapter or the Building Code shall be required to correct or remedy such violation or defect within a reasonable time, and, when not otherwise specified, each 10 days prohibitive conditions are maintained shall constitute a separate offense. The application of the penalties set forth in this section shall not be held to prevent the enforced removal of prohibitive conditions.

(§ 1, Ord. 1065, eff. February 1, 2008, as amended by § 1, Ord. 1098, eff. August 20, 2011)

§ 8-1.03. (Reserved)

§ 8-1.04. Adoption of the California Energy Code 2025 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height,

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area and maintenance of all buildings and structures within the City, the California Energy Code, 2025 Edition (Part 6 of Title 24 of the California Code of Regulations), published by the International Code Council, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Energy Code of the City of Los Banos.
(§ 1, Ord. 1065, eff. February 1, 2008, as amended by § 1, Ord. 1098, eff. August 20, 2011, § 2, Ord. 1116, eff. March 19, 2014, § 2, Ord. 1150, eff. December 16, 2016, § 2, Ord. 1179, eff. February 15, 2020, and § 3, Ord. 1199, eff. November 19, 2022; Ord. 1212, eff. 12/19/2025)

§ 8-1.05. Adoption of California Historical Building Code 2025 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Historical Building Code, 2025 Edition (Part 8 of Title 24 of the California Code of Regulations), as published by the International Code Council, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Historical Building Code of the City of Los Banos.
(§ 1, Ord. 1065, eff. February 1, 2008, as amended by § 1, Ord. 1098, eff. August 20, 2011, § 3, Ord. 1116, eff. March 19, 2014, § 3, Ord. 1150, eff. December 16, 2016, § 3, Ord. 1179, eff. February 15, 2020, and § 4, Ord. 1199, eff. November 19, 2022; Ord. 1212, eff. 12/19/2025)

§ 8-1.06. Adoption of California Referenced Standards Code 2025 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Referenced Standards Code, 2025 Edition (Part 12 of Title 24 of the California Code of Regulations), published by the International Code Council together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Referenced Standards Code of the City of Los Banos.
(§ 1, Ord. 1065, eff. February 1, 2008, as amended by § 1, Ord. 1098, eff. August 20, 2011, § 4, Ord. 1116, eff. March 19, 2014, § 4, Ord. 1150, eff. December 16, 2016, § 4, Ord. 1179, eff. February 15, 2020, and § 5, Ord. 199, eff. November 19, 2022; Ord. 1212, eff. 12/19/2025)

§ 8-1.07. Adoption of California Electrical Code 2025 Edition.

For the purpose of prescribing regulations governing the installation, erection, construction, enlargement, alteration, repair, maintenance and inspection of electrical facilities within the City, the California Electrical Code, 2025 Edition (Part 3 of Title 24 of the California Code of Regulations), including appendix, based on the 2023 National Electrical Code as published by the National Fire Protection Association, together with its Appendices, and subsequent additions

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and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter, and said Code shall be known as the Electrical Code of the City of Los Banos.
(§ 1, Ord. 1065, eff. February 1, 2008, as amended by § 1, Ord. 1098, eff. August 20, 2011, § 5, Ord. 1116, eff. March 19, 2014, § 5, Ord. 1150, eff. December 16, 2016, § 5, Ord. 1179, eff. February 15, 2020, and § 6, Ord. 1199, eff. November 19, 2022; Ord. 1212, eff. 12/19/2025)

§ 8-1.08. Adoption of Uniform Housing Code 1997 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the Uniform Housing Code, 1997 Edition Conference of Building Officials (Title 25 of the California Code of Regulations pursuant to Sections 17958, 17958.5,17958.7, 17958.9 and 17959 of the California Health and Safety Code), published by the International, and subsequent additions and editions thereto, one copy of which is on file in the office of the City Clerk for public record and inspection, is hereby adopted by reference and made part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions and deletions set forth in this chapter, and said Code shall be known as the Housing Code of the City of Los Banos.
(§ 1, Ord. 1065, eff. February 1, 2008, as amended by § 1, Ord. 1098, eff. August 20, 2011)

§ 8-1.09. Adoption of California Mechanical Code 2025 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Mechanical Code, 2025 Edition (Part 4 of Title 24 of the California Code of Regulations), including appendix, based on the 2024 Uniform Mechanical Code as published by the International Association of Plumbing and Mechanical Officials, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Mechanical Code of the City of Los Banos.
(§ 1, Ord. 1065, eff. February 1, 2008, as amended by § 1, Ord. 1098, eff. August 20, 2011, § 6, Ord. 1116, eff. March 19, 2014, § 6, Ord. 1150, eff. December 16, 2016, § 6, Ord. 1179, eff. February 15, 2020, and § 7, Ord. 1199, eff. November 19, 2022; Ord. 1212, eff. 12/19/2025)

§ 8-1.10. Adoption of the California Administrative Code 2025 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Administrative Code, 2025 Edition (Part 1 of Title 24 of the California Code of Regulations), as published by the International Code Council, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Administrative Code of the City of Los Banos.
(§ 1, Ord. 1098, eff. August 20, 2011, as amended by § 7, Ord. 1116, eff. March 19, 2014, § 7,

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Ord. 1150, eff. December 16, 2016, § 7, Ord. 1179, eff. February 15, 2020, and § 8, Ord. 1199, eff. November 19, 2022; Ord. 1212, eff. 12/19/2025)

§ 8-1.11. Adoption of the California Existing Building Code 2025 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Existing Building Code, 2025 Edition (Part 10 of Title 24 of the California Code of Regulations), based on the 2024 International Existing Building Code published by the International Code Council, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Existing Building Code of the City of Los Banos.
(§ 1, Ord. 1098, eff. August 20, 2011, as amended by § 8, Ord. 1116, eff. March 19, 2014, § 8, Ord. 1150, eff. December 16, 2016, § 8, Ord. 1179, eff. February 15, 2020, and § 9, Ord. 1199, eff. November 19, 2022; Ord. 1212, eff. 12/19/2025)

§ 8-1.12. Adoption of the California Green Building Standards Code 2025 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Green Building Standards Code, 2025 Edition (Part 11 of the Title 24 of the California Code of Regulations), as published by the California Buildings Standards Commission, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Green Building Standards Code of the City of Los Banos.
(§ 1, Ord. 1098, eff. August 20, 2011, as amended by § 9, Ord. 1116, eff. March 19, 2014, § 9, Ord. 1150, eff. December 16, 2016, § 9, Ord. 1179, eff. February 15, 2020, and § 10, Ord. 1199, eff. November 19, 2022; Ord. 1212, eff. 12/19/2025)

§ 8-1.13. Adoption of the California Residential Code 2025 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, that certain Code designated as the "California Residential Code, 2025 Edition (Part 2.5 of Title 24 of the California Code of Regulations), based on the 2024 International Residential Code and as published by the International Code Council, together with all Appendices with the exception of Appendix AB – Permit Fees, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Residential Code of the City of Los Banos.
(§ 1, Ord. 1098, eff. August 20, 2011, as amended by § 10, Ord. 1116, eff. March 19, 2014, and § 10, Ord. 1150, eff. December 16, 2016, § 10, Ord. 1179, eff. February 15, 2020, and § 11,

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Ord. 1199, eff. November 19, 2022; Ord. 1212, eff. 12/19/2025)

§ 8-1.14. Adoption of the Uniform Code for the Abatement of Dangerous Buildings 1997 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the Uniform Code for Abatement of Dangerous Buildings, 1997 Edition, published by the International Conference of Building Officials, and subsequent additions and editions thereto, one copy of which is on file in the office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions and deletions set forth in this chapter, and said Code shall be known as the Dangerous Buildings Code for the City of Los Banos.
(§ 1, Ord. 430, as amended by § 2, Ord. 556, eff. February 4, 1977, § 2, Ord. 856, eff. July 17, 1992, § 3, Ord. 895, eff. February 2, 1996, § 1, Ord. 951, eff. June 4, 1999, and § 2, Ord. 1098, eff. August 20, 2011)

§ 8-1.15. Adoption of the California Plumbing Code 2025 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Plumbing Code, 2025 Edition (Part 5 of Title 24 of the California Code of Regulations), including appendix, based on the 2024 Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Plumbing Code of the City of Los Banos.
(§ 1, Ord. 1065, eff. February 1, 2008, as amended by § 4, Ord. 1098, eff. August 20, 2011, § 11, Ord. 1116, eff. March 19, 2014, § 11, Ord. 1150, eff. December 16, 2016, § 11, Ord. 1179, eff. February 15, 2020, and § 12, Ord. 1199, eff. November 19, 2022; Ord. 1212, eff. 12/19/2025)

§ 8-1.16. Adoption of the California Wildland-Urban Interface Code 2025 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, that certain Code designated as the "California Wildland-Urban Interface Code, 2025 Edition (Part 7 of Title 24 of the California Code of Regulations), based on the 2024 International Wildland-Urban Interface Code and as published by the International Code Council, together with all Appendices and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Wildland-Urban Interface Code of the City of Los Banos.
(Ord. 1212, eff. 12/19/2025)

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§ 8-1.17. (Reserved)

§ 8-1.18. (Reserved)

§ 8-1.19. (Reserved)

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Chapter 2
Building Moving

§ 8-2.01. Relocation permits and house mover's permits required: Exception.

(a) Relocation permits. No person shall relocate any building or structure, or any portion thereof, upon any premises in the City without a permit therefor from the City Inspector; provided, however, such permit shall not be required if the building or structure is to be moved to a place located outside the City or if the building or structure is to be used by a governmental agency for a governmental purpose. Such permit may be referred to as a "relocation permit."

(b) House mover's permits. No person shall move any building or structure, or any portion thereof, over, upon, along, or across any public street, alley, or sidewalk without a written permit therefor from the Director of Public Works. Such permit may be referred to as a "house mover's permit."

(§§ 1 and 2, Ord. 289, as amended by § 3, Ord. 759, eff. January 16, 1987)

§ 8-2.02. Relocation permits: Applications: Fees.

Every application made to the City Inspector for a relocation permit shall be in writing upon a form furnished by the City Clerk and shall set forth such information as the City Inspector may reasonably require in order to carry out the purposes of this chapter. The application shall have attached thereto:

(a) A photograph of the building:

(b) A plot plan showing the proposed location of the building; and

(c) The plan of reconstruction.

Such application shall be filed with the City Clerk and be accompanied by an application fee of Ten and No/100ths ($10.00) Dollars. The application fee shall be in addition to the building permit fee required by the Building Code.

(§ 3, Ord. 289)

§ 8-2.03. Relocation permits: Applications: Investigations: Charges.

Upon the filing of an application for a relocation permit, the City Clerk shall refer the matter to the City Inspector, who shall conduct such investigation as may be necessary to determine whether or not the relocation permit should be issued and the conditions which may attach to the permit when issued. If the City Inspector shall be required to go outside the City for such inspections, there shall be an additional charge of fifteen (15¢) cents per mile.
(§ 4, Ord. 289)

§ 8-2.04. Relocation permits: Denial.

No permit shall be issued to relocate any building or structure which, in the opinion of the City Inspector, is so constructed or in such condition as to be dangerous; or which is infested with pests or unsanitary; or which, if a dwelling for habitation, is unfit for human habitation; or which is so dilapidated, defective, unsanitary or in such a condition of deterioration or disrepair that its

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relocation at the proposed site would be materially detrimental to the property or improvements in the district within a radius of three hundred feet from the proposed site; or if the proposed use is prohibited by the zoning laws of the City; or if the structure is of a type prohibited at the proposed location by any fire zone law or by any other law; provided, however, if the condition of the building or structure, in the judgment of the City Inspector, admits of practicable and effective repair, the permit may be issued subject to appropriate conditions as set forth in Section 8-2.05 of this chapter. If the unlawful, dangerous, or defective condition of the building or structure proposed to be relocated is such that remedies or corrections cannot practicably and effectively be made, the permit shall be denied.
(§ 5, Ord. 289)

§ 8-2.05. Relocation permits: Issuance.

If the granting of a relocation permit is not prohibited by the provisions of Section 8-2.04 of this chapter, the City Inspector may, after the necessary investigation, authorize the City Clerk to issue the permit and, in authorizing such permit, may impose such terms and conditions as the City Inspector may deem reasonable and proper, including, but not limited to, the requirement of changes, alterations, additions, or repairs to be made to or upon the building or structure to the end that the relocation thereof will not be materially detrimental to the public welfare or to the property and improvements, or either, in the district within a radius of three hundred (300′) feet of the proposed site to which the building or structure is to be moved.
(§ 6, Ord. 289)

§ 8-2.06. Relocation permits: Bonds.

No relocation permit shall be issued by the City Clerk unless the applicant therefor shall first post with the City Clerk a bond executed by the owner of the premises where the building or structure is to be located, as principal, and a surety company authorized to do business in the State, as surety. Such bond, which shall be joint and several in form, shall name the City as obligee and shall be in an amount equal to the cost, plus 10% of the work required to be done in order to comply with all the conditions of the relocation permit, as such cost is estimated by the City Inspector. In lieu of a surety bond, the applicant may post a bond executed by such owner, as principal, which bond is secured by a deposit in cash in the amount set forth in this section and conditioned as required in the case of a surety bond. For the purposes of this chapter, such bond so secured shall be referred to as a cash bond.
(§ 7, Ord. 289)

§ 8-2.07. Relocation permits: Bonds: Conditions.

Every bond posted pursuant to the provisions of this chapter shall be conditioned as follows:

(a) That each and all of the terms and conditions of the relocation permit shall be complied with to the satisfaction of the City Inspector; and

(b) That all of the work required to be done pursuant to the conditions of the relocation permit shall be fully performed and completed within the time limit specified in the relocation permit or, if no time limit is specified, within 90 days after the date of the issuance by the Director of Public Works of the house mover's permit. The time limit set forth in this section or the time limit specified in any permit may be extended for good and sufficient cause by the City Inspector. No such extension of time shall be valid unless written, and no such extension shall release any surety on any bond.

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(§ 8, Ord. 289, as amended by § 3, Ord. 759, eff. January 16, 1987)

§ 8-2.08. Relocation permits: Bonds: Terms: Termination.

The term of each bond posted pursuant to the provisions of this chapter shall begin upon the date of the posting thereof and shall end upon completion to the satisfaction of the City Inspector of the performance of all of the terms and conditions of the relocation permit. Such completion shall be evidenced by a statement thereof signed by the City Inspector, a copy of which shall be sent to any surety or principal upon request. When a cash bond has been posted, the cash shall be returned to the depositor or to his or her successors or assigns upon the termination of the bond, except any portion thereof which may have been used or deducted as set forth in this chapter.
(§ 10, Ord. 289)

§ 8-2.09. Relocation permits: Performance defaults.

(a) Notices of default. Whenever the City Inspector shall find that a default has occurred in the performance of any term or condition of the relocation permit, written notice thereof shall be given to the principal and to the surety of the bond.

(b) Notices of default: Form. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed by the City Inspector to be reasonably necessary for the completion of such work.

(c) Corrections of default: Surety bonds. After the receipt of such notice, the surety shall, within the time therein specified, either cause the required work to be performed or, failing therein, pay to the City Inspector the estimated cost of doing the work, as set forth in the notice, plus an additional sum equal to 10% of the estimated cost. Upon the receipt of such moneys, the City Inspector shall proceed by such mode as he deems convenient to cause the required work to be performed and completed, but no liability shall be incurred therefor other than the expenditure of the sums on hand therefor.

(d) Corrections of default: Cash bonds. If a cash bond has been posted, the notice of default shall be given to the principal and, if compliance is not completed within the time specified, the City Inspector shall proceed without delay and without further notice or proceedings whatever to use the cash deposit, or any portion of such deposit, to cause the required work to be done by contract or otherwise in the discretion of the City Inspector. The balance, if any, of such cash deposit shall, upon the completion of the work, be returned to the depositor, or to his or her successors or assigns, after deducting the cost of the work, plus 10% thereof.

(e) Options to demolish. When any default in the performance of any term or condition of the relocation permit has occurred on the part of the principal, the surety shall have the option, in lieu of completing the work required, to demolish the building or structure and to clear, clean, and restore the site. If the surety defaults, the City Inspector shall have the same option.

(f) Right of entry. In the event of any default in the performance of any term or condition of the relocation permit, the surety, or any person employed or engaged on its behalf, or the City Inspector, or any person employed or engaged on his behalf, shall have the right to go upon the premises to complete the required work or to remove or demolish the building or structure.

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(g) Interference with work. No person shall interfere with or obstruct the ingress or egress to or from any such premises by any authorized representative or agent of any surety or of the City engaged in the work of completing, demolishing, or removing a building or structure for which a relocation permit has been issued after a default has occurred in the performance of the terms or conditions thereof.

(§ 9, Ord. 289)

§ 8-2.10. House mover's permits: Applications: Fees.

A separate application for a house mover's permit, upon a form provided by the Director of Public Works, shall be filed for the moving of each separate building or structure, or portion of a building or structure. Each such application shall include the following information:

(a) The kind of building or structure to be moved;

(b) The street location or other identifying description to which it is proposed the building or structure be moved and the route over, along, across, and upon which such building or structure, or section or portion thereof, is to be moved:

(c) The number of sections in which the building or structure will be moved; and

(d) The time when it is proposed the building or structure shall be moved and within which removal will be completed.

The applicant shall pay to the Director of Public Works an application fee of Ten and No/100ths ($10.00) Dollars for each permit requested.

(§§ 11 (b) and (c) and 12, Ord. 289, as amended by § 3, Ord. 759, eff. January 16, 1987)

§ 8-2.11. House mover's permits: Applications: Investigations: Tree trimming: Charges.

Immediately upon the receipt of an application for a house mover's permit, the Director of Public Works shall notify the Chief of Police that such application has been filed. The Director of Public Works shall investigate the route designated in the application to ascertain whether the moving of the building can be made without damage to the trees adjacent thereto. If the moving would damage such trees, he shall prescribe another route which will not cause such damage. If the moving of the building requires any tree trimming, such tree trimming shall be performed by a tree trimmer designated by the Director of Public Works, and a charge of Fifteen and No/100ths ($15.00) Dollars per hour shall be made for the services of such tree trimmer.

(§ 13, Ord. 289, as amended by § 3, Ord. 759, eff. January 16, 1987)

§ 8-2.12. House mover's permits: Issuance.

A separate house mover's permit shall be obtained for the moving of each separate building or structure, or portion of a building or structure. No house mover's permit shall be issued until the City Inspector has first issued to the owner of the premises to which the building is to be moved a relocation permit to relocate the particular building upon those premises when such permit is required by the provisions of this chapter as set forth in Section 8-2.01 of this chapter.

(§§ 2 and 11 (a), Ord. 280)

§ 8-2.13. House mover's permits: Deposits: Fees.

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(a) Special. No house mover's permit shall be issued until the applicant therefor shall have deposited One Hundred and No/100ths ($100.00) Dollars with the Director of Public Works.

(b) General. Any house mover may make and maintain with the Director of Public Works a general deposit of Two Hundred Fifty and No/100ths ($250.00) Dollars. While such general deposit is maintained, such house mover shall not be required to make the special deposit set forth in subsection (a) of this section, but he shall be required to comply with all the provisions of this chapter.

(c) Deductions. There shall be deducted from such deposit the sum of Ten and No/100ths ($10.00) Dollars as a permit fee; the cost of the tree trimmer provided for in Section 8-2.11 of this chapter; the cost of the services of the inspector provided for in Section 8-2.14 of this chapter; the cost of the police escort provided for in Section 8-2.15 of this chapter; and the cost of repairs, if any, made by the Director of Public Works as set forth in Section 8-2.16 of this chapter.

(d) Refunds. The remainder of such deposit, if any, shall be refunded to the person making such deposit or to his or her assigns.

(e) Insufficient sums. In the event the deposit made shall not be sufficient to pay the costs of the services of the inspector, the police escort, the tree trimmer, and the repairs, if any, the person making such deposit, upon demand, shall pay to the Director of Public Works a sufficient sum to cover all such costs. Upon failure to pay such sum, it may be recovered by the City in any court of competent jurisdiction.

(f) Permit fees: Exceptions. No permit fee shall be required for the moving of temporary buildings or structures over public streets or alleys if such buildings or structures are to be used for governmental purposes.

(§§ 14 and 19, Ord. 289, as amended by § 3, Ord. 759, eff. January 16, 1987)

§ 8-2.14. Inspections: Charges.

Every building or structure, or section or portion thereof, moved over, upon, along, or across any street shall be moved under inspection and supervision. The Director of Public Works shall appoint an inspector for the moving of any building or structure and of each section or portion thereof; provided, however, in the event two or more buildings or structures, or two or more sections or portions thereof, are being moved at the same time along a route so situated that one person can inspect the same, only one person shall be appointed therefor. Such inspections and supervision in each case shall be for such time as the Director of Public Works shall deem necessary for the performance of such services, and a charge of Twelve and No/100ths ($12.00) Dollars for each two hours, or fraction thereof, shall be made for the time required for such inspections and supervision.

(§ 15, Ord. 289, as amended by § 3, Ord. 759, eff. January 16, 1987)

§ 8-2.15. Police escorts: Charges.

The Director of Public Works shall notify the Chief of Police of the time of moving buildings through the public streets. If the Chief of Police determines that the protection of the public requires a police escort, he shall provide such escort, and a charge of Ten and No/100ths ($10.00) Dollars per hour, or fraction thereof, shall be made therefor.

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(§ 16, Ord. 289, as amended by § 3, Ord. 759, eff. January 16, 1987)

§ 8-2.16. Protection of streets: Damages: Repairs: Costs.

It shall be the duty of any house mover, when required by the Director of Public Works, to cause boards of sufficient strength to carry the load without breaking to be placed under all of the rolls or wheels to serve as a runway for such rolls or wheels during the moving of any building or structure, or section or portion thereof, along every street improved in any other manner than by Portland cement concrete, asphalt, or brick, and at no time shall such rolls or wheels be permitted to revolve except upon such board runway when the same is required by the Director of Public Works.

The Director of Public Works may direct that steel or rubber-tired dollies may be used where any building or structure is to be moved on an unimproved or oil gravel street.

In the event of damages to any street by reason of the moving of any building or structure, or section or portion thereof, the Director of Public Works shall do such work as may be necessary to restore the street to as good a condition as the street was in prior to such damages and shall charge the costs thereof to the house mover to whom the permit was issued for the moving of such building or structure, or section or portion thereof.
(§§ 17 and 18, Ord. 289, as amended by § 3, Ord. 759, eff. January 16, 1987)

§ 8-2.17. Warning lights.

No person moving any building or structure, or section or portion thereof, over, upon, along, or across any street, alley, or sidewalk shall fail, neglect, or refuse to keep a red light burning at all times between sunset and sunrise at each corner of such building or structure, or section or portion thereof, and at the end of any projection thereof while such building or structure, or any part thereof, is located in or upon any street, alley, or sidewalk.
(§ 20, Ord. 289)

§ 8-2.18. Orders to stop work: Conditions.

In the event the equipment of the house mover is not sufficient for the work required, or if the street or the use thereof or the property of any public utility will be at any time endangered or damaged by such moving, or if such house mover or his servants or employees at any time violate any of the terms, conditions, or restrictions of the house mover's permit, either as to the size or dimensions of the building or structure being moved, or the route of such moving, or otherwise, the inspector shall report such fact to the Director of Public Works, and, when properly authorized by the Director of Public Works, the inspector shall be empowered to stop the progress of such moving.
(§ 17, Ord. 289, as amended by § 3, Ord. 759, eff. January 16, 1987)

§ 8-2.19. Appeals.

Any person aggrieved by any decision of the City Inspector or Director of Public Works in carrying out the provisions of this chapter, within five days after such decision, may appeal to the Council by filing a written notice thereof with the City Clerk. The Council shall hold a hearing on the matter, and its decision thereon shall be final and conclusive.
(§ 21, Ord. 289, as amended by § 3, Ord. 759, eff. January 16, 1987)

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§ 8-2.20. Violations: Penalties.

Any person violating any of the provisions of this chapter, or who shall violate or fail to comply with any order made thereunder or any certificate or permit issued thereunder from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the Council or by a court of competent jurisdiction within the time fixed therein, for each and every separate violation and noncompliance, respectively, shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code. The imposition of one penalty for any violation of the provisions of this chapter shall not excuse the violation or permit it to continue, and any such person violating the provisions of this chapter shall be required to correct or remedy such violation or defect within a reasonable time, and, when not otherwise specified, each 10 days prohibitive conditions are maintained shall constitute a separate offense. The application of the penalties set forth in this section shall not be held to prevent the enforced removal of a prohibitive condition.
(§ 24, Ord. 289)

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Chapter 3
Improvement Standards And Specifications

Note: Prior ordinance history: Ords. 291 and 732.

§ 8-3.01. Adoption of Improvement Standards and Specifications.

For the purpose of establishing a uniform design of common engineering structures to be installed in the public streets and easements of the City, that certain pamphlet entitled "Improvement Standards and Specifications, City of Los Banos," adopted by the Council by Resolution No. 2385, September, 1983, and any subsequent amendments thereto, three copies of which are on file in the office of the City Clerk for public record and inspection, are hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to any amendments, additions, and deletions set forth in this chapter, and said pamphlet shall be known as the "Improvement Standards and Specifications, City of Los Banos." (§ 1, Ord. 291, as amended by § 9, Ord. 732, eff. May 3, 1985, as amended by §§ 7, 8, Ord. 1098, eff. August 20, 2011)

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Chapter 4
Permits, Fees, And Inspections

§ 8-4.01. Fees.

(a) For each permit issued by the Building Official for any work to be performed within the City, a fee shall be paid in accordance with the fee schedule of the work being performed.

(1) Work without a permit: Investigations. Whenever any work for which a permit is required by this Code has been commenced without first obtaining such permit, a special investigation shall be made before a permit may be issued for such work.

(2) Work without a permit: Fees. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this Code. The minimum investigation fee shall be the same as the minimum fee set forth in Table No. 3-A of Chapter 3 of the Uniform Administrative Code. The payment of such investigation fee shall not exempt any person from compliance with all the other provisions of this Code nor from any penalty prescribed by law.

(b) The fee for work governed by the California Building Code adopted by the City shall be as specified in Table No. 3-A of Chapter 3 of the Uniform Administrative Code.

(c) The fee for work governed by the California Plumbing Code adopted by the City shall be as specified in Table No. 3-D of Chapter 3 of the Uniform Administrative Code.

(d) The fee for work governed by the California Mechanical Code adopted by the City shall be as specified in Table No. 3-C of Chapter 3 of the Uniform Administrative Code.

(e) The fee for work governed by the California Electrical Code adopted by the City shall be as specified in Table No. 3-B of Chapter 3 of the Uniform Administrative Code.

(§ 8, Ord. 1065, eff. February 1, 2008, as amended by §§ 14, 15, Ord. 1098, eff. August 20, 2011)

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Chapter 5
Park Acquisition And Improvement Fees

§ 8-5.01. Purpose.

Park Acquisition and Improvement Fees shall be used for the following purposes:

(a) The improvement of the existing park lands; and

(b) The acquisition and development of new park lands as determined necessary by the Council.

(§ 2, Ord. 622, eff. June 21, 1978, as amended by §§ 16, 17, Ord. 1098, eff. August 20, 2011)

§ 8-5.02. Required.

For any dwelling unit constructed or mobile home park space developed there shall be a Park Acquisition and Improvement Fee to be set by the Council and to be paid at such time prior to obtaining a building permit and the start of construction within the City.
(§ 2, Ord. 622, eff. June 21, 1978, as amended by §§ 16, 17, Ord. 1098, eff. August 20, 2011)

§ 8-5.03. Park Acquisition and Improvement Fund Account.

The Director of Finance shall deposit Park Acquisition and Improvement Fees into a Master Park Acquisition and Improvement Fund Account to be used exclusively for the purpose of park acquisition and improvements as set forth in Section 8-13.01 of this chapter.
(§ 2, Ord. 622, eff. June 21, 1978, as amended by §§ 16, 17, Ord. 1098, eff. August 20, 2011)

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Chapter 6
Small Residential Rooftop Solar Energy System Permit Process

§ 8-6.01. Purpose and intent.

The purpose and intent of this chapter is to provide an expedited, streamlined solar permitting process that complies with the Solar Rights Act and AB 2188 (Chapter 521, Statutes 2014, Government Code Section 65850.5) in order to achieve timely and cost-effective installations of small residential rooftop solar energy systems. This chapter encourages the use of solar systems by removing unreasonable barriers, minimizing costs to property owners and the City and expanding the ability of property owners to install solar energy systems. This chapter allows the City to achieve these goals while protecting the public health and safety.
(§ 1, Ord. 1133, eff. October 2, 2015)

§ 8-6.02. Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Solar energy system" means either of the following:

(1) 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.

(2) 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.

"Small residential rooftop solar energy system" means all of the following:

(1) A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal.

(2) A solar energy system that conforms to all applicable State fire, structural, electrical, and other building codes as adopted or amended by the City, and all state and City health and safety standards.

(3) A solar energy system that is installed on a single- or duplex-family dwelling.

(4) A solar panel or module array that does not exceed the maximum legal building height as defined by the City.

"Electronic submittal" means the utilization of electronic e-mail or submittal via the Internet, or facsimile transmission.

"Specific, adverse impact" means a significant, quantifiable, direct, 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.

"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.

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"Restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance" means:

(1) For water heater systems or solar swimming pool heating systems: an amount exceeding 10% of the cost of the system, but in no case more than One Thousand and No/100ths ($1,000.00) Dollars, or decreasing the efficiency of the solar energy system by an amount exceeding 10%, as originally specified and proposed.

(2) For photovoltaic systems: an amount not to exceed One Thousand and No/100ths ($1,000.00) Dollars over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding 10% as originally specified and proposed.

(§ 1, Ord. 1133, eff. October 2, 2015)

§ 8-6.03. Applicability.

This chapter applies to the permitting of all small residential rooftop solar energy systems in the City. Small residential rooftop solar energy systems legally established or permitted prior to the effective date of the ordinance codified in this chapter are not subject to the requirements of this chapter unless physical modifications or alterations are undertaken that materially change the size, type, or components of a 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.

(§ 1, Ord. 1133, eff. October 2, 2015)

§ 8-6.04. Solar energy system requirements.

(a) All solar energy systems 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 Codes.

(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.

(§ 1, Ord. 1133, eff. October 2, 2015)

§ 8-6.05. Applications and documents.

(a) All documents required for the submission of an expedited solar energy system application shall be made available on the City website.

(b) Electronic submittal of the required permit application and documents by email, or the Internet, or facsimile transmission shall be made available to all small residential rooftop solar energy system permit applicants. An applicant's electronic signature shall be accepted on all forms, applications, and other documents in lieu of a wet signature.

(c) The Building Department shall adopt a standard plan and checklist of all requirements with which small residential rooftop solar energy systems shall comply to be eligible for

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expedited review.

(d) The small residential rooftop solar 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.

(e) All fees prescribed for the permitting of small residential rooftop solar energy systems shall comply with Government Code Sections 65850.55 and 66015 and Health and Safety Code Section 17951.

(§ 1, Ord. 1133, eff. October 2, 2015)

§ 8-6.06. Permit review and inspection requirements.

(a) The Chief Building Official shall implement an administrative, nondiscretionary review process to expedite approval of small residential rooftop solar energy systems applications. The Building Department shall complete the building permit approval or denial process, the issuance of which is nondiscretionary, on the same day for over-the-counter applications or between one and three business days where such over-the-counter approval is not authorized or feasible. The Chief Building Official may require an applicant to apply for an administrative use permit if the 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 City Planning Commission as provided by the appeal procedure set forth in Part 6 of Article 23 of Chapter 3 of Title 9 of the Municipal Code.

(b) Review of the application shall be limited to the Chief Building Official's review of whether the application meets local, State, and Federal health and safety requirements.

(c) If an administrative use permit is required, the City may deny such application if it makes written findings based upon substantive 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, as defined, 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 City Planning Commission as provided by the appeal procedure set forth in Part 6 of Article 23 of Chapter 3 of Title 9 of the Municipal Code.

(d) Any condition imposed on an application 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 meets the conditions of Section 714(d)(1)(A) and (B) of the Civil Code defining restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance.

(f) If an application is deemed incomplete, a written correction notice detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance shall be sent to the applicant for resubmission.

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(g) Only one inspection shall be required and performed by the Building 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.

(i) If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized.

(§ 1, Ord. 1133, eff. October 2, 2015)

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BUILDING REGULATIONS

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LOS BANOS CODE

Title 9

PLANNING AND ZONING

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Chapter 1
Airport Zoning

Note: Sections 9-1.01 though 9-1.19, codified from Ordinance No. 369, repealed by Ordinance No. 672, effective January 16, 1981.

§ 9-1.01. Authority.

Pursuant to the authority conferred by Section 11 of Article XI of the Constitution of the State, the Council deems it necessary to create an airport approaches zoning law for the purpose of promoting the health, safety, and general welfare of the inhabitants of the City by preventing the creation or establishment of airport hazards, thereby protecting the lives and property of the users of the Los Banos Municipal Airport and of the occupants of the land in its vicinity and preventing destruction and impairment of the utility of the airport and the public investment therein.
(§ 2, Ord. 672, eff. January 16, 1981)

§ 9-1.02. Short title.

This chapter shall be known and may be cited as the "Los Banos Municipal Airport Zoning Law of the City of Los Banos".
(§ 2, Ord. 672, eff. January 16, 1981)

§ 9-1.03. Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Airport" shall mean the Los Banos Municipal Airport.

"Airport hazard" shall mean any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at the airport or is otherwise hazardous to such landing or taking off of aircraft.

"Nonconforming use" shall mean any structure, tree, or use of land which does not conform to a regulation prescribed in this chapter, or an amendment thereto, as of the effective date of such regulation.

"Person" shall mean any individual, firm, copartnership, corporation, company, association, joint stock association, city, county, or district and shall include any trustee, receiver, or assignee.

"Structure" shall mean any object constructed or installed by man, including, but not limited to, buildings, towers, smokestacks, and overhead lines.

"Runway landing area" shall mean the defined area of the airport prepared for the landing and takeoff of aircraft along its length.

"Tree" shall mean any object of natural growth.

"City or county" shall mean any city, county, or city and county.

"Planning Commission" shall mean the Planning Commission of the City.

"Utility runway" shall mean a runway which is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

"Nonprecision instrument runway" shall mean a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type

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navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

"Primary surface" shall mean a surface longitudinally centered on a runway. The primary surface shall extend 200 feet beyond each end of the runways and shall be 500 feet wide. The elevation of any point on the primary surface shall be the same as the elevation of the nearest point on the runway center line.

"Horizontal surface" shall mean a surface established by swinging areas of 5,000 radii from the center of each and of the primary surface of the runway and connecting the adjacent areas by drawing lines tangent to those areas. The horizontal surface elevation shall be 150 feet above the airport elevation or 269 feet mean sea level.

"Conical surface" shall mean a surface established as the area that commences at the periphery of the horizontal surface and extends outward therefrom a horizontal distance of 4,000 feet. The conical surface shall slope upward and outward twenty (20′) feet horizontally for each foot vertically beginning at an elevation of 269 feet mean sea level and extending to a height of 469 feet mean sea level.

"Approach surface". The inner edge of the approach surface shall coincide with the width of the primary surface and shall be 500 feet wide. The approach surface shall expand outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface, its center line being the continuation of the runway center line. The approach surface shall slope upward twenty (20′) feet horizontally for each foot vertically beginning at the end of the primary surface (200 feet from the runway end) at the same elevation of the runway (Runway 32-119 feet mean sea level and Runway 14-118 feet mean sea level).

"Transitional surface". The transitional surfaces shall extend outward and upward at 90 degrees to the runway center line and the extended runway center line at a slope of seven (7′) feet horizontally for each foot vertically. The transitional surfaces shall extend from the sides of the primary and approach surfaces to where they intersect the horizontal surface. The transitional surfaces shall begin at the same elevation as the primary and approach surfaces and extend to the horizontal surface.
(§ 2, Ord. 672, eff. January 16, 1981)

§ 9-1.04. Zones.

(a) Authorized. In order to carry out the purpose of this chapter, all of the land within the boundaries of the airport and other land in the vicinity of the airport is hereby divided into horizontal zones, conical zones, transition zones, and runway approach zones, the boundaries of which are shown on the Approach and Clear Zone Plan of the airport.

(b) Approach and Clear Zone Plan. The Approach and Clear Zone Plan of the airport is hereby approved as the official plan for such zoning purposes and shall be on file in the office of the City Clerk and is hereby made a part of this chapter, subject to amendments thereto made pursuant to law from time to time. Such amendments shall be entered on the official map and be maintained up-to-date at all times. The Approach and Clear Zone Plan of the airport shall be available for examination at all times when the office of the City Clerk is open for business.

(c) Height limits. Except as otherwise provided in this chapter, no structure shall be erected, altered, or maintained in any airport approach zone, transition zone, horizontal zone, or conical zone to a height in excess of the height limits established for each zone. For the

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purposes of this regulation, the following height limits are hereby established for each of the zones in question:

(1) Horizontal zone, 269 feet mean sea level;

(2) Conical zone, 269 feet mean sea level at the inner perimeter and increasing in height at the ratio of 20:1 to an elevation of 469 feet mean sea level at the outer perimeter;

(3) (i) Approach zone Runway 14 (20:1), beginning at an elevation of 118 feet mean sea level at the end of the primary surface and increasing in height at a ratio of 20:1 to 368 feet mean sea level at a horizontal distance of 5,000 feet along the extended runway center line; and

(ii) Approach zone Runway 32 (20:1), beginning at an elevation of 119 feet mean sea level at the end of the primary surface and increasing in height at a ratio of 20:1 to 369 feet mean sea level a horizontal distance of 5,000 feet along the extended runway center line; and

(4) Transitional zone, height to be determined (refer to the Approach and Clear Zone Plan of the airport) at a ratio of 7:l commencing at the boundary of the primary surface and approach surface.

(§ 2, Ord. 672, eff. January 16, 1981)

§ 9-1.05. Use restrictions.

No use may be made of land within any airport approach zone, horizontal zone, conical zone, or airport transition zone in such a manner as to create electrical interference with radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, result in glare in the eyes of the pilots using the airport, impair visibility in the vicinity of the airport, or otherwise endanger the landing, takeoff, or maneuvering of air-craft.

(§ 2, Ord. 672, eff. January 16, 1981)

§ 9-1.06. Nonconforming uses.

The regulations prescribed in Sections 9-1.04 and 9-1.05 of this chapter shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of January 16, 1981, or otherwise interfere with the continuance of any nonconforming use. Nothing contained in this chapter, shall require any change in construction, alteration of which was begun prior to January 16, 1981, and is diligently prosecuted and completed within a reasonable time thereof.

(§ 2, Ord. 672, eff. January 16, 1981)

§ 9-1.07. Administrative agency.

The Planning Director is hereby designated the administrator charged with the duty of administering and enforcing the regulations of this chapter. The Planning Commission shall review and decide upon all applications for permits and variances pursuant to Sections 9-1.08 and 9-1.09 of this chapter.

(§ 2, Ord. 672, eff. January 16, 1981)

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§ 9-1.08. Permits.

Before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit shall be secured from the Planning Commission. No permit shall be granted which would allow the establishment or creation of an airport hazard or permit a nonconforming structure or tree or nonconforming use to be made or become higher or become a greater hazard to air navigation than it was on January 16, 1981, or than it is when the application for a permit is made. Except as provided in this section, all applications for permits shall be granted. No such permit shall be required to make maintenance repairs to or to replace part of existing structures which do not enlarge or increase the height of the existing structures.
(§ 2, Ord. 672, eff. January 16, 1981)

§ 9-1.09. Variances.

Any person desiring to erect any structure, or increase the height of any structure, or permit the growth of any tree, or otherwise use his or her property in violation of the airport zoning regulations adopted by this chapter may apply to the Planning Commission for a variance from the regulations in question. Such variances shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship, and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the regulations of this chapter; provided, however, any variance may be allowed subject to any reasonable conditions the Planning Commission may deem necessary to effectuate the purpose of this chapter.
(§ 2, Ord. 672, eff. January 16, 1981)

§ 9-1.10. Violations: Public nuisances.

In the event any person shall erect, construct, move, or alter, or attempt to erect, construct, move, or alter, any structure or allow any tree to exceed a height in violation of the provisions of this chapter, the same is hereby declared a public nuisance, and it shall be the duty of the City Attorney to bring and prosecute an action in any court of competent jurisdiction to enjoin such person from continuing such erection, construction, moving, alteration, or growth, or, if such erection, construction, moving, alteration, or growth is being or has been accomplished, the City Attorney shall bring and prosecute an action to enjoin such person from maintaining the same.
(§ 2, Ord. 672, eff. January 16, 1981)

§ 9-1.11. Violations: Penalties.

Any person violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not more than Five Hundred and No/100ths ($500.00) Dollars or by imprisonment for a term not exceeding six months, or by both such fine and imprisonment. Such person shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this chapter is committed, continued, or permitted by such person and shall be punishable as provided in this section.
(§ 2, Ord. 672, eff. January 16, 1981)

§ 9-1.12. Conflicting regulations.

Where this chapter imposes a greater or more stringent restriction upon the use of land than is imposed or required by any other law or regulations, the provisions of this chapter shall govern.

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(§ 2, Ord. 672, eff. January 16, 1981)

§ 9-1.13. Validity.

Should any section or part of a section, clause, or provision of this chapter be declared by any court to be invalid, the same shall not affect the validity of the chapter as a whole, or any part thereof, other than the part so declared to be invalid.
(§ 2, Ord. 672, eff. January 16, 1981)

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Chapter 2
Subdivisions

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ARTICLE 1
PURPOSES

§ 9-2.101. Adoption.

The Council, in conformity with the provisions of the Subdivision Map Act, as set forth in Chapter 2 of Part 2 of Division 4 of the Business and Professions Code of the State, hereby adopts the provisions of this chapter.
(§ 1.01, Ord. 341)

§ 9-2.102. Purpose.

The provisions of this chapter are adopted for the purpose of promoting the public health, safety, convenience, and general welfare. The design, improvement, and survey data for subdivisions, the form and content of tentative maps, records of survey, and final maps, and the procedure to be followed in securing official approval thereof shall be governed by the provisions of the Subdivision Map Act adopted by the Legislature of the State, codified applications and submittal requirements adopted by the Los Banos City Council, the Los Banos Improvement Standards and Specifications, and the provisions of the General Plan and Zoning Regulations of the City.

It is the further purpose of the provisions of this chapter to encourage new concepts and innovations in the arrangement of building sites within subdivisions. Deviations from the traditional mechanical approach to the subdivision of land are encouraged in order to facilitate the ultimate development of the land in a manner which will be commensurate with contemporary living patterns and technological progress.
(§ 1.02, Ord. 341, as amended by § 1, Ord. 1102, eff. February 4, 2012)

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ARTICLE 2
DEFINITIONS

§ 9-2.201. Scope of provisions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined in this article.
(Ord. 341)

§ 9-2.202. Designated.

"Authorized agent" shall mean the individual, firm, partnership or corporation designated by the individual, firm, partnership or corporation having sufficient proprietary interest. Designation is to be by way of signed statement by owner.

"Commission" shall mean the Planning Commission of the City and the Advisory Agency referred to in the Subdivision Map Act of the State.

"Design" shall mean street alignment, grades, and widths; alignment and widths of easements and rights-of-way for drainage and utilities; and lot area, width, depth, shape, and pattern as required by the provisions of this chapter.

"Easement" shall mean an easement dedicated to and accepted by the City which easement shall be continuing and irrevocable unless formally abandoned by the City.

"Improvement" shall mean such street work, drainage needs, utilities, or other improvements to be installed, or agreed to be installed, by the subdivider on land to be used for public streets, highways, ways, and easements as are necessary for the general use of the lot owners in the subdivision and the surrounding area as a condition precedent to the approval and acceptance of the final map thereof.

"Lot" shall mean a parcel of land established, or to be established, by the standard subdivision procedure, or by record of survey, or by minor subdivision procedure as set forth in this chapter.

"Lot depth" shall mean the horizontal distance between the front and rear lot lines, measured in the mean direction of the side lot lines.

"Lot depth, average" shall mean the sum of the length of the two side lines of the lot divided by two.

"Lot line, front," in the case of an interior lot, shall mean a line separating the lot from the street, and, in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street except in those cases where the latest tract deed restrictions specify another line as the front lot line.

"Lot line, rear" shall mean a lot line which is opposite and most distant from the front lot line and, in the case of an irregular, triangular, or gore-shaped lot, a line within the lot parallel to and at the maximum distance from the front lot line, having a length of at least ten (10′) feet.

"Lot line, side" shall mean any lot boundary line not a front lot line or a rear lot line.

"Lot width, average" shall mean the sum of the length of the front and rear lot line divided by two. In the case of irregularly-shaped lots having four or more sides, "average lot width" shall mean the sum of the length of two lines, drawn perpendicular to one side line at the widest and narrowest portions of the lot, divided by two.

"Map, final" shall mean a map prepared in accordance with the provisions of this chapter, which

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map is designed to be placed on record with the County Recorder.

"Map, tentative" shall mean any map made for the purpose of showing the design of a proposed subdivision or record of survey and showing the existing conditions in and around the proposed subdivision or record of survey, prepared as required by the provisions of this chapter.

"Minor subdivision" shall mean any division of land into four or less lots, each under five acres, in any five year period.

"Owner" shall mean the individual, firm, partnership, or corporation having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide such land pursuant to the provisions of this chapter.

"Record of survey" shall mean any subdivision prepared, filed, and approved in accordance with the laws of the State and the provisions of this chapter.

"Street, city" shall mean any street, avenue, or other public way accepted by the Council.

"Street, major" shall mean any street which carries traffic between different areas of the City and traffic entering from collector streets.

"Street, minor" shall mean a street which is used primarily for access to abutting properties.

"Street, secondary" shall mean a street which collects traffic from a subdivision or area to a major street and which is sometimes referred to as a collector street.

"Subdivider" shall mean a person, firm, corporation, partnership, or association which causes land to be subdivided into any amount of parcels.

"Subdivision" shall mean any real property, improved or unimproved, or portion thereof, shown on the 1961-1962 assessment roll of the City as a unit or as contiguous units, which property is divided for the purpose of lease for 10 years or more or for sale, including condominium developments, whether immediate or future, by any person, or his or her assigns, within any period. The following, however, shall not be subdivisions within the meaning of this definition:

(a) The leasing of stores, offices, apartments, or similar spaces within buildings or spaces within a trailer park;

(b) Mineral, oil, or gas leases; and

(c) Cemeteries.

"Subdivision, standard" shall mean any subdivision map prepared, filed, and approved in accordance with the laws of the State and the provisions of Articles 8 and 9 of this chapter.

"Thoroughfare" shall mean a street of general City-County importance which is a limited access street carrying major traffic through several areas.

"Vesting tentative map" shall mean a "tentative map" for a subdivision, as defined in this article, which shall have printed conspicuously on its face the words "Vesting Tentative Map" at the time it is filed in accordance with Section 9-2.1502 of Article 15 of this chapter and is thereafter processed in accordance with the provisions thereof.
(Ord. 341, as amended by § 2, Ord. 1102, eff. February 4, 2012)

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ARTICLE 3
PLANNING COMMISSION AND SUBDIVISION REVIEW BOARD

§ 9-2.301. Commission: Advisory agency.

The Commission is hereby designated as the advisory agency with respect to subdivisions as provided in the Subdivision Map Act of the State.
(§ 1.03, Ord. 341)

§ 9-2.302. Commission: Powers and duties.

The Commission shall have all the powers and duties with respect to tentative and final maps, and the procedure relating thereto, which are specified by law and by the provisions of this chapter.
(§ 1.03, Ord. 341)

§ 9-2.303. Project Review Board, Created: Membership.

The Project Review Board is hereby created. Membership shall consist of the Planning Director, who shall serve as Secretary and Chair; the Public Works Director or designee; the Fire Chief or designee; the Police Chief or designee and the Chief Building Inspector or designee.
(§ 1.03, Ord. 341, as amended by Urgency Ord. 784, eff. September 21, 1988, § 1, Ord. 811, eff. November 3, 1989, and § 4, Ord. 1102, eff. February 4, 2012)

§ 9-2.304. Project Review Board: Powers and duties.

The Project Review Board shall have the powers and duties specified by the provisions of this chapter and shall be advisor to the Commission.
(§ 1.03, Ord. 341, as amended by § 5, Ord. 1102, eff. February 4, 2012)

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ARTICLE 4
REQUIREMENTS FOR TYPES OF SUBDIVISIONS

§ 9-2.401. Scope of provisions.

Subdivision design and improvements shall be required as set forth in this chapter. No building permit shall be issued, and no construction shall be commenced, until the final map is recorded. No improvement shall be commenced until improvement plans are approved.
(§ 3.00, Ord. 341)

§ 9-2.402. Industrial subdivisions.

(a) Lot area and width. The minimum lot area and width for industrial subdivisions shall be as set forth in the zoning regulations of the City.

(b) Street design. The street design shall be as set forth in Sections 9-2.510 and 9-2.511 of Article 5 of this chapter for industrial areas.

(c) Improvements. All improvements shall be as set forth in Article 6 of this chapter.

(d) Other regulations. All other regulations set forth in this chapter shall be complied with in the development of industrial subdivisions.
(§ 3.01, Ord. 341, as amended by § 6, Ord. 1102, eff. February 4, 2012)

§ 9-2.403. Commercial subdivisions.

(a) Lot area and width. The minimum lot area and width for commercial subdivisions shall be as set forth in the zoning regulations of the City.

(b) Street design. The street design shall be as set forth in Section 9-2.511 of Article 5 of this chapter for commercial areas.

(c) Improvements. All improvements shall be as set forth in Article 6 of this chapter.

(d) Other regulations. All other regulations set forth in this chapter shall be complied with in the development of commercial subdivisions.
(§ 3.02, Ord. 341, as amended by § 7, Ord. 1102, eff. February 4, 2012)

§ 9-2.404. Residential subdivisions.

(a) Lot area and width. The minimum lot area and width shall be as set forth in the zoning regulations of the City.

(b) Improvements. All design standards and improvements shall be as set forth in Articles 5 and 6 of this chapter.

(c) Regulations. All other regulations set forth in this chapter shall be complied within the development of residential subdivisions.
(§ 3.03, Ord. 341, as amended by § 1, Ord. 629, eff. February 5, 1979, § 1, Ord. 773, eff. January 1, 1988, and § 8, Ord. 1102, eff. February 4, 2012)

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ARTICLE 5
DESIGN STANDARDS

§ 9-2.501. Blocks.

Blocks shall not be longer than six hundred (600′) feet between intersecting street lines, except on major streets and thoroughfares where longer blocks may be required.
(§ 3.04, Ord. 341, as amended by § 9, Ord. 1102, eff. February 4, 2012)

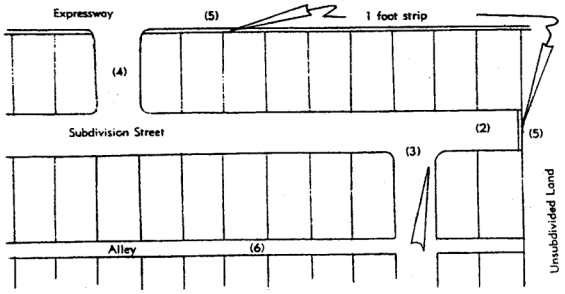
§ 9-2.502. Lots.

Lots with frontage on more than one street shall not be permitted, except corner lots, unless approved by the Commission and when access rights are released on one street.

All lots shall abut on an improved street unless approved as a "deep lot" subdivision by the Commission pursuant to policies adopted by the Commission.
(§ 3.04, Ord. 341)

§ 9-2.503. Non-access strips.

A one foot non-access strip, in addition to other easements, shall be dedicated to the City for the installation of a permanent wall to be provided by the subdivider when required by the Commission or the Council.

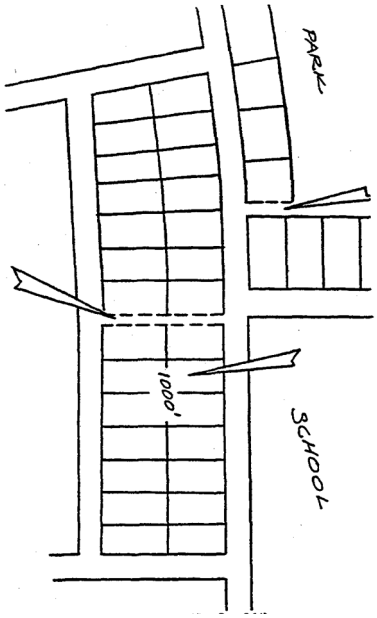


(§ 3.04, Ord. 341)

§ 9-2.504. Walkways.

Improved walkways not less than ten (10′) feet in width may be required through blocks more than for hundred (400′) feet in length and through other blocks where necessary to provide access to schools, parks, and scenic easements.

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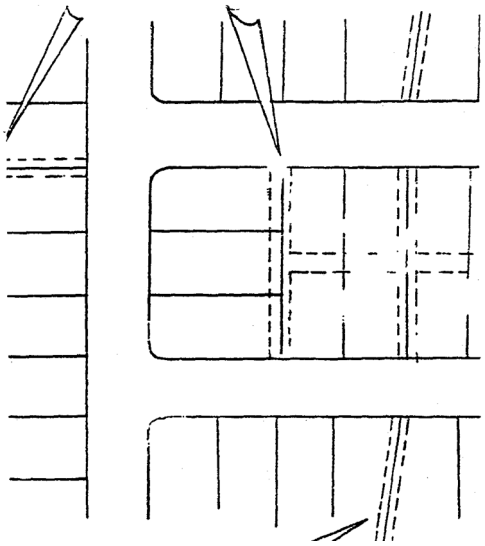


(§ 3.04, Ord. 341, as amended by § 10, Ord. 1102, eff. February 4, 2012)

§ 9-2.505. Easements.

(a) Sides and rear of lots. Easements not less than five (5′) feet wide shall be required on each side of all lots and ten (10′) feet wide at the rear of all lots where necessary for poles, wires, drainage, water mains, or other utilities. A reduction of the width may be permitted where a lesser width is justified in the opinion of the City Engineer and the serving public utility. All pole lines shall be located underground except when otherwise approved by the Commission.

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(b) Watercourses and storm drains. Watercourses shall be shown as easements, and storm drains shall be placed in easements where a public right-of-way is not available or adequate. The Commission or City Engineer may require water-courses to be placed entirely in underground conduits or be adequately fenced or otherwise improved.

(§ 3.04, Ord. 341, as amended by § 11, Ord. 1102, eff. February 4, 2012)

§ 9-2.506. Monuments.

Survey monumentation shall be in accordance with the Improvement Standards and Specifications.

(§ 3.04, Ord. 341, as amended by § 6, Ord. 732, eff. May 3, 1985)

§ 9-2.507. Building setbacks.

Building setbacks at least as great as the applicable zoning requirements shall be required.

(§ 3.04, Ord. 341)

§ 9-2.508. Streets and alleys.

(a) Continuation of existing streets. Existing streets shall be continued as required by the Commission.

(b) Street stubs. Street stubs shall be required to adjacent unsubdivided property where, in the opinion of the Commission, they are necessary. A satisfactory temporary turnaround may be required.

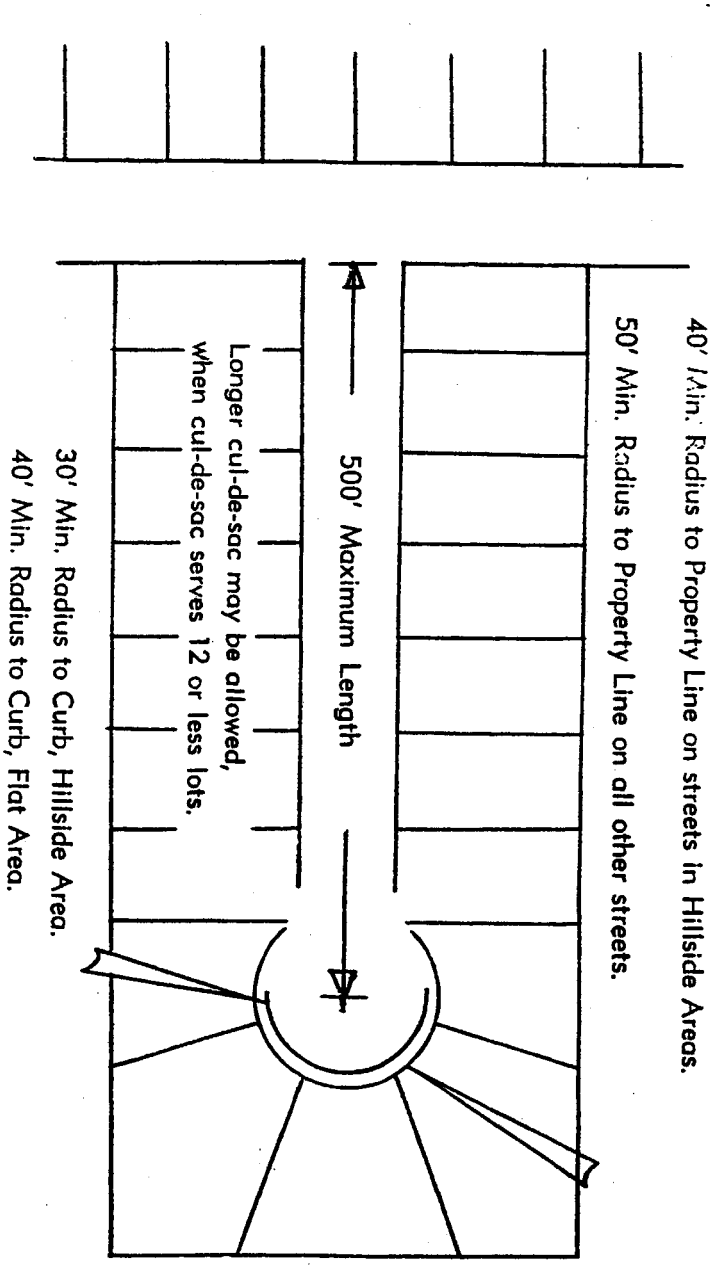
(c) Intersections. Streets shall intersect at as near right angles as is practicable. The radius of curvature where the property lines intersect shall be adequate to allow the construction of wheelchair ramps in accordance with the Improvement Standards and Specifications and shall, in no event, be less than ten (10′) feet for collector streets and twenty (20′) feet for arterial streets. "T" or three way intersections shall be preferable to four way intersections but may not be located nearer than one hundred fifty (150′) feet to any other intersection.

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(d) Reserve strips. Reserve strips, where required to control access over certain lot lines or over the ends of street stubs, shall be dedicated to the City.

(e) Alleys. Alleys shall be required in industrial, commercial, and multiple-family areas where necessary to control access to thoroughfares and major streets.

(f) Cul-de-sacs. Cul-de-sac streets shall have limiting dimensions as stated in the City of Los Banos Improvement Standards and Specifications.



(g) Street names. Names for proposed new streets shall be approved by the Fire Chief or designee and shall be shown on the final map.

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(h) Offers for dedication. Streets, rights-of-way, and easements in any standard subdivision or record of survey subdivision shall be shown on the tentative map.

(i) Conformance with Master Plan for Streets and Highways. Streets shall conform as to alignment and width to the official Master Plan for Streets and Highways of the City.

(j) Curve radius. The minimum center line radius of streets shall be in accordance with the City of Los Banos Improvement Standards and Specifications.

(k) Grades. Minimum and maximum grades shall be in accordance with the City of Los Banos Improvement Standards and Specifications.

(§ 3.04, Ord. 341, as amended by § 5, Ord. 732, eff. May 3, 1985, and § 12, Ord. 1102, eff. February 4, 2012)

§ 9-2.509. Optional design and improvement standards.

Where a subdivider, by written affirmation, signifies his or her intent to enhance the livability and appearance of the proposed subdivision by using new concepts in the arrangement of lots and the circulation patterns and street design to serve such lots by providing permanent open space within the neighborhoods in the proposed subdivision and by providing appropriate means of access to blocks, schools, shopping centers, and other uses, such subdivider may use the following procedures:

(a) An improved design based on density control and better community environment may be used. The standards set forth in Article 4 of this chapter and Sections 9-2.501 through 9-2.508 and 9-2.511 through 9-2.513 of this article may be varied where such design has the approval of the Commission, and where, in the opinion of the Commission or on appeal to the Council, such deviation will:

(1) Produce a more desirable and livable community than the minimum requirements set forth in this chapter;

(2) Create a better community environment through the establishment of non-dedicated permanent scenic easements or non-dedicated open spaces and the rearrangement of lot sizes; and

(3) Provide for the development of condominium units and mobile home subdivisions and the maintenance of non-dedicated improvements.

(b) Where a residential subdivision has been approved by the Commission under the provisions of this chapter, full and adequate provisions acceptable to the City shall be made for the preservation and maintenance of all commonly owned land and improvements which are not dedicated and accepted by the City. Such provisions may be satisfied by a declaration of covenants, conditions, and restrictions duly signed and acknowledged by the owner; articles of incorporation, forming a homeowner's association or some other legal entity, which shall include provisions empowering the entity created to own and maintain all the properties within its jurisdiction and to exercise the powers and duties of the entity which shall be set forth in the declaration; bylaws setting forth rules of membership, fees, and assessments; and forms of deeds incorporating the declaration by reference to its recording data. The owners of the individual lots, as a condition of ownership of such lots, shall be required to participate in the legal entity so formed and be responsible to such legally formed entity for the cost of performing the necessary maintenance. Any failure to so

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maintain shall be, and the same is hereby declared to be, unlawful and a public nuisance endangering the health, safety, and general welfare of the public.

(c) As an incentive to creating better overall communities, the Commission may authorize deviations from standards set forth in this chapter where such deviations are for the purposes set forth in subsection (a) of this section.

(d) Before any deviation based on improved design shall be authorized, such deviation shall be passed by the Commission upon a finding that the deviation, as authorized, shall result in a community which is a substantial improvement over the community which could have been developed by using the requirements set forth in Article 4 of this chapter and in this article.

(§ 3.05, Ord. 341, as amended by § 2, Ord. 662, eff. June 20, 1980, and § 13, Ord. 1102, eff. February 4, 2012)

§ 9-2.510. Specific street design and improvements.

Street design shall conform to the Improvement Standards and Specifications adopted by the Council by reference as set forth in Chapter 10 of Title 8 of this Code.
(§ 3.06, Ord. 341, as amended by § 14, Ord. 1102, eff. February 4, 2012)

§ 9-2.511. Street design.

Streets in subdivisions shall conform to the design standards set forth in the City of Los Banos Improvement Standards and Specifications.
(§ 3.07, Ord. 341, as amended by § 2, Ord. 732, eff. May 3, 1985, and § 15, Ord. 1102, eff. February 4, 2012)

§ 9-2.512. Minimum sidewalk widths.

Minimum sidewalk widths shall be as specified in the Los Banos Improvement Standards and Specifications.
(§ 3.08, Ord. 341, as amended by § 1, Ord. 732, eff. May 3, 1985, and § 16, Ord. 1102, eff. February 4, 2012)

§ 9-2.513. Alleys.

Where needed, minimum alley widths shall be as follows:

(a) Commercial and industrial. Rights-of-way thirty (30′) feet; pavement width thirty (30′) feet; and

(b) Residential. Rights-of-way twenty-six (26′) feet; pavement width twenty-six (26′) feet.

(§ 3.09, Ord. 341, as amended by § 17, Ord. 1102, eff. February 4, 2012)

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ARTICLE 6
IMPROVEMENTS

§ 9-2.601. Conformance with Improvement Standards and Specifications.

All improvements shall conform to the Improvement Standards and Specifications adopted by the Council by reference as set forth in Chapter 10 of Title 8 of this Code. Any deviation therefrom shall be only with the written approval of the City Engineer before construction is begun. No improvement shall be commenced until an agreement and bond guaranteeing the completion of the improvement are approved and accepted.
(§ 4.01, Ord. 341, as amended by § 18, Ord. 1102, eff. February 4, 2012)

§ 9-2.602. Required improvements.

Improvements to be installed by each subdivider may include the following:

(a) Curbs, gutters, sidewalks, and walkways (or parking bays where required);

(b) All utility distribution facilities (including, but not limited to, electric, communication, and cable television lines) installed in and for the purpose of supplying service to any residential or commercial subdivision shall be placed underground, except as follows:

(1) Equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets, and concealed ducts; and

(2) Streets lights. The subdivider shall be responsible for furnishing street lights as required by the City and shall make the necessary arrangements with the utility company for furnishing energy;

(c) Water mains, valves, fire hydrants, and service laterals to each lot;

(d) Sanitary sewers and laterals to serve each lot and stubbed to the property line prior to paving;

(e) Storm sewers, drains, and channel improvements;

(f) Slope planting, silt basins, or other forms of erosion control;

(g) Paved streets;

(h) Ornamental street lights;

(i) Street signs at locations approved by the City Engineer;

(j) Stop signs where a street intersects with a major street, thoroughfare, or expressway; and

(k) Other traffic control signs required by the Traffic Engineer;

(l) Parks and amenities;

(m) Landscaping.
(§ 4.01, Ord. 341, as amended by § 1, Ord. 421, § 3, Ord. 732, eff. May 3, 1985, and § 19, Ord. 1102, eff. February 4, 2012)

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§ 9-2.603. Off-site improvements.

The following off-site improvements may be required:

(a) The development of a domestic water supply, including storage facilities, or financial contributions for the improvement of any existing source of supply and the construction of transmission lines from that supply to the proposed development;

(b) The development of sewage disposal facilities or financial contributions for the improvement of any existing sewage disposal system and the construction of transmission lines from the proposed improvements to the site of disposal;

(c) When flood zones are established by the Council, the subdivider shall pay the fee set forth for the particular zone in which the subject land lies;

(d) Properly graded, drained, and paved access roads; and

(e) The extension of other utilities.

The subdivider may enter into an agreement for reimbursement by future developers for the facilities required by the City to the extent such facilities are in excess of sizes needed to serve the subdivision involved.

(§ 4.01, Ord. 341, as amended by § 1, Ord. 1016, eff. December 3, 2004, and § 20, Ord. 1102, eff. February 4, 2012)

§ 9-2.604. Engineering and inspection fees: Improvement plans and construction.

In addition to all the other requirements of this article:

(a) Improvement work, including grading, shall not be commenced until improvement plans for such work have been submitted to and approved by the City Engineer.

(b) All improvements shall be constructed under the inspection of, and to the satisfaction of, the City Engineer.

(c) The fees for engineering reviews of improvement plans and inspections of the construction of improvements shall be borne by the subdivider and shall amount to 5% of the estimated construction costs of the improvements as established by the final cost estimate approved by the City Engineer. In the event the engineering review and inspection costs incurred by the City exceed 5% of the estimated construction costs, such costs shall be borne by the subdivider.

(d) Two percent of the preliminary cost estimate shall be paid to the City as a deposit at the time of the submittal of the improvement plans. After the approval of the improvement plans and the final cost estimate is approved by the City Engineer, the subdivider shall pay the 5% fee of the final cost estimate, less the previous deposit, prior to the recording of the final map.

(e) Minor subdivisions by parcel maps may be subject to the engineering and inspection fees prior to the recording of the parcel map when improvements are required or proposed.

(§ 4.01, Ord. 341, as amended by § 4, Ord. 621, eff. August 4, 1978, and § 2, Ord. 694, eff. January 15, 1982)

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§ 9-2.605. Water development impact fees.

The City deems it necessary to establish development impact fees for water supply and the construction of a water system for undeveloped areas for proposed residential or commercial development in the City, and the Council does hereby impose development impact fees for water supply for newly proposed residential or commercial development at the rate set forth by City Council resolution, which fees shall provide for construction of the grid system, plus a reserve for storage facilities or additional wells.
(§ 1, Ord. 619, eff. June 21, 1978, as amended by § 1, Ord. 954, eff. March 3, 2000)

§ 9-2.606. Sewer development impact fees.

The City deems it necessary to establish development impact fees for a sewer collection system for undeveloped areas for proposed residential or commercial development in the City, and the Council does hereby impose development impact fees for a sewer collection system for newly proposed residential or commercial development at the rate set forth by City Council resolution which fees shall provide for the construction of the sewer collection system.
(§ 1, Ord. 620, eff. June 21, 1978, as amended by § 2, Ord. 954, eff. March 3, 2000)

§ 9-2.607. Fire development impact fees.

The City deems it necessary and justifiable to establish a fee for fire facilities to serve proposed residential, commercial, or industrial development in the City and the City Council does hereby impose development impact fees at the rate set forth by City Council resolution.
(§ 1, Ord. 926, eff. June 20, 1997, as amended by § 3, Ord. 954, eff. March 3, 2000, and § 21, Ord. 1102, eff. February 4, 2012)

§ 9-2.608. Police development impact fees.

The City deems it necessary and justifiable to establish a fee for police facilities to serve proposed residential, commercial, or industrial development in the City and the City Council does hereby impose development impact fees at the rate set forth by City Council resolution.
(§ 2, Ord. 926, eff. June 20, 1997, as amended by § 4, Ord. 954, eff. March 3, 2000, and § 22, Ord. 1102, eff. February 4, 2012)

§ 9-2.609. Public facilities development impact fees.

The City of Los Banos has determined that public facilities that house City Staff and equipment will need to be expanded to accommodate the residential, commercial, and industrial growth in the City and that this new development is responsible for assisting in the expansion of those facilities, and the City Council does impose a public facilities development impact fee to be paid at the rate set forth by City Council resolution.
(§ 5, Ord. 954, eff. March 3, 2000, as amended by § 23, Ord. 1102, eff. February 4, 2012)

§ 9-2.610. Community center development impact fee.

The City hereby establishes a fee for community center facilities to serve new residential, and nonresidential land uses in the City and the City Council does hereby impose a community center development impact fee to be paid at the rate set forth by City Council resolution.
(§ 3, Ord. 1050, eff. November 18, 2006, as amended by § 24, Ord. 1102, eff. February 4, 2012)

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§ 9-2.611. City Hall development impact fee.

The City hereby establishes a fee for City Hall facilities to serve new residential, and nonresidential land uses in the City and the City Council does hereby impose a City Hall development impact fee to be paid at the rate set forth by City Council resolution.
(§ 3, Ord. 1050, eff. November 18, 2006, as amended by § 25, Ord. 1102, eff. February 4, 2012)

§ 9-2.612. Corporation yard development impact fee.

The City hereby establishes a fee for corporation yard facilities to serve new residential, and nonresidential land uses in the City and the City Council does hereby impose a corporation yard development impact fee to be paid at the rate set forth by City Council resolution.
(§ 3, Ord. 1050, eff. November 18, 2006, as amended by § 26, Ord. 1102, eff. February 4, 2012)

§ 9-2.613. Capital facilities administration development impact fee.

The City hereby establishes a fee for the cost of administration of the capital facilities program to serve new residential, and nonresidential land uses in the City and the City Council does hereby impose a capital facilities administration impact fee to be paid at the rate set forth by City Council resolution.
(§ 3, Ord. 1050, eff. November 18, 2006, as amended by § 27, Ord. 1102, eff. February 4, 2012)

§ 9-2.614. General government facilities development impact fee.

The City hereby establishes a fee for general government facilities to serve new residential and nonresidential land uses in the City and the City Council does hereby impose a general government facilities development impact fee to be paid at the rate set forth by City Council resolution.
(§ 2, Ord. 1178, eff. March 15, 2020)

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ARTICLE 7
DETERMINATION OF TYPE OF PROCEDURE

§ 9-2.701. Criteria.

In accordance with the Subdivision Map Act, whether the Standard Subdivision Procedure (Article 8 of this chapter) or Minor Subdivision Procedure (Article 10 of this chapter) shall be used in subdividing property shall be determined as follows:

(a) Four or less lots: the Minor Subdivision Procedure may be used.

(b) Five or more lots: the Standard Subdivision Procedure shall be used (except as exempted by the Subdivision Map Act of the State).

(c) For the adjustment of a lot line: a record of survey shall be used.

(d) For the merger of parcels: the City Engineer shall require the recordation of a certificate of compliance or the recordation of a parcel map.

(§ 6.01, Ord. 341, as amended by § 4, Ord. 732, eff. May 3, 1985, and § 28, Ord. 1102, eff. February 4, 2012)

§ 9-2.702. Procedure for lot line adjustments.

(a) A complete application package in accordance with the codified applications and submittal requirements adopted by the Los Banos City Council is to be submitted to the Planning Department.

(b) The Planning Department determines completeness within 10 business days.

(c) The Planning Department determines whether or not the parcels resulting from the lot line adjustment conform.

(d) If there are no outstanding issues, the package is forwarded to the Engineering Division for processing.

(e) The lot line adjustment is then checked for conformance with the Subdivision Map Act.

(f) Applicant prepares certificate of compliance.

(g) Certificate is signed and stamped by City Engineer.

(h) Certificate and grant deed reflecting the lot line adjustment are sent to Merced County Recorder's office for recordation.

(§ 10, Ord. 732, eff. May 3, 1985, as amended by § 29, Ord. 1102, eff. February 4, 2012)

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ARTICLE 8
STANDARD PROCEDURE: TENTATIVE MAPS: IMPROVEMENT PLANS

§ 9-2.801. Required: Design.

Prior to the filing of a tentative map of a subdivision, a tract number shall be obtained from the secretary of the Commission.

The initial action in connection with the subdivision of land shall be the preparation of a reproducible tentative map which shall comply with the provisions of Articles 4 and 5 of this chapter as to design.
(§ 6.02, Ord. 341)

§ 9-2.802. Data.

Tentative maps shall include the data outlined within the codified applications and submittal requirements adopted by the Los Banos City Council.
(§ 6.02, Ord. 341, as amended by § 1, Ord. 835, eff. Oct. 19, 1990, and § 30, Ord. 1102, eff. February 4, 2012)

§ 9-2.803. Accompanying materials.

Documents. Accompanying the tentative map will be all items as stated within the codified applications and submittal requirements adopted by the Los Banos City Council.
(§§ 6.03 and 6.04, Ord. 341, as amended by § 31, Ord. 1102, eff. February 4, 2012)

§ 9-2.804. Filing: Fees.

(a) The tentative map shall be considered complete for the consideration of the Commission when all codified applications and submittal requirements adopted by the Los Banos City Council have been included and reviewed for completeness. If the tract is a portion of a larger area which may be subdivided later, the tentative map shall roughly indicate the ultimate plan for the whole.

(b) The required materials and copies shall be presented to the secretary of the Commission at least 15 days prior to the Project Review Board meeting at which the map will be formally filed, together with a fee, set by the Council, paid to the City Clerk to cover the costs of checking. The secretary of the Commission shall distribute the copies of such map to the committee members and serving utilities.

(§ 6.04, Ord. 341, as amended by § 1, Ord. 621, eff. August 4, 1978, and § 32, Ord. 1102, eff. February 4, 2012)

§ 9-2.805. Project Review Board action.

All tentative maps shall be reviewed by the Project Review Board prior to filing any tentative map with the Commission. The Project Review Board shall meet within 30 days after the submission of the tentative map.

(a) Determinations. The Project Review Board shall determine the following:

(1) The completeness and accuracy of the tentative map and ancillary reports and the suitability of the land for subdivision purposes;

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(2) The overall design of the subdivision and its conformity with all pertinent requirements of this chapter and other laws and plans of the City;

(3) The provisions for and suitability of street improvements, underground utilities, fire hydrants, ornamental electroliers, storm drains, streets, trees, and sidewalks, including the adequacy of the water supply, sewage disposal, and easements for utilities and drainage; and

(4) The provisions for public areas, including parks, schools, public utility facilities, and the like.

(b) Compliance with other requirements. The Project Review Board shall review the tentative map for compliance with the provisions of this chapter and State laws. If any portion of the subdivision is in conflict with any of such requirements, the Project Review Board shall inform the subdivider of such conflicts.

(c) Recommendations. The Project Review Board may deem it advisable to recommend additional improvements, easements, dedications, and the like to be included, and the subdivider shall be duly informed of the nature of the recommendations at the time of such Board meeting.

(d) Corrections. If, after analysis, it is found that the subdivision map requires a significant amount of correction before the Project Review Board deems the map acceptable to bring it before the Commission, the Board may require the subdivider to make the changes and reappear before the Board for further study.

(e) Appeals. If the subdivider feels the Project Review Board has imposed requirements not acceptable to the subdivider, he or she may request approval by the Commission. In such event, the subdivider shall make known his or her intentions to the Commission, whereupon the subdivision shall be placed on the Commission agenda.

(f) Reports. The Project Review Board shall make a report on its determinations to the applicant. Such report shall include a compilation of the reports of department heads.

(g) Notices. A notification to all property owners within a three hundred (300′) foot radius for all lot line adjustments, parcel mergers, tentative minor subdivision maps, and tentative subdivision maps shall be made.

(§ 6.05, Ord. 341, as amended by § 1, Ord. 743, eff. May 16, 1986, and § 33, Ord. 1102, eff. February 4, 2012)

§ 9-2.806. Commission action.

(a) The Commission shall act on any tentative map within the time limits specified within the Subdivision Map Act. In accordance with the Subdivision Map Act, failure to act within the time limits prescribed or an agreed upon extension shall be deemed approval of the tentative map.

(b) The Commission shall determine whether the tentative map is in conformity with the provisions of law and of this chapter and, upon that basis, shall approve, conditionally approve, or disapprove such map. The Commission shall report such action directly to the subdivider and shall transmit to the Council a copy of the tentative map and a copy of the resolution setting forth the action of the Commission thereon.

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(c) The Commission may disapprove a tentative map because of flood and inundation hazards or slide areas and recommend protective improvements to be constructed as a condition precedent to the approval of the map.

(§ 6.06, Ord. 341, as amended by § 34, Ord. 1102, eff. February 4, 2012)

§ 9-2.807. Appeals.

(a) If the subdivider or other affected property owner is dissatisfied with any action of the Commission with respect to the tentative map or the nature and extent of improvements recommended, he or she may, within 15 days after such action, appeal to the Council for a public hearing thereon. The Council shall hear the appeal, upon notice to the subdivider and the Commission, unless the subdivider consents to a continuance at its next succeeding regular meeting. At the hearing the Council shall hear such testimony as the subdivider or Commission, or their respective witnesses or other competent persons, may present.

(b) Upon the conclusion of the hearing, the Council shall, within 30 days, declare its findings based upon the testimony produced before it. The Council may sustain, modify, reject, or overrule any recommendations or rulings of the Commission and may make such findings as are not inconsistent with the provisions of this chapter.

(§ 6.07, Ord. 341)

§ 9-2.808. Improvement plans.

After the approval by the Commission of the tentative map of any subdivision, the subdivider shall furnish the following information to the City Engineer, and shall receive authorization of the City Engineer, before submission of the final map to the secretary of the Commission:

(a) A grading plan consisting of typical cross-sections and finished grades of all lots, roads, streets, and highways in the proposed new subdivision;

(b) Plan profile drawings of all streets and sewer and drainage improvements. Utilities may be shown in plan only. All tracings or duplicate tracings shall be filed with the City Engineer, and all work shall be submitted to and signed by the City Engineer. The scale shall be one inch equals forty (40′) feet for the plans and one inch equals four (4′) feet vertical scale for the profiles, unless otherwise approved by the City Engineer;

(c) The estimated costs of the improvements to be dedicated to the City or other public agency, which estimate shall include a 10% contingency; and

(d) Any other pertinent information required by the conditional approval of the Commission, Council, and City Engineer, including a soil report on filled areas or areas proposed to be filled.

(§ 6.08, Ord. 341, as amended by § 5, Ord. 732, eff. May 3, 1985)

§ 9-2.809. Amendments to approved tentative map.

Minor changes in the tentative map may be approved by the Planning Department prior to the submittal of a final map for recordation, upon application by the subdivider, provided:

(a) Such changes are consistent with the intent and spirit with the original tentative map approval;

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(b) Such changes are in substantial compliance with the original tentative map approval;

(c) There are no resulting violations of the Los Banos Municipal Code or the Subdivision Map Act.

These amendments shall be indicated on the approved map and certified by the Planning Department.

Amendments of the tentative map other than minor shall be presented to the Planning Commission. The Planning Commission may approve of the amendment only if it finds it to be in substantial compliance with the original map and not require additional review subject to compliance with the California Environmental Quality Act (CEQA).

Any significant change to the map shall require the submittal of a new tentative map with similar public hearing notifications as processed for an original tentative map and shall be subject to additional review for compliance with the California Environmental Quality Act (CEQA) prior to sale of any lots. Processing shall be in accordance with Sections 9-2.801, 9-2.802, 9-2.803, 9-2.804, 9-2.805, and 9-2.806.

Any approved amendment shall not alter the expiration date of the tentative map.

(§ 1, Ord. 904, eff. September 20, 1996)

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ARTICLE 9
STANDARD PROCEDURE: FINAL MAPS

§ 9-2.901. Preparation: Time limits.

(a) The time limits for tentative map approval and the recording of a final map shall be subject to the maximum set forth in the Subdivision Map Act of the State, provided any extension thereof shall be subject to Council approval.

(b) A subdivider seeking an extension to the time limits set forth in the Subdivision Map Act of the State shall submit a letter to the Council requesting an extension 30 days prior to the time limit and stating the reasons necessitating an extension.

(c) Any failure to record a final map pursuant to the provisions of this section and the Subdivision Map Act of the State shall terminate all proceedings.

(d) A termination of proceedings will require a subdivider to resubmit a tentative map, including the repayment of fees and reprocessing.

(§ 7.01, Ord. 341, as amended by § 7, Ord. 732, eff. May 3, 1985)

§ 9-2.902. Form.

(a) The final map shall be drawn to a scale large enough to show the details clearly with a minimum scale of one hundred (100′) feet to one inch or larger, using more than one sheet if necessary to furnish the desired space. The original shall be drawn in black ink upon tracing cloth of good quality, and the size of the sheets shall be eighteen (18″) inches by twenty-six (26″) inches. All sheets shall have a two and one-half (2 1/2″) inch margin on the left side and shall have a one-inch margin on all other borders.

(b) Each sheet shall be numbered, the relation of one sheet to another clearly shown, and the number of sheets used in the map shall be set forth in the title of the map. If more than two sheets are necessary for the map, an index map shall be required.

(c) The title of each such final map shall consist of a tract number and name, if any, conspicuously placed at the lower right-hand corner of the sheet, followed by the words "consisting of sheets" (showing the number thereof), followed by the words "lying within the City of Los Banos."

(d) The title sheet shall also contain a subtitle giving a general description of the property being subdivided by reference to maps which have been previously recorded or by reference to the plat of any United States survey. Each reference in such description to any tract or subdivision shall be spelled out and worded identically with the original record thereof, and references to the book and page of record shall be complete.

(§ 7.02, Ord. 341)

§ 9-2.903. Data.

The final map shall show the following data:

(a) Boundaries and streets. The exterior boundaries of the property (shown in blue), the border lines and center lines of all proposed streets and alleys with their widths and names, and any other portions intended to be dedicated to the public use. In case of branching streets,

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the line of departure from one street to another shall be indicated;

(b) Adjacent properties and streets. The lines of all adjoining properties and the lines of adjacent streets and alleys, showing their widths and names;

(c) Lot lines and numbers. All lot lines and numbers for all lots, building lines, and easements and their purposes. All lots shall be numbered consecutively throughout the subdivision, beginning with No. 1, except units of a total development which shall be numbered consecutively throughout the development;

(d) Dimensions. All dimensions, both linear and angular, for locating boundaries of subdivisions, lots, street and alley lines, easements, and building lines. The linear dimensions shall be expressed in feet and hundredths of a foot;

(e) Monuments. All permanent monuments, together with their descriptions showing fully and clearly their location and size. If any points were reset by ties, that fact shall be stated;

(f) Title and description of property. The title and description of the property being subdivided, showing its location and extent, points of compass, scale of plan, basis of bearing, and the name of the subdivider and of the engineer or surveyor platting the tract;

(g) Areas subject to inundation. The boundaries of any areas within the proposed subdivision which are subject to periodic inundation by water;

(h) Private restrictions. Any private restrictions on the plat or reference to such restrictions. The plats shall contain the proper acknowledgments of the owners and mortgagees accepting such platting and restrictions;

(i) City boundaries. City boundaries which adjoin the subdivision, clearly designated and located in relation to adjacent lot or block lines. No lot shall be divided by a City boundary line; and

(j) Vehicular access rights. The title sheet shall indicate where vehicular access rights have been surrendered on major, thoroughfare, and expressway streets.

(§ 7.03, Ord. 341)

§ 9-2.904. Accompanying documents.

The following documents shall be submitted with the final map:

(a) Traverse sheets. The subdivider shall furnish the City Engineer traverse sheets showing the mathematical closure within one foot to twenty thousand (20,000′) feet perimeter of the exterior boundary of the tract and of each block within the tract and each irregular lot.

(b) Guarantee of title. The subdivider shall furnish to the Council a guarantee of title or letter from a competent title company, certifying that the names of all persons whose consent is necessary to pass a clear title to the land being subdivided, and all acknowledgments thereto, appear on the proper certificates and are correctly shown on such map, both as to consents as to the making thereof and affidavits of dedication where necessary. Such guarantee shall be issued for the benefit of the City and protection of the Council and shall be continued complete up to the instant of recording.

(c) Improvement agreement. The subdivider shall file an agreement for all the improvements

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required by the provisions of this chapter, and as may be further required by the Council or by law, and shall secure the performance thereof by a good and sufficient surety bond executed by a responsible surety company to be approved by the Council, or an instrument of credit approved by the Council, or, in lieu of such surety bond or instrument of credit, by a cash deposit, which bond, instrument of credit, or cash deposit shall be in an amount equal to the cost of the improvements as estimated by the City Engineer or by the Council; provided, however, the subdivider may, at his or her option, in lieu of such agreement and bond or cash deposit, enter into a contract with the Council, secured by a faithful performance bond or cash deposit in the manner and condition set forth in Section 11612 of the Business and Professions Code of the State and all other laws applicable thereto.

(d) Taxes. Prior to the filing of the final map, the subdivider shall file with the County Clerk a certification from the official computing redemptions in the County and in the City, showing that, according to the records of his or her office, there are no liens against the subdivision, or any part thereof, for unpaid State, County, municipal, or local taxes or special assessments collected as taxes, except taxes or special assessments not yet payable.

As to taxes or special assessments collected as taxes not yet payable, the subdivider shall file with the County Clerk a certificate by each proper officer, giving his or her estimate of the amount of taxes and assessments which are a lien but which are not yet payable.

Whenever any part of the subdivision is subject to a lien for taxes or special assessments collected as taxes which are not yet payable, the final map shall not be recorded until the owner or subdivider executes and files with the Board of Supervisors of the County a good and sufficient bond to be approved by the Board, and by its terms made to inure to the benefit of the County upon the payment of all State, County, municipal, and local taxes and all special assessments collected as taxes which, at the time the final map is recorded, are a lien against the property but which are not yet payable. In lieu of a bond, a deposit may be made of money or negotiable bonds in the amount and of the kind approved for securing deposits of public money.

(e) Additional information. Additional information may be required to be filed and/or recorded simultaneously with a final map. The additional information shall be in the form of a separate document or an additional sheet, as stipulated by the City, which shall indicate its relationship to the final map, and shall contain a statement that the additional information is for informational purposes describing conditions as of the date of filing, and is not intended to affect record title interest.

(1) Additional survey and map information may include, but need not be limited to: building setback lines, flood hazard zones, seismic lines and setbacks, geologic mapping, archaeological sites, tentative tract map conditions of approval, Geographic Information System data and environmental mitigation measures.

(§ 7.04, Ord. 341, as amended by § 1, Ord. 875, eff. March 18, 1994)

§ 9-2.905. Completion.

The final map shall be considered complete for filing when it complies with the provisions of this article and is accompanied by the statements, agreements, cash, and/or bonds required.
(§ 7.05, Ord. 341)

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§ 9-2.906. Filing: Fees.

The subdivider shall file the following with the City Engineer.

(a) Twelve blue line copies of the final map, the original tracing on linen and duplicate on linen or vellum; a boundary traverse map; approved improvements plans; and a checking fee set by the Council for such detailed examinations of final maps and field checking as may be necessary for the City Engineer to make his or her required certification. The final map shall be accompanied by traverse sheets showing the closure within allowable limits of the exterior boundaries and of each irregular block and lot; and

(b) The title guarantee, deed restrictions, improvement agreement, and bond, if not previously filed.

(§ 7.05, Ord. 341, as amended by § 2, Ord. 621, eff. August 4, 1978)

§ 9-2.907. Departmental action.

The following functions shall be acted upon within 20 days after filing the final map:

(a) The City Engineer shall examine the final map. If he or she shall determine that the surveys are correct and that the map is technically correct and substantially conforms to the tentative map and any approved alteration thereof and to the provisions of this chapter and the laws of the State, he or she shall so certify on the map and transmit the map to the City Clerk. If the City Engineer shall find that full conformity has not been made, he or she shall so advise the subdivider and afford him or her an opportunity to make the necessary changes.

(b) The secretary of the Commission shall examine the final map. If he or she shall determine that the map substantially conforms to the approved tentative map, and any conditions imposed thereon, he or she shall so certify on the final map.

(c) When the filing of the final map is completed and approved, as set forth in this section, the City Engineer shall transmit to the Council for consideration the original linen or one duplicate transparency on vellum, suitable for reproduction, with all accompanying statements, agreements, cash, and/or bonds required, and the recording fee.

(§ 7.06, Ord. 341, as amended by § 35, Ord. 1102, eff. February 4, 2012)

§ 9-2.908. Council action.

(a) Upon the presentation of the materials required by the provisions of subsection (c) of Section 9-2.907 of this article by the City Engineer, the Council shall consider the final map, the plan of subdivision, and the offers of dedication. The Council may reject any or all offers of dedication or require the dedication of all proposed streets. In the event improvements are required pursuant to the provisions of this chapter or by law, the Council shall approve a contract with the subdivider for posting a bond or cash deposit as provided in Section 9-2.904 of this article. In such event, when the agreement and bond or cash deposit have been approved by the City Attorney as to form, and by the City Engineer or Council as to sufficiency, the Council may consider the final map.

(b) After the Council shall determine that the final map is in conformity with the provisions of this chapter, the Council shall approve such map by resolution. In the event the Council shall determine that the map is not in conformity with the provisions of this chapter, the

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Council shall disapprove the map, specifying the reasons therefor and advising the subdivider of such disapproval. Within 90 days thereafter the subdivider shall file with the City Engineer a final map altered to meet with the approval of the Council and shall conform with the procedures set forth in this chapter.

(§ 7.07, Ord. 341, as amended by § 36, Ord. 1102, eff. February 4, 2012)

§ 9-2.909. Recording.

The City Clerk, after approval by the Council and after signatures and seals have been affixed, shall transmit the final map and duplicate cloth tracings, accompanied by the necessary recording fee, to the County Recorder. No map shall have any force or effect until it has been approved by the Council, and no title to any property described in any offer of dedication shall pass until the recordation of the final map. No building permit shall be issued until the recordation of the final map, unless approved by the Council.

(§ 7.08, Ord. 341)

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ARTICLE 10
MINOR SUBDIVISIONS

§ 9-2.1001. Design and improvements.

The division of property in a minor subdivision shall be governed as to design by the provisions of Article 5 of this chapter, and may be governed as to improvements, where required, by the provisions of Article 6 of this chapter.
(§ 8.01, Ord. 341)

§ 9-2.1002. Tentative maps: Data.

A tentative minor subdivision map shall include the data outlined within the codified applications and submittal requirements adopted by the Los Banos City Council.
(§ 8.01, Ord. 341, as amended by § 2, Ord. 835, eff. October 19, 1990, and § 37, Ord. 1102, eff. February 4, 2012)

§ 9-2.1003. Tentative maps: Accompanying materials.

Accompanying the tentative map will be all items as stated within the codified applications and submittal requirements adopted by the Los Banos City Council.
(§ 8.01, Ord. 341, as amended by § 38, Ord. 1102, eff. February 4, 2012)

§ 9-2.1004. Tentative maps: Filing: Fees.

Tentative minor subdivision maps shall be filed with the Planning Director, together with a filing fee set by the Council.

All required information shall be filed with the secretary of the Commission at least 30 days prior to the time at which action is expected. The secretary of the Commission shall immediately transmit a copy of the map to each member of the Project Review Board and, if advisable, to each public utility serving the general area of the proposed minor subdivision.
(§§ 8.01 and 8.02, Ord. 341, as amended by § 3, Ord. 621, eff. August 4, 1978, and § 39, Ord. 1102, eff. February 4, 2012)

§ 9-2.1005. Tentative maps: Approval, conditional approval, or disapproval.

(a) If there are no outstanding issues, the tentative minor subdivision map will be scheduled for the next available Planning Commission meeting.

(b) The Planning Commission by resolution may grant approval of the parcel map/minor subdivision subject to conditions, or can deny the request.

(c) If denied, may file a written notice with the Planning Director or with the City Clerk within five business days.

(§ 8.02, Ord. 341, as amended by § 40, Ord. 1102, eff. February 4, 2012)

§ 9-2.1006. Parcel maps: Recording.

Parcel maps consistent with approved tentative minor subdivision map shall be reviewed and approved by the City Engineer, fees paid and offers of dedication refused or accepted by the City Council prior to recordation by the City Clerk. No title shall pass and no building permit shall be

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issued prior to the recording of the parcel map.

(a) Additional information. Additional information may be required to be filed and/or recorded simultaneously with a parcel map. The additional information shall be in the form of a separate document or an additional sheet, as stipulated by the City, which shall indicate its relationship to the parcel map, and shall contain a statement that the additional information is for informational purposes describing conditions as of the date of filing, and is not intended to affect record title interest.

(1) Additional survey and map information may include, but need not be limited to: building setback lines, flood hazard zones, seismic lines and setbacks, geologic mapping, archaeological sites, tentative tract map conditions of approval, Geographic Information System data and environmental mitigation measures.

(§ 8.02, Ord. 341, as amended by § 2, Ord. 875, eff. March 18, 1994)

§ 9-2.1007. Tentative maps: Limitations of approval.

The approval or conditional approval of a tentative minor subdivision map shall be valid for a period as specified within the Subdivision Map Act, including any extensions.
(§ 8.03, Ord. 341, as amended by § 41, Ord. 1102, eff. February 4, 2012)

§ 9-2.1008. Appeals.

Appeals from the action of the Commission by the applicant or any affected property owner shall be made to the Council in writing within five days after the date of such action of the Board.

The Council shall render its decision on any appeal within 30 days after the filing thereof. If the Council fails to act within the prescribed 30 days, the action of the Commission shall be deemed final unless such time period is extended by the mutual consent of the subdivider and the Council.
(§§ 8.02 and 8.03, Ord. 341, as amended by § 42, Ord. 1102, eff. February 4, 2012)

§ 9-2.1009. Exceptions to provisions.

The provisions of this article shall not apply to any parcel not conforming to the provisions of this chapter for which a deed is of record or for which a contract of sale was in full force and effect and recorded prior to January 3, 1964, nor to any land dedicated for cemetery purposes pursuant to the provisions of the Health and Safety Code of the State.

The provisions of this article shall not prevent any owner from processing any division of land as a subdivision.
(§§ 8.03 and 8.04, Ord. 341)

§ 9-2.1010. Waivers of minor subdivision map requirements.

The Commission may waive the requirements for a minor subdivision map which are established by this chapter and the Subdivision Map Act of the State provided it is shown by the subdivider and findings are made by the Commission that the proposed division of land complies with all the requirements for a minor subdivision which have been established by this chapter and the Subdivision Map Act of the State as to area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of this chapter and the Subdivision Map Act

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of the State.

A person desiring an exception shall comply with all the requirements of the tentative minor subdivision map procedure and shall indicate on the tentative minor subdivision map that a letter of exception is being requested. The Commission shall review the tentative minor subdivision map and shall approve, disapprove, or conditionally approve such tentative minor subdivision map and shall also grant or deny an exception to the filing of a final map. In the event the exception is granted, the Planning Director shall notify the applicant of such action and any conditions attached thereto. A copy of the letter of exception shall be forwarded to the County Recorder and County Assessor's office.
(§ 1, Ord. 575, eff. July 6, 1977, as amended by § 43, Ord. 1102, eff. February 4, 2012)

§ 9-2.1011. Mergers of parcels.

Pursuant to Section 66599.20 3/4 of the Subdivision Map Act of the State, provision is made by this section to merge contiguous parcels of land under common ownership without reverting to acreage or filing a parcel map as required under the provisions of a minor subdivision.

(a) A person desiring to merge contiguous parcels of land in his or her ownership shall submit a complete application package in accordance with the codified applications and submittal requirements adopted by the Los Banos City Council to the Planning Department;

(b) The Planning Department determines completeness within 10 business days;

(c) The Planning Department determines whether or not the parcels resulting from the lot line adjustment conform;

(d) If there are no outstanding issues, the package is forwarded to the Engineering Division for processing;

(e) The lot line adjustment is then checked for conformance with the Subdivision Map Act;

(f) Applicant prepares certificate of compliance;

(g) Certificate is signed and stamped by City Engineer;

(h) Certificate and grant deed reflecting the lot line adjustment are sent to Merced County Recorder's office for recordation.

(§ 11, Ord. 732, eff. May 3, 1985, as amended by § 44, Ord. 1102, eff. February 4, 2012)

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ARTICLE 11
VARIANCES

§ 9-2.1101. Criteria.

It is realized there are certain parcels of land of such dimensions, subject to such title restrictions, so affected by physical conditions, and/or devoted to such uses that it is impossible for the subdivider to conform to all of the provisions of this chapter when subdividing property. The Commission may grant variances from the provisions of this chapter when all the following conditions are found to apply:

(a) That any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the same vicinity;

(b) That because of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict literal application of the provisions of this chapter is found to deprive the subject property of privileges enjoyed by other properties in the vicinity; and

(c) That under the circumstances of any particular case, the variance, rather than the sections at issue in this chapter, actually carries out the spirit and intent of the provisions of this chapter.

(§ 5.01, Ord. 341, as amended by § 45, Ord. 1102, eff. February 4, 2012)

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ARTICLE 12
VIOLATIONS

§ 9-2.1201. Compliance required.

No building shall be constructed, nor shall a permit for the construction of a building be issued, nor shall any portion of any parcel be used when not conforming to the provisions of this chapter. (§ 9.01, Ord. 341)

§ 9-2.1202. Violations of provisions.

Any person, firm, or corporation, whether as principal, agent, employee, or otherwise, violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.
(§ 9.02, Ord. 341)

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ARTICLE 13
STORM DRAINAGE DEVELOPMENT IMPACT FEES

§ 9-2.1301. Purpose.

The purpose of the storm drainage fees established by this article is to derive revenue which shall be used for the construction, expansion, and reconstruction of the storm drainage system of the City.
(§ 1, Ord. 554, eff. December 31, 1976, as amended by § 6, Ord. 954, eff. March 3, 2000)

§ 9-2.1302. Storm drainage fees imposed.

The fees set forth in this article are hereby imposed and required of all development within the City.
(§ 1, Ord. 554, eff. December 31, 1976, as amended by § 7, Ord. 954, eff. March 3, 2000)

§ 9-2.1303. Schedule of fees.

The fees for the construction of such facilities are hereby established by City Council resolution.
(§ 1, Ord. 554, eff. December 31, 1976, as amended by § 8, Ord. 954, eff. March 3, 2000)

§ 9-2.1304. Storm Drainage Fee Fund.

All storm drainage fees collected pursuant to the provisions of this article shall be placed into a special fund which is hereby executed and established for such purposes and which shall be known as the "Storm Drainage Fee Fund." Revenues deposited into said fund shall be used for the construction, expansion, and reconstruction of, and the acquisition of land for, the storm drainage system of the City.
(§ 1, Ord. 554, eff. December 31, 1976)

§ 9-2.1305. Payment of fees.

The storm drainage fees shall be paid at the rate set forth by City Council resolution.
(§ 1, Ord. 554, eff. December 31, 1976, as amended by § 9, Ord. 954, eff. March 3, 2000, and § 46, Ord. 1102, eff. February 4, 2012)

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ARTICLE 14
SCHOOL DEVELOPMENT FEES

§ 9-2.1401. Authority.

This article is adopted pursuant to the provisions of Chapter 4.7 (commencing with Section 65970) of Division 1 of Title 7 of the Government Code of the State.
(§ 1, Ord. 746, eff. June 20, 1986)

§ 9-2.1402. Findings.

The Council hereby finds and declares as follows:

(a) Adequate school facilities should be available for children residing in new residential developments;

(b) Public and private residential developments may require the expansion of existing public schools or the construction of new school facilities;

(c) Funds for the construction of new classroom facilities are not available when new development occurs, resulting in the overcrowding of existing schools;

(d) New housing developments frequently cause conditions of overcrowding in existing school facilities which conditions cannot be alleviated under existing law within a reasonable period of time; and

(e) That, for such reasons, financing for interim school facilities necessitated by new developments is needed in the City.
(§ 1, Ord. 746, eff. June 20, 1986)

§ 9-2.1403. Regulations.

The Council, by resolution, may issue regulations to establish procedures, interpretations, and policy directions for the administration of this article.
(§ 1, Ord. 746, eff. June 20, 1986)

§ 9-2.1404. General Plan.

The General Plan of the City provides for the location of public schools. Those interim school facilities to be constructed from fees paid or those lands to be dedicated for school facilities as required by this article shall be consistent with the General Plan of the City.
(§ 1, Ord. 746, eff. June 20, 1986)

§ 9-2.1405. Definitions.

For the purposes of this article, unless otherwise apparent from the context, certain words and phrases used in this article are defined as follows:

"Attendance area" shall mean the attendance area for any school as defined by the governing board of the school district involved.

"Classroom facilities," "classroom and related facilities," and "elementary or secondary school facilities" shall mean "interim facilities" as defined in subsection (d) of this section and shall

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include no other facilities.

"Conditions of overcrowding" shall mean that the total enrollment of a school, including enrollment from proposed development, exceeds the capacity of such school as determined by the governing body of the school district.

"Interim facilities," for the purposes of this article, shall be limited to the following:

(1) Temporary classrooms not constructed with a permanent foundation and defined as a structure containing one or more rooms, each of which is designed, intended, and equipped for use as a place for the formal instruction of pupils by a teacher in a school;

(2) Temporary classroom toilet facilities not constructed with permanent foundations; or

(3) Reasonable site preparation and the installation of temporary classrooms.

"Reasonable methods for mitigating conditions of overcrowding" shall mean and include, but shall not be limited to, agreements between a subdivider and the affected school district whereby temporary-use buildings will be leased to the school district or temporary-use buildings owned by the school district will be used.

"Residential development" shall mean a project containing residential dwellings, including mobile homes, of one or more units or a subdivision of land for the purpose of constructing one or more residential dwelling units.

"School district" shall mean a public school district which operates an elementary or secondary school which has a part of its school attendance area within the City and which has not received an apportionment pursuant to the Leroy F. Green State School Building Lease Purchase Law of 1976 (commencing with Section 17700 of the Education Code of the State).
(§ 1, Ord. 746, eff. June 20, 1986)

§ 9-2.1406. Exemptions.

A residential development shall be exempt from the requirements of this article when such development consists only of the following:

(a) Any modification or remodeling of an existing legally established dwelling unit where no additional dwelling units are created;

(b) Any rebuilding of a legally established dwelling unit destroyed or damaged by accident, act of God, or other catastrophe; or

(c) The conversion of apartment units to condominiums, community apartments, or stock cooperatives, the fees for which have been paid pursuant to this chapter in connection with the issuance of approvals for the construction of the building being converted.
(§ 1, Ord. 746, eff. June 20, 1986)

§ 9-2.1407. Findings: Notices.

(a) The governing body of a school district may make a finding, supported by clear and convincing evidence, that:

(1) Conditions of overcrowding exist in one or more attendance areas within the district which conditions will impair the normal functioning of educational programs, including the reason for such conditions existing; and

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(2) All reasonable methods of mitigating conditions of overcrowding have been evaluated, and no feasible method for reducing such conditions exists.

(b) Upon making such findings, the school district shall notify the Council. The notice of findings sent to the City shall specify the mitigation measures considered by the school district.

(§ 1, Ord. 746, eff. June 20, 1986)

§ 9-2.1408. Concurrence by the City.

After the receipt of any notice of findings complying with the requirements of Section 9-2.1407 of this article, the Council, if it concurs with such school district findings, shall do so by resolution.

(§ 1, Ord. 746, eff. June 20, 1986)

§ 9-2.1409. Findings by the City for development approval.

Within an attendance area where the Council has concurred in a school district's notice of finding that conditions of overcrowding exist, no decision-making body of the City shall approve an ordinance rezoning property to a residential use, grant a discretionary permit for residential use, or approve a tentative subdivision map for residential purposes within such area, unless such decision-making body makes one of the following findings:

(a) That pursuant to this chapter, provision has been made for the payment of fees, dedication of land, or both, or some other provision has been agreed upon by the applicant for a residential development in the school district to mitigate the conditions of overcrowding within such attendance area; or

(b) That there are specific overriding fiscal, economic, social, or environmental factors which, in the judgment of the decision-making body, would benefit the City, thereby justifying the approval of a residential development otherwise subject to the provisions of this chapter without requiring the payment of fees, or the dedication of land, or other alternate provisions required by this chapter.

(§ 1, Ord. 746, eff. June 20, 1986)

§ 9-2.1410. Payment of fees: Dedication of land.

In an attendance area where the Council has concurred as provided in Section 9-2.1408 of this article that overcrowding exists, the applicant of a proposed residential development, as a condition of approval, or the obtaining of a building permit, shall pay fees, make an equivalent arrangement in lieu thereof, dedicate land, or do a combination thereof, as set forth in Section 9-2.1413 of this article, unless excepted as provided in subsection (c) of said section, as determined by the decision-making body during the hearings and other proceedings on specific residential development applications falling within their respective jurisdictions. Prior to the imposition of the fees, or the dedication of land, or both, it shall be necessary for the decision-making body acting on the application to make the following determination: that the facilities to be constructed, purchased, leased, or rented from such fees or the land to be dedicated, or both, are consistent with the General Plan of the City.

(§ 1, Ord. 746, eff. June 20, 1986)

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§ 9-2.1411. Payment of fees for small residential developments.

Only the payment of fees shall be required for subdivisions containing 50 parcels or less or for other developments containing 50 units or less.
(§ 1, Ord. 746, eff. June 20, 1986)

§ 9-2.1412. Standards for fees or land.

Any requirement imposed pursuant to this article shall bear a reasonable relationship and will be limited to the needs of the community for interim elementary or secondary facilities and shall be reasonably related and limited to the need for schools caused by the development; provided, however, the fees shall not exceed the amount necessary to pay five annual lease payments for the interim facilities. In lieu of the fees, the builder of a residential development, at his or her option and at his or her expense, may provide interim facilities owned or controlled by such builder at the place designated by the school district, and, at the conclusion of the fifth school year, the builder, at the builder's expense, shall remove the interim facilities from such place or deed them to the district at the district's option.
(§ 1, Ord. 746, eff. June 20, 1986)

§ 9-2.1413. Amount of fees or land.

(a) When fees are required by this article to be paid in lieu of land dedication, such fees shall be as follows:

(1) Facilities fees. Every person carrying out a residential development in an area where school overcrowding has been determined to exist shall pay a facilities fee. The amount of the facilities fee shall be set by resolution of the Council after consultation with the affected school districts, and shall bear a reasonable relationship, and will be limited to, the needs of the community for interim elementary, junior high, and high school facilities, and shall be reasonably related and limited to the need for schools caused by the residential development. However, fees shall not exceed the amount necessary to pay five annual lease payments for interim facilities prorated per student. The fee shall be paid at the time of the issuance of a building permit.

(2) Dedication or provision of facilities in lieu of fees. Upon agreement by the developer, the City, and the affected school district, a developer may dedicate land in lieu of paying the fees required by this article. The fair market value of the land so dedicated shall be equivalent to the amount of fees otherwise required. The developer, at his or her option and expense, may provide interim facilities meeting the standards and at a location established by the affected school district. The developer shall remove such facilities at the conclusion of the fifth (5th) school year at his or her expense, unless the developer and the school district agree that such facilities may remain.

When fees are required in combination with land dedication, such fees may be reduced in proportion to the amount of land dedicated. The school district shall be responsible to collect such fees, and the City shall be notified by the district of such collection having been made by the district prior to issuing a building permit.

(b) If the payment of a fee is required, such payment shall be made to the school district prior to issuing a building permit.

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(c) The standards for the amount of dedicated land required shall be recommended by the governing board of the school district where a determination has been made pursuant to Section 9-2.1407 of this article that conditions of overcrowding exist. Such standards and the facts supporting them shall be transmitted to the Council. If the Council concurs with such standards, they shall, until revised, be used by the decision-making bodies in situations where dedications of land are required as a condition to the approval of a residential development. Nothing set forth in this article shall prevent the Council from establishing and using standards other than those established by the school district in the event the Council does not concur in those transmitted by the district.

(d) Land shall be deeded or dedicated directly to the school district under procedures set forth by the City Attorney.

(§ 1, Ord. 746, eff. June 20, 1986)

§ 9-2.1414. Refunds.

(a) If a final subdivision map, a parcel map, or a conditional use permit is vacated or voided, and the City or school district still retains the land, and if the applicant so requests, such land shall be returned to the applicant.

(b) If a residential development approval is vacated or voided, and the school district still retains the fees collected therefor, and if the applicant so requests, such fees with interest shall be returned to the applicant, less administrative fees.

(§ 1, Ord. 746, eff. June 20, 1986)

§ 9-2.1415. School district schedules.

Following a decision by the City to require the dedication of land or the payment of fees, or both, the governing body of the school district shall submit a schedule specifying how the district will use the land or fees, or both, to solve the conditions of overcrowding. The schedule shall include the school sites to be used, the classroom facilities to be made available, and when such facilities will be available. In the event the governing body of the school district cannot meet the schedule, the governing body shall submit modifications to the Council stating the reasons for the modifications.

(§ 1, Ord. 746, eff. June 20, 1986)

§ 9-2.1416. Fees: Separate accounting: Reports.

Any school district receiving funds pursuant to this article shall maintain a separate account for any fees paid and shall file an audited report with the Council on the expended funds and the balance in the account at the end of the previous fiscal year. In addition, the report shall specify which attendance areas will continue to be overcrowded when the fall term begins and where conditions of overcrowding will no longer exist. Such report shall be filed by October 15th of each year and shall be filed more frequently at the request, in writing, of the Council.

(§ 1, Ord. 746, eff. June 20, 1986)

§ 9-2.1417. Use of land and fees.

All land or fees, or both, collected pursuant to this article by the school district shall be held in trust and shall be used only by the district for the purpose of providing interim elementary, junior high, or high school classrooms and related facilities for students from the attendance area from

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which the land or fees were collected.
(§ 1, Ord. 746, eff. June 20, 1986)

§ 9-2.1418. Termination of dedication or fee requirements.

When it is determined by the Council that conditions of overcrowding no longer exist in an attendance area, decision-making bodies shall cease the imposition of the requirements of this article.
(§ 1, Ord. 746, eff. June 20, 1986)

§ 9-2.1419. Administration and implementation.

The Council from time to time, by resolution, may issue regulations to provide for the administration and implementation of this article.
(§ 1, Ord. 746, eff. June 20, 1986)

§ 9-2.1420. Disposition of unused funds.

Upon the termination of this article:

(a) The school district shall deposit all unused funds to the school development fee account.

(b) If the school district sells or makes other disposition of the facilities installed or constructed pursuant to the terms and conditions of this article, the school district shall do so for valuable consideration equivalent to the worth of the property and shall deposit the same in the school development fee account.

(§ 1, Ord. 746, eff. June 20, 1986)

§ 9-2.1421. Disbursement of moneys.

The school district, by act of the governing board, shall make disbursements from the school development fee account established pursuant to Section 9-2.1416 of this article as funds are needed to mitigate the adverse impacts described in this article. The school district shall document the need for such moneys and shall specify in detail how the moneys would be utilized to alleviate the adverse impacts.
(§ 1, Ord. 746, eff. June 20, 1986)

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ARTICLE 15
VESTING TENTATIVE MAPS

Note: Sections 9-2.1401 through 9-2.1407, as added by Ordinance No. 749, effective August 15, 1986, renumbered to Sections 9-2.1501 through 9-2.1507 by codifier because Sections 9-2.1401 through 9-2.1407 are in use.

§ 9-2.1501. Application.

(a) Whenever a provision of the Subdivision Map Act, as implemented and supplemented by this chapter, requires the filing of a tentative map, a vesting tentative map may instead be filed in accordance with the provisions of this article.

(b) If a subdivider does not seek the rights conferred by the Vesting Tentative Map Statute, the filing of a vesting tentative map shall not be a prerequisite to any approval for any proposed subdivision, permit for construction, or work preparatory to construction.

(§ 2, Ord. 749, eff. August 15, 1986, as amended by § 47, Ord. 1102, eff. February 4, 2012)

§ 9-2.1502. Filing and processing.

A vesting tentative map shall be filed in the same form, and have the same contents, accompanying data, and reports, and shall be processed in the same manner as set forth in this chapter for a tentative map, except as follows:

(a) At the time a vesting tentative map is filed it shall have printed conspicuously on its face the words "Vesting Tentative Map."

The Planning Director may request, and the applicant shall promptly furnish, such further information as may reasonably be necessary to enable the Planning Director to evaluate on behalf of the City the vesting effect which would follow from the approval of the map.

(§ 2, Ord. 749, eff. August 15, 1986, as amended by § 48, Ord. 1102, eff. February 4, 2012)

§ 9-2.1503. Fees.

Upon filing a vesting tentative map, the subdivider shall pay the fees required by the City for the filing and processing of a tentative map.

(§ 2, Ord. 749, eff. August 15, 1986)

§ 9-2.1504. Expiration.

The approval or conditional approval of a vesting tentative map shall be in accordance with the timelines, including extensions, as stated within the Subdivision Map Act.

(§ 2, Ord. 749, eff. August 15, 1986, as amended by § 49, Ord. 1102, eff. February 4, 2012)

§ 9-2.1505. Vesting on approval of vesting tentative maps.

(a) The approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Section66474.2 of the Government Code of the State.

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However, if said Section 66474.2 of the Government Code is repealed, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.

(b) Notwithstanding the provisions of subsection (a) of this section, a permit, approval, extension, or entitlement may be made conditional or denied if any of the following is determined:

(1) A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both; or

(2) The condition or denial is required in order to comply with State or Federal laws.

(c) The rights referred to in this section shall expire if a final map is not approved prior to the expiration of the vesting tentative map as provided in Section 9-2.1504 of this article. If the final map is approved, such rights shall last for a period as specified in the Subdivision Map Act.

(§ 2, Ord. 749, eff. August 15, 1986, as amended by § 50, Ord. 1102, eff. February 4, 2012)

§ 9-2.1506. Developments inconsistent with zoning: Conditional approval.

(a) Whenever a subdivider files a vesting tentative map for a subdivision whose intended development is inconsistent with the zoning provisions in existence at that time, such inconsistency shall be noted on the map. The City may deny such a vesting tentative map or approve it conditioned on the subdivider, or his or her designee, obtaining the necessary change in the zoning provisions to eliminate the inconsistency. If the change in the zoning provisions is obtained, the approved or conditionally approved vesting tentative map, notwithstanding subsection (a) of Section 9-4.1505 of this article, shall confer a vested right to proceed with the development in substantial compliance with the change in the zoning provisions and the map as approved.

(b) The rights conferred by this section shall be for the time periods set forth in subsection (c) of Section 9-2.1505 of this article.

(§ 2, Ord. 749, eff. August 15, 1986)

§ 9-2.1507. Applications inconsistent with current policies.

Notwithstanding any provision of this article, a property owner or designee may seek approvals or permits for developments which depart from the ordinances, policies, and standards described in subsection (a) of Section 9-2.1505 and in Section 9-2.1506 of this article, and local agencies may grant such approvals or issue such permits to the extent the departures are authorized under applicable laws.

(§ 2, Ord. 749 eff. August 15, 1986)

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ARTICLE 16
LAND FOR PARKS AND RECREATION

Note: Article 14, as added by Ordinance No. 769, effective November 20, 1987, renumbered to Article 16 by codifier because Articles 14 and 15 are in use.

§ 9-2.1601. Authority, general purpose, and definitions.

This chapter is adopted pursuant to California Government Code Section 66477 and the general police power of the City, for the purpose of executing and implementing the Parks, Open Space and Resources Element of the General Plan of the City of Los Banos. It is the purpose of this article for: (1) the acquisition of park land for neighborhood and community parks through dedication of land or payment of fees in lieu thereof; and (2) the development of park and recreation facilities by imposition of fees in connection with the development of new dwelling units.

Except where the context otherwise requires, the definitions given in this section govern the construction of this article.

The term "developer" includes every person, firm, or corporation constructing a new dwelling unit, directly or through the services of any employee, agent, independent contractor, or otherwise.

The term "new dwelling unit" includes each structure of permanent character, places in a permanent location, which is planned, designed or used for residential occupancy, including, but not limited to, one-family, two family, and multifamily dwellings, apartment houses and complexes and mobile home spaces, but not including hotels, motels, and boardinghouses for transient guests.

The term "subdivision" includes any type of construction, land division or improvement of land which provides for dwelling units identified under the provisions of Section 66424 of the California Government Code. "Subdivision" shall also include any increase in the number of mobile home spaces.

The term "city service area" shall refer to the geographical area of beneficial use of one or more parks. The boundaries of said service areas shall be determined by resolution adopted by the City Council.

The term "park service area" shall refer to the geographical area of beneficial use of one park, as determined by the Director of Public Works.

The term "land value" means fair market value of a buildable acre of land, as determined by the City Council.

Very-low/low density.

Medium density.

High density.
(§ 1, Ord. 844, eff. May 31, 1991, as amended by § 1, Ord. 1062, eff. December 19, 2007, and § 51, Ord. 1102, eff. February 4, 2012)

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§ 9-2.1602. Requirements.

At the time of approval of the tentative map, parcel map, or final map, or upon issuance of a building permit, the Director of Public Works shall determine pursuant to Section 9-2.1604 hereof the land required for dedication or in-lieu fee payment. As a condition of approval of a final subdivision map or parcel map, or upon issuance of a building permit, the subdivider shall dedicate land, pay a fee in lieu thereof, or both, at the option of the City, for neighborhood and community park or recreational purposes at the time and according to the standards and formula contained in this article.
(§ 1, Ord. 844, eff. May 31, 1991, as amended by § 1, Ord. 1062, eff. December 19, 2007)

§ 9-2.1603. Park acreage standard.

It is hereby found and determined that the public interest, convenience, health, welfare, and safety require that five acres of property for each 1,000 persons residing within this City be devoted to local park and recreational purposes. Said five acres are justified by the existing ratio of five acres of neighborhood and community parks per 1,000 residents in the City, and the current maximum utilization of said acreage by the residents of Los Banos.
(§ 1, Ord. 844, eff. May 31, 1991, as amended by § 1, Ord. 1062, eff. December 19, 2007, and § 52, Ord. 1102, eff. February 4, 2012)

§ 9-2.1604. Formula for the dedication of land.

Where a park or recreation facility has been designated in the Parks, Open Space and Resources Element of the General Plan of the City, and is to be located in whole or in part within the proposed subdivision for the purpose of serving the immediate and future needs of the residents of the subdivision, the developer shall dedicate land for a local park sufficient in size and topography that bears a reasonable relationship to serve the present and future needs of the residents of the subdivision. The amount of land to be provided shall be determined pursuant to the following formula and the average number of persons per unit shall be obtained from the California Department of Finance.

The formula for determining acreage to be dedicated shall be as follows:

$$\text{Average No. of Persons/Unit} \times \frac{\text{park acreage standard}}{1{,}000 \text{ population}} = \text{minimum acreage dedication/DU}$$

Dedication of the land shall be made in accordance with the procedures contained in Section 9-2.1612 hereof.

For the purpose of this section, the number of new dwelling units shall be based upon the number of parcels indicated on the tentative or parcel map when in an area zoned for one dwelling unit per parcel. When all or part of the subdivision is located in an area zoned for more than one dwelling unit per parcel, the number of proposed dwelling units in the area so zoned shall equal the maximum allowed under that zone, including any applicable density increases. In the case of a condominium project, the number of dwelling units shall be the number of condominium units. The term "new dwelling unit" does not include dwelling units lawfully in place prior to the date on which the parcel or final map is filed.

The developer shall, without credit: (1) provide full street improvements and utility connections including, but not limited to, curbs, gutter, street paving, traffic control devices, street trees, and

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sidewalks to land which is dedicated pursuant to this section; (2) provide for fencing along the property line of that portion of the subdivision contiguous to the dedicated land; (3) provide improved drainage through the site; and (4) provide other minimal improvements which the City determines to be essential to the acceptance of the land for recreational purposes.

The land to be dedicated and the improvements to be made pursuant to this section shall be reviewed at the tentative map stage in accordance with the criteria set forth in Section 9-2.1610 and approved by the Director of Public Works.
(§ 1, Ord. 844 C.S., eff. May 31, 1991, as amended by § 1, Ord. 1062, eff. December 19, 2007, and § 53, Ord. 1102, eff. February 4, 2012)

§ 9-2.1605. Formula for fees in lieu of land dedication.

(a) General formula. If there is no park or recreation facility designated in the Recreation and Parks Element of the General Plan to be located in whole or in part within the proposed subdivision for the purpose of serving the immediate and future needs of the residents of the subdivision, the developer shall, in lieu of dedicating land, pay a fee equal to the value of that land, prescribed in Sections 9-2.1604 and 9-2.1606 hereof and in an amount determined in accordance with the provisions of Section 9-1606 hereof.

However, nothing in this section shall prohibit the dedication and acceptance of land for park and recreation purposes where the developer proposes such dedication voluntarily and the land is approved by the Director of Public Works.

(b) Use of money. The money collected hereunder shall be used only for the purpose of acquiring necessary land and developing new or rehabilitating existing park or recreational facilities reasonably related to serving the subdivision.

(§ 1, Ord. 844 C.S., eff. May 31, 1991, as amended by § 1, Ord. 1062, eff. December 19, 2007)

§ 9-2.1606. Amount of fees in lieu of land dedication.

When a fee is to be paid in lieu of land dedication, the amount of such fee shall be based upon the fair market value determined by the City Council per Section 9-2.1607. The fee shall be determined by the following formula:

$$\text{DUs} \times \frac{\text{Pop}}{\text{DU}} \times \frac{\text{5 acres}}{\text{1,000 people}} \times \frac{\text{FMV}}{\text{buildable acre}} = \frac{\text{in-lieu fee}}{\text{in-lieu fee}}$$

where:

DUs	= number of dwelling units as defined in Section 9-2.1604
$\frac{\text{Pop}}{\text{DU}}$	= population per dwelling unit as defined in Section 9-2.1604
FMV	= fair market value determined by Section 9-2.1607
Buildable acre	= a typical acre of the subdivision, with a slope less than 10%, and located in other than an area on which building is excluded because of flooding, easements, or other restrictions

Fees to be collected pursuant to this section shall be reviewed by the Director of Public Works to ascertain if they comply with the formula set forth above. If compliance is found, then the fees

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shall be approved by the Director of Public Works.
(§ 1, Ord. 844 C.S., eff. May 31, 1991, as amended by § 1, Ord. 1062, eff. December 19, 2007, and § 54, Ord. 1102, eff. February 4, 2012)

§ 9-2.1607. Determinations of fair market value.

The fair market value per buildable acre shall be determined annually by resolution adopted by the City Council.
(§ 1, Ord. 844 C.S., eff. May 31, 1991, as amended by § 1, Ord. 1062, eff. December 19, 2007)

§ 9-2.1608. Park development impact fees.

A fee shall be paid for park development by the developer of each new dwelling unit irrespective of whether the developer is required to dedicate land or pay fees in lieu of land dedication as set forth in Sections 9-2.1604 and 9-2.1605. This fee shall be used to pay for those improvements including, but not limited to, landscaping and installation or recreational facilities which are required by Sections 9-2.1604 and 9-2.1605. The fee shall be established at the rate set forth by City Council resolution.
(§ 1, Ord. 844 C.S., eff. May 31, 1991, as amended by § 10, Ord. 954, eff. March 3, 2000, and § 1, Ord. 1062, eff. December 19, 2007)

§ 9-2.1609. Determinations of park development cost per acre.

The development cost per acre of park land shall be determined annually by resolution adopted by the City Council.
(§ 1, Ord. 844 C.S., eff. May 31, 1991, as amended by § 1, Ord. 1062, eff. December 19, 2007)

§ 9-2.1610. Determinations of land or fees.

Whether the City accepts land dedication or elects to require payment of a fee in lieu thereof, or a combination of both, shall be determined by consideration of the following:

(a) The natural features, access, and location of land in the subdivision available for dedication;

(b) The size and shape of the subdivision and land available for dedication;

(c) The feasibility of dedication;

(d) The compatibility of dedication with the Parks, Open Space and Resources Element of the General Plan; and

(e) The location of existing and proposed park sites and trailways.
(§ 1, Ord. 844 C.S., eff. May 31, 1991, as amended by § 1, Ord. 1062, eff. December 19, 2007, and § 55, Ord. 1102, eff. February 4, 2012)

§ 9-2.1611. Credit for private open space.

No credit shall be given for private open space in the subdivision except as hereinafter provided. Where private open space usable for active recreational purposes is provided in a proposed planned development or real estate development as defined in Sections 11003 and 11003.1 of the Business and Professions Code, partial credit, not to exceed 45%, shall be given against the

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requirement of and dedication or payment of fees in lieu thereof if the City finds that it is in the public interest to do so and that all the following standards are met:

(a) Yards, court areas, setbacks, and other open areas required by the zoning and building ordinances and regulations shall not be included in the computation of such private open space; and

(b) Private park and recreational facilities shall be owned by an owners' association composed of all property owners in the subdivision and being an incorporated nonprofit organization capable of dissolution only by a 100% affirmative vote of the membership and approved by the City, operated under recorded land agreements through which each lot owner in the neighborhood is automatically a member, and each lot is subject to a charge for a proportionate share of expenses for maintaining the facilities; and

(c) Use of the private open space is restricted for park and recreation purposes by recorded covenant which runs the land in favor of the future owners of the property and which cannot be defeated or eliminated without the consent of the City or its successor; and

(d) The proposed private open space is reasonably adaptable for use for park and recreation purposes, taking into consideration such factors as size, shape, topography, geology, access, and location; and

(e) The open space for which credit is given is a minimum of three acres and provides a minimum of five of the local park basic elements listed as follows, or a combination of such, and other recreation improvements that will meet the specific recreation needs of future residents of the area:

Elements	Acres
1. Children's play apparatus area	.50 to .75
2. Landscape park-like with quiet areas	.50 to 1.00
3. Family picnic area	.25 to .75
4. Game court area	.25 to .50
5. Turf playfield	1.00 to 3.00
6. Swimming pool (forty-two (42′) feet by seventy-five (75′) feet with adjacent deck and lawn areas)	.25 to .50
7. Recreation center building	.15 to .25

Before credit is given, the Director of Public Works shall make written findings that the above standards are met.

(§ 1, Ord. 844 C.S., eff. May 31, 1991, as amended by § 1, Ord. 1062, eff. December 19, 2007)

§ 9-2.1612. Procedure.

At the time of approval of the tentative map or parcel map, rezoning, or any other discretionary approval of development, the Director of Public Works shall determine, pursuant to Section 9-2.1604 hereof, the land required for dedication. If the Director of Public Works requires in-lieu fee payment by the developer, the Director of Public Works shall set the amount of land upon

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which the in-lieu fee will be based at the time of final map approval. At the time of filing of final map, the subdivider shall dedicate the land. In-lieu fees and park development fees shall be paid at the time of building permit. In-lieu fees shall be established using current land values at the time of payment with the formula set forth in Section 9-2.1606. Park development fees shall be established using current park improvement costs at the time of payment with the formula set forth in Section 9-2.1608.

Open space covenants for private park or recreation facilities shall be submitted to the City prior to approval of the final subdivision map or parcel map and shall be recorded contemporaneously with the final subdivision map.

The land to be dedicated and/or in-lieu and park development fees to be paid, shall be subject to the latest adopted ordinances, resolutions, policies, and fees adopted by the City Council and in effect at the time of the final map review and approval.
(§ 1, Ord. 844 C.S., eff. May 31, 1991, revised, corrected in Reprint No. 36, as amended by § 1, Ord. 1062, eff. December 19, 2007)

§ 9-2.1613. Disposition of fees.

Fees determined pursuant to Sections 9-2.1606 and 9-2.1608 shall be paid to the City Finance Director and shall be deposited into the subdivision park trust fund, or its successor. Money in said fund, including accrued interest, shall be expended solely for acquisition, development, or rehabilitation of park land or improvements related thereto.

Collected fees shall be appropriated by the local agency to which the land or fees are conveyed or paid for a specific project to serve residents of the subdivision in a budgetary year within five years upon receipt of payments or within five years after the issuance of building permits on 1/2 of the lots created by the subdivision, whichever occurs later.

If such fees are not so committed, these fees shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots in the subdivision.

The City Finance Director shall report to the City at least annually on income, expenditures, and status of the subdivision park trust fund.
(§ 1, Ord. 844 C.S., eff. May 31, 1991, as amended by § 1, Ord. 1062, eff. December 19, 2007)

§ 9-2.1614. Exemptions.

Subdivisions containing less than five parcels and not used for residential purposes shall be exempted from the requirements of this article; provided, however, that a condition shall be placed on the approval of such parcel map that if a building permit is requested for construction of a residential structure or structures on one or more of the parcels, the fee may be required to be paid by the owner of each such parcel as condition to the issuance of such permit.

The provisions of this article do not apply to commercial or industrial subdivisions; nor do they apply to condominium projects or stock cooperatives which consist of the subdivision of air space in an existing apartment building which is more than five years old when no new dwelling units are added.
(§ 1, Ord. 844 C.S., eff. May 31, 1991, as amended by § 1, Ord. 1062, eff. December 19, 2007)

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§ 9-2.1615. Developer-provided park and recreation improvements.

After the Planning Commission or Director of Public Works determines that land is required for dedication and/or in-lieu fee payment by the developers, the developer may apply to the Public Works Department for permission to construct specified park and recreation improvements on the land of said developer required for dedication or on other land within the same City service area to be developed as a park. If the Public Works Department grants the developer permission for construction of specified parks and recreation improvements on said land, said Department shall fix the dollar value of the parks and recreation improvements prior to construction. The agreed dollar value of park and recreation improvements provided by the developer may be credited against the fees required by this article, provided the improvements are constructed per the approved plans by the Department.
(§ 1, Ord. 844 C.S., eff. May 31, 1991, as amended by § 1, Ord. 1062, eff. December 19, 2007, and § 56, Ord. 1102, eff. February 4, 2012)

§ 9-2.1616. Schedule for the use of land or fees.

The Public Works Department shall develop a schedule specifying how, when, and where it will use the land or fees, or both, to develop park or recreational facilities to serve residents of the subdivision.
(§ 1, Ord. 844 C.S., eff. May 31, 1991, as amended by § 1, Ord. 1062, eff. December 19, 2007)

§ 9-2.1617. Access.

All land offered for dedication for local park or recreational purposes shall have access to at least one existing or proposed public street. This requirement may be waived by the City if the City determines that public street access is unnecessary for maintenance of the park area or use thereof by residents.
(§ 1, Ord. 844 C.S., eff. May 31, 1991, as amended by § 1, Ord. 1062, eff. December 19, 2007)

§ 9-2.1618. Sale of dedicated land.

If during the ensuing time between dedication of land for park purposes and commencements of first-stage development, circumstances arise which indicate that another site would be more suitable for local park or recreational purposes serving the subdivision and the neighborhood (such as receipt of a gift of additional park land or a change in school location), the land may be sold upon the approval of the City with the resultant funds being used for the purchase of a more suitable site.
(§ 1, Ord. 844 C.S., eff. May 31, 1991, as amended by § 1, Ord. 1062, eff. December 19, 2007)

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ARTICLE 17
TRAFFIC DEVELOPMENT IMPACT FEES

§ 9-2.1701. Authority, general purpose, and definitions.

This article is adopted pursuant to the provisions of Chapter4.7 of Division 1 of Title 7 of the Government Code of the State. It is the purpose of this article to provide fees to be used for traffic management, including signalization and various traffic signs, plus traffic related equipment, such as signal energizers throughout the City, in connection with the development of new residential, commercial, and industrial uses.
(§ 1, Ord. 781, eff. September 16, 1988, as amended by § 11, Ord. 954, eff. March 3, 2000)

§ 9-2.1702. Traffic impact fees.

The City has agreed to impose traffic impact fees on all new development and redevelopment at the rates set forth by City Council resolution.
(§ 1, Ord. 781, eff. September 16, 1988, as amended by § 12, Ord. 954, eff. March 3, 2000)

§ 9-2.1703. Requirements.

Upon the issuance of a building permit for new development and redevelopment, traffic impact fees shall be paid in accordance with the adopted traffic impact fee schedule. Such fees are based on the ITE Land Use Code and square foot-age for commercial and industrial uses.
(§ 1, Ord. 781, eff. September 16, 1988)

§ 9-2.1704. Conditions.

(a) Fees shall be reviewed on an annual basis (January 1st) by the Council, City Manager, and staff. Adjustments shall be made based on the traffic minimum volume, warrant signalization costs, and ADT factor, times the independent variable, equaling the traffic impact fee rates.

(b) Development which produces a higher traffic minimum volume than normal or, because of its location has a special impact on a traffic condition, as documented by any environmental action or traffic study, may be assessed on a case by case basis at a rate above the normal fee structure.

(§ 1, Ord. 781, eff. September 16, 1988)

§ 9-2.1705. Adoption of fees.

The traffic impact fees shall be adopted by resolution of the Council.
(§ 1, Ord. 781, eff. September 16, 1988)

§ 9-2.1706. Disposition of fees.

All fees collected pursuant to this article shall be paid to the Director of Finance and shall be deposited into a Traffic Impact Fund or its successor. Money in said fund, including accrued interest, shall be expended solely for traffic signalization and various traffic signs, plus traffic related equipment, such as signal energizers.
(§ 1, Ord. 781, eff. September 16, 1988)

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Chapter 3
Zoning

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ARTICLE 1
SHORT TITLE, ADOPTION, PURPOSE AND SCOPE

§ 9-3.101. Short title.

This chapter shall be known as the "Zoning Regulations" of the City.
(§ 1.04, Ord. 342)

§ 9-3.102. Adoption.

There is hereby adopted a precise zoning plan for the City. Such zoning plan is adopted to promote and protect the public health, safety, peace, morals, comfort, and general welfare of the City.
(§ 1.01, Ord. 342)

§ 9-3.103. Purpose.

The purpose of this chapter is to provide regulations for the systematic execution of the land use element of the General Plan for the physical development of the City.
(§ 1.02, Ord. 342)

§ 9-3.104. Scope.

The zoning or districting plan effectuated by the provisions of this chapter is a part of the General Plan and consists of the establishment of various districts, including all the territory within the boundaries of the City within which the use of lands and buildings, the space for buildings, and the height and bulk of buildings are regulated.
(§ 1.03, Ord. 342)

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ARTICLE 2
DEFINITIONS

§ 9-3.201. Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined below.

"Accessory building" means a building exceeding 120 square feet which is subordinate to the principal use of a building on the same premises and serving a purpose customarily incidental to the use of the principal buildings.

"Alley" means a public or private way thirty (30′) feet or less in width which affords a secondary means of access to abutting property.

"Apartment" means any building, or portion thereof, designed and built for the occupancy of four or more families.

"Assisted living" means a supportive housing facility designed for those who need extra help in their day-to-day lives and who do not require the 24 hour skilled nursing care found in traditional nursing homes.

"Block" means all property fronting upon one side of a street between intersecting and intercepting streets or between a street and a railroad right-of-way, dead-end street, or City boundary. An intercepting street shall determine only the boundary of the block on the side of the street which it intercepts.

"Building" means any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person, animal, or personal property.

"Building height" means the vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the building to the topmost point of the roof, excluding elevator equipment rooms and ventilating and air-conditioning equipment.

"Building, main" means a building in which is conducted the principal use of the lot and/or building site on which it is situated.

"Building site" means a lot or parcel of land, in single or joint ownership, occupied or to be occupied by a main building and accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required by the provisions of this chapter, and having its principal frontage on a street, road, or highway.

"Business, retail" means the retail sale of any article, substance, or commodity within a building.

"Business, wholesale" means the wholesale handling of any article, substance, or commodity or the open storage or sale of any material or commodity or the processing or manufacture of any product or substance.

"Child day care facility" means a facility that provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24 hour basis. Child day care facility includes day care centers, employer-sponsored child care centers, and family day care homes.

"Commission" means the Planning Commission of the City.

"Communication equipment building" means a building housing the electrical and mechanical

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equipment necessary for the conduct of public utility communication businesses, with or without personnel.

"Cottage food operation" means an enterprise at a private home where specific low-risk food products that do not require refrigeration are prepared or packaged for sale to consumers, subject to the requirements of the State of California with criteria and conditions related to spacing/concentration, parking, traffic and noise control to maintain the residential nature of the neighborhoods.

"Day care center" means a child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers, and includes child care centers licensed pursuant to Section 1596.951 of the Health and Safety Code.

"Disability" means a person with: (1) a physical or mental impairment that substantially limits one or more of a person's major daily living activities; (2) a record of having, or being perceived as having, a physical or mental impairment, but not including current illegal use of, or addiction to, a controlled substance (as defined by Section 102 of the Federal Control Substance Act, at 21 U.S.C. Sec. 802).

"District" means a portion of the City within which certain uses of land and buildings are permitted or prohibited and within which certain yards and other open spaces are required and certain height limits are established for buildings, all as set forth in this chapter.

"Dwelling" means a building, or portion thereof, designed and used exclusively for residential occupancy, including one-family, two-family, three-family, and four-family dwellings and apartments and multiple-family dwellings, but not including hotels or motels.

"Dwelling, four-family or fourplex" means a building containing not more than four kitchens, designed and/or used to house not more than four families living independently of each other.

"Dwelling group" means a group of two or more detached or semi-detached one-family, two-family, three-family, four-family, or multiple dwellings occupying a parcel of land in one ownership and having any yard or court or access in common, but not including hotels or motels.

"Dwelling, multiple" means a building, or portion thereof, used and designed as a residence for five or more families living independently of each other and doing their own cooking in such building, including apartment houses, apartment hotels, and flats, but not including motels and hotels.

"Dwelling, single-family" means a building designed for or used to house not more than one family.

"Dwelling, three-family or triplex" means a building containing not more than three kitchens, designed and/or used to house not more than three families living independently of each other.

"Dwelling, two-family or duplex" means a building containing not more than two kitchens, designed and/or used to house not more than two families living independently of each other.

"Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay (as defined by California Health and Safety Code Section 50801(e)).

"Employee housing" has the same meaning as that term is defined in Section 17008 of the Health and Safety Code. Employee housing for six or fewer employees is subject to all municipal codes, regulations and other standards generally applicable to other residential dwellings of the same

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type in the same zone.

"Employee needs housing" means a residential structure that provides lodging with or without meals and is available for permanent or seasonal occupancy. Said housing includes dormitories, boarding/rooming houses, and dwelling units.

"Enclosed" means to be surrounded with a wall, fence, etc.

"Family" means one or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, or fraternity or sorority house.

"Family day care home" means a facility that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family day care home or a small family day care home.

"Fence" means any structural device forming a physical barrier by means of a hedge, wood, mesh, metal, chain, brick, stake, plastic, or other similar materials.

"Final development plan" means a document including design details for: landscaping, lighting, utilities, infrastructure, setbacks, grading, lot layout and building elevations.

"Garage or carport" means an accessible and usable covered space not less than ten (10′) feet by twenty (20′) feet for the storage of automobiles.

"Group home" means an establishment, usually resembling a private home and located in a residential neighborhood, which provides lodging and/or supervised care for up to six unrelated residents with special needs.

"Guest house" means a detached living quarters of a permanent type of construction without kitchens or cooking facilities and where no compensation in any form is received or paid.

"Height" means the vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the building to the topmost point of the roof, excluding elevator equipment rooms and ventilating and air-conditioning equipment.

"Home occupation" means an operation conducted on the premises by the occupant of the dwelling as a secondary use in connection therewith and where there are no advertising signs, no displays, no stock or commodities sold on the premises, no customers, no employees in connection therewith, and no mechanical equipment designed to be used in connection therewith other than that necessary or convenient for domestic purposes.

"Hotel" means a single building or a group of detached or semi-detached buildings containing guest rooms with automobile storage space provided on the site for such rooms provided in connection therewith, which group is designed and used primarily for the accommodation of transient automobile travelers.

"Household pets" mean animals, birds or reptiles ordinarily permitted in a dwelling and kept only for the company or pleasure provided to the occupants. Household pets shall not include horses, cows, goats, sheep, other equine, bovine, ovine, or ruminant animals, pigs, predatory wild animals, chickens, roosters, ducks, geese, turkeys, pigeons, small exotic fowl or game birds and fowl, which normally constitute an agricultural use, such as animals raised for commercial selling of offspring, eggs or for consumptive purposes. The keeping of any animal not herein described as a household pet shall not be deemed an accessory residential use. Approval for ducks, geese, chickens, pigeons or small exotic fowl as household pets shall be subject to use permit approval.

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"Junk yard" means more than 100 square feet of the area of any lot used for the storage of junk, including scrap metals or salvage or other scrap materials, or for the dismantling or wrecking of automobiles or other vehicles or machinery, whether for sale or storage.

"Kennel" means any lot or premises on which mature dogs and/or cats and/or other household pets are kept, boarded or trained for the purpose of sale or breeding. A "mature" household pet is defined as being at least six months old.

"Large family day care home" means a facility that provides care, protection, and supervision for seven to 14 children, inclusive, including children under 10 years of age who reside at the home, as set forth in Section 1597.465 of the Health and Safety Code and as defined in regulations. A large family day care home includes a detached single-family dwelling, a townhouse, a dwelling unit within a dwelling, or a dwelling unit within a covered multifamily dwelling in which the underlying zoning allows for residential uses. A large family day care home is where the day care provider resides, and includes a dwelling or a dwelling unit that is rented, leased, or owned.

"Lot" means a lot or parcel of land, in single or joint ownership, occupied or to be occupied by a main building and accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required by the provisions of this chapter, and having its principal frontage on a street, road, or highway.

"Lot: corner: side and front." The narrowest frontage of a corner lot facing the street shall be the front, and the longest frontage facing the intersecting street shall be the side, irrespective of the direction in which the dwelling faces.

"Lot front" means the shortest dimension of a lot fronting on a street.

"Lot line" means a line separating the frontage from a street, the side from a street or adjoining property, or the rear or side from an alley or street or adjoining property.

"Lot rear" means the lot boundary opposite, or approximately opposite, the lot front.

"Lot side" means any lot boundary not a front or rear lot line.

"Lot, through" means a lot having frontage on two parallel or approximately parallel streets.

"Motel" means a single building or a group of detached or semi-detached buildings containing guest rooms, with automobile storage space provided on the site for such rooms provided in connection therewith, which group is designed and used primarily for the accommodation of transient automobile travelers.

"Office" means a business establishment for rendering services or for administration, but excluding retail sales.

"Park." Los Banos parks are divided into four different categories. The first is a pocket park which is under an acre in size, the second is a neighborhood park which is typically two to nine acres, the third is a community park which is a minimum of 10 acres and the final type is a specialized use or regional park.

"Parking space" means an accessible and usable space on the building site or on an adjacent lot for the parking of automobiles, which shall have reasonable access to a public street or alley without going through any other parking space.

"Patio" means an outdoor space generally used for dining or recreation that is typically paved or another hard surface. Patios typically adjoin the primary structure and are not enclosed on more than three sides, if the patio is freestanding it cannot be enclosed on any side.

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"Paved parking lot" means parking stalls, driveways, and circulation and maneuvering areas intended for motor vehicle use constructed of asphalt or other recognized paving surfaces constructed according to City improvement standards.

"Person" means any individual, City, County, City and County, partnership, corporation, cooperative, association, trust, or any other legal entity, including the State and the Federal government.

"Porch" means an open or enclosed gallery or room attached to the outside of a building.

"Recreational vehicle" means a collective term which may refer to any or all of the following: airplane, boat, boat trailer, camper, motor home, motorcycle trailer, travel trailer and similar vehicles.

"Residential care facility" means a single-family dwelling unit which provides 24 hour non-medical care of persons who are in need of personal service, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual in a family-like environment, in a facility licensed by the State of California. A residential care facility does not include family day care, foster care or any medical services, including nursing services, beyond that required by the residents of the residential care facility for sustaining the activities of daily living. A residential care facility specifically includes an alcoholism or drug abuse recovery facility, or family care home, foster home, or group home for mentally disordered or otherwise handicapped persons or dependent or neglected children, as defined by California Health and Safety Code Section 1502 and licensed by the State of California.

"School, commercial, trade" means an institution conducting regular instruction in a nonresidential location for five or more students concurrently, offering preponderant instruction in technical, commercial, or trade skills, such as air flight, automotive and aircraft technicians schools, beauty, business colleges, computer training, electronic schools, real estate schools, secretarial, and like commercial establishments operated by nongovernmental organizations.

"School, parochial" means an institution conducting regular academic instruction at kindergarten, elementary, secondary, and collegiate levels operated by a religious organization.

"School, private academic" means an institution conducting regular academic instruction in a nonresidential location for five or more students concurrently by a nongovernmental organization.

"School, public" means a public institution conducting regular academic instruction at kindergarten, elementary, secondary, and collegiate levels.

"Senior housing" means an age restricted housing community restricted by covenant.

"Setback line" means a line established by the provisions of Article 19 of this chapter to govern the placement of buildings or structures with respect to lot lines, streets, or alleys.

"Sign" means any advertising display or structure.

"Sign, non-appurtenant" means a sign erected on any property, which sign is not used exclusively to advertise the sale or lease of the property on which such sign is placed; to designate the name of the owner or occupant of the premises upon which such sign is placed or to identify such premises; or to advertise the business conducted, goods manufactured or produced, or services rendered on the property upon which such sign is placed.

"Single-room occupancy (SRO) facility" means any building containing five or more guest rooms or units intended or designed to be used, or which are used, rented, or hired out, to be

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occupied, or which are occupied, for sleeping purposes by residents, which is also the primary residence of those residents. The individual units shall lack either kitchen facilities or individual bathrooms, or both. If full kitchen and bathroom facilities are provided in any living unit, then that unit shall not be considered a single-room occupancy (SRO) unit for purposes of this section; it shall be considered a single family or multifamily residential unit, as the case may be. A single-room occupancy facility does not include residential care homes, senior housing projects, rooming and boarding houses, hotels and motels, bed and breakfast lodging, extended care facilities, hospitals, or similar use or other transient lodging facilities.

"Small family day care home" means a facility that provides care, protection, and supervision for eight or fewer children, including children under 10 years of age who reside at the home, as set forth in Section 1597.44 of the Health and Safety Code and as defined by regulation. A small family day care home includes a detached single-family dwelling, a townhouse, a dwelling unit within a dwelling, or a dwelling unit within a covered multifamily dwelling in which the underlying zoning allows for residential uses. A small family day care home is where the day care provider resides, and includes a dwelling or a dwelling unit that is rented, leased, or owned.

"Special event" means temporary uses of property which are strictly limited in duration and frequency that do not involve any significant alterations of the land, improvements or construction of permanent structures that are not otherwise regulated by the provisions of this Code. Uses subject to obtaining a special event permit shall include temporary indoor or outdoor activities held inside or outside a building or an established permanent facility that is not typically approved for such activities.

"Special needs housing" means housing for individuals who require assistance for disabilities that may be medical, mental, or psychological.

"Specific plan" means a plan used to facilitate an annexation into the City that includes zoning the property with specified land uses, describes and maps circulation and transportation systems and provides utility designs needed to serve the area.

"Street" means a public thoroughfare which affords the principal means of access to abutting property, including an avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare except an alley as defined in this article.

"Street line" means the boundary between a street right-of-way and property.

"Structural alteration" means any change in the supporting members of a structure, such as bearing walls, columns, beams, or girders.

"Structure" means anything constructed or erected, the use of which requires location on or in the ground or attachment to something having location on the ground, including swimming pools, but excluding driveways, patios, and parking spaces.

"Supportive housing" means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community (as defined by Government Code Section 65582). Supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

"Target population" means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities

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Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people (as defined by Government Code Section 65582).

"Trailer court" means land or premises used or intended to be used, let, or rented for occupancy by one or more trailers, or movable dwellings, rooms, or sleeping quarters of any kind.

"Transitional housing" means a building or buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculation of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance (as defined by Section 50675.2 of the Health and Safety Code). Transitional housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. Transitional housing does not include state licensed residential care facilities.

"Use" means the purpose for which land or a building is designed, arranged, or intended or for which either land or buildings are or may be occupied or maintained.

"Use, accessory" means a use incidental or subordinate to, and devoted exclusively to the main use of a lot or a building located on the same lot.

"Use, nonconforming" means a use which does not conform to the provisions for the district in which such use is situated.

"Yard" means an open space, other than a court, on the same lot with a building, which open space is unoccupied and unobstructed from the ground upward, except as otherwise permitted by the provisions of Article 18 of this chapter.

"Yard, front" means a yard extending across the front of the lot between the side lot lines and measured from the front line of the lot to the nearest line of the building; provided, however, if any Official Plan Line has been established for the street upon which the lot faces, the front yard measurement shall be taken from such Official Plan Line to the nearest line of the building.

"Yard, rear" means a yard extending across the full width of the lot and measured between the rear line of the lot and the nearest line of the main building.

"Yard, side" means a yard between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard.
(§ 2.01, Ord. 342, as amended by § 1, Ord. 1095, eff. November 20, 2010, § 1, Ord. 1108, eff. July 5, 2013, § 7, Ord. 1119, eff. July 18, 2014, §§ 1, 2, Ord. 1174, eff. September 20, 2019, §§ 2, 3, Ord. 1182, eff. May 1, 2020, § 2, Ord. 1188, eff. December 2, 2020, § 2, Ord. 1189, eff. December 2, 2020, and §§ 2, 3, Ord. 1201, eff. December 2, 2022)

§ 9-3.202. Community and Economic Development Department: Director.

All references in this chapter referring to the Planning Department or the Planning Director shall be deemed to refer to the Community and Economic Development Department or the Community and Economic Development Director respectively.
(§ 16, Ord. 1137, eff. October 2, 2015)

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ARTICLE 3
ESTABLISHMENT AND DESIGNATION OF DISTRICTS

§ 9-3.301. Districts established.

The several districts into which the City is divided are hereby established and designated as follows:

(1) Planned Development District (P-D);

(2) Rail Corridor (R-C);

(3) Low Density Residential District (R-1);

(4) Medium Density Residential District (R-2);

(5) High Density Residential District (R-3);

(6) Mixed Use (M-X);

(7) Professional Office (P-O);

(8) Neighborhood Commercial District (C-N);

(9) General Commercial District (C-1);

(10) Highway Commercial District (H-C);

(11) Light Industrial District (L-I);

(12) General Industrial District (I);

(13) Unclassified District (U); and

(14) Public Facilities (P-F).

(§§ 3.01 and 3.02, Ord. 342, as amended by § 3, Ord. 494, eff. May 3, 1974; and § 3, Ord. 1095, eff. November 20, 2010)

§ 9-3.302. Zoning map.

The boundaries of the districts established and designated by the provisions of Section 9-3.301 of this article shall be as shown on that certain map entitled "The Zoning Map of the City of Los Banos dated October 20, 2010," incorporated in and made a part of this chapter by reference as if fully set forth in this chapter. Said map is on file in the office of the Planning Department and shall be referred to for the location of the areas shown within such districts. The districts shown are hereby declared to be subject to the provisions pertaining to such designated districts as set forth in this chapter. No person shall use any land, building, or structure, nor shall any building or structure be erected, constructed, enlarged, altered, moved, or used, in any district shown on the zoning map, except in accordance with the provisions of this chapter.

(§ 3.03, Ord. 342, as amended by § 4, Ord. 1095, eff. November 20, 2010)

§ 9-3.303. District boundaries: Uncertainties.

Where the exact boundaries of a district cannot be readily or exactly ascertained by reference

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to the zoning map, the boundaries shall be deemed to be along the nearest street or lot line, as the case may be. If a district boundary line divides or splits a lot, the lot shall be deemed to be included within the district which is the more restrictive. In the case of acreage, the scale appearing on the zoning map shall be used to determine the locations of boundaries.
(§ 3.04, Ord. 342)

§ 9-3.304. District boundaries: Changes.

Changes in the boundaries of districts shall be made by ordinance. Such ordinances shall describe the area to be changed, either by lot and block number or by metes and bounds. After the adoption of any ordinance changing any boundaries of any district, the City Clerk shall mark the zoning map to show the number and date of the adoption of the ordinance making such change.

Each year on January 2nd the City Clerk shall cause a revised copy of the zoning map to be published in a newspaper of general circulation in the City to show the changes made in the district boundaries by such amending ordinances for the year preceding such publication; provided, however, no publication shall be required if there have been no such changes during the preceding year.
(§ 3.05, Ord. 342, as amended by § 5, Ord. 1095, eff. November 20, 2010)

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ARTICLE 4
PLANNED DEVELOPMENT DISTRICT (P-D)

§ 9-3.401. Purpose (P-D).

The purpose of the Planned Development District (P-D) is to provide an integrated neighborhood development which would otherwise not be possible under traditional "lot-by-lot" zoning. The Planned Development District encourages innovative and creative development by allowing a flexibility in land use and design. The District allows the possibility to provide amenities and conveniences while maintaining a suitable neighborhood environment and permits development based on a high standard of performance and design by creating greater efficiency in land use. This is achieved by maximizing open space, preserving natural amenities and creating additional amenities as approved by the City Council.
(§ 2, Ord. 673, eff. February 6, 1981, as amended by § 9, Ord. 1095, eff. November 20, 2010)

§ 9-3.402. Uses permitted (P-D).

Any uses specified within this chapter may be permitted in the Planned Development District provided such uses are compatible with the surrounding neighborhoods and the general plan.
(§ 2, Ord. 673, eff. February 6, 1981, as amended by § 10, Ord. 1095, eff. November 20, 2010)

§ 9-3.403. Applications (P-D).

A completed application for a P-D zone shall at a minimum contain:

(a) Completed application;

(b) Fee as listed on fee schedule;

(c) Cost recovery contract;

(d) Completed environmental checklist;

(e) Vicinity map;

(f) Evidence of property ownership policy;

(g) Maps or exhibits;

(h) Site photos showing site and surrounding properties labeled clearly;

(i) Final development plan; and

(j) Electronic package of entire submittal on CD.
(§ 12, Ord. 1095, eff. November 20, 2010)

§ 9-3.404. Hearing procedure (P-D).

An application is submitted to the Planning Department and application is deemed complete. The application is then discussed at the next available Project Review Board (PRB) meeting and the applicant will receive minutes and responses regarding issues discussed at PRB. Environmental Review is then completed and if there are no outstanding issues, it is scheduled for the next available Planning Commission meeting. The public hearing is noticed 10 days before Planning

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Commission meeting and the Planning Commission will make a recommendation to the City Council. The City Council by resolution may grant approval of the Planned Development subject to conditions, or may deny the request.
(§ 18, Ord. 1095, eff. November 20, 2010)

§ 9-3.405. Area (P-D).

P-D zones shall have no minimum or maximum area.
(§ 19, Ord. 1095, eff. November 20, 2010)

§ 9-3.406. Conditions of approval.

In granting any P-D zone, the Commission and Council may impose conditions deemed necessary or desirable to maintain neighborhood compatibility and to protect the public health, safety or welfare. Examples of conditions are height, signs, lot coverage, yards, density and parking requirements.
(§ 20, Ord. 1095, eff. November 20, 2010)

§ 9-3.407. Final development plans (P-D).

A final development plan for the total project or an approved phase of the project shall be approved concurrently with the Planned Development. The final development plan shall include the following information:

(a) The location, design, and dimensions of all lots and lot lines;

(b) The dimensions of all yard areas, setbacks, building separations, open space, and patios;

(c) The location and dimensions of all proposed easement dedications and off-site improvements;

(d) The land use, type of residential units, and number of bedrooms in residential use;

(e) The location, dimensions, and number of off-street parking spaces;

(f) The pedestrian and vehicular access, circulation, and ingress and egress;

(g) The preliminary architectural design, depicting the building materials;

(h) The grading plans and landscape plans; and

(i) Any additional information required by the Commission in order to adequately review the project.

(§ 2, Ord. 673, eff. February 6, 1981, as amended by § 13, Ord. 1095, eff. November 20, 2010)

§ 9-3.408. Changes in development plan (P-D).

(a) Changes in a development plan which require a change in the conditions of approval in the Council resolution require Commission approval after a public hearing.

(b) Changes in a development plan which involve new uses, revisions with significant impact on adjacent property or significant site redesign shall be considered amendments to the P-D zone and processed the same as a zone boundary change.

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(c) Changes in a development plan which do not involve new uses, significant impact on adjacent property or significant site redesign may be approved by the Planning Director or referred to the Commission for decision without a public hearing.

(§ 21, Ord. 1095, eff. November 20, 2010)

§ 9-3.409. Revocation (P-D).

If conditions of approval have not been complied with, the commission may initiate proceedings to review the P-D zone and either modify it or rezone the property to the zone classification which it held immediately prior to being zoned P-D or the general plan designation if it was previously not within the incorporated City limits.

(§ 23, Ord. 1095, eff. November 20, 2010)

§ 9-3.410. Lot sizes (P-D).

There shall be no minimum lot size for the Planned Development District; however, the lots shall be of a size as to meet the intent of this article.

(§ 2, Ord. 673, eff. February 6, 1981, as amended by § 14, Ord. 1095, eff. November 20, 2010)

§ 9-3.411. Yards and building setbacks (P-D).

Yard areas and building setbacks in the Planned Development District shall be determined by the Commission under the final development plan.

(§ 2, Ord. 673, eff. February 6, 1981, as amended by § 15, Ord. 1095, eff. November 20, 2010)

§ 9-3.412. Coverage and open space (P-D).

The allowable coverage, including buildings, driveways, parking areas, sidewalks, and patios, in the Planned Development District shall be approved under the final development plan but shall not exceed the following, with the remaining area devoted to landscaped open areas, yards, and outdoor recreation, such as swimming pools and tennis courts:

(a) Residential coverage shall not exceed 70%.

(b) Commercial and industrial coverage shall not exceed 90%.

(§ 2, Ord. 673, eff. February 6, 1981, as amended by § 16, Ord. 1095, eff. November 20, 2010)

§ 9-3.413. Residential density (P-D).

The gross residential density in the Planned Development District shall not be lower than the density of the underlying district.

(§ 2, Ord. 673, eff. February 6, 1981, as amended by § 17, Ord. 1095, eff. November 20, 2010)

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ARTICLE 5
RAIL CORRIDOR (R-C)

§ 9-3.501. Purpose (RC).

The purpose of the Rail Corridor classification is to allow and facilitate the envisioned types of development within the Rail Trail Corridor allowing a mix of development, a variety of housing types and form based development standards. This article is to be utilized along with the Rail Trail Corridor Regulating Plan.
(§ 36, Ord. 1095, eff. November 20, 2010)

§ 9-3.502. Uses permitted (R-C).

The following uses shall be permitted in the Rail Corridor District:

(a) Mixed use development;

(b) Commercial;

(c) Live-work facilities;

(d) Stacked flats;

(e) Courtyard flats;

(f) Townhouses;

(g) Public/civic buildings and public spaces;

(h) Cottage houses;

(i) Accessory buildings;

(j) Small family day care homes and large family day care homes;

(k) Supportive housing;

(l) Transitional housing; and

(m) Employee housing that complies with California Health and Safety Code Sections17008 and 17021.5 and other applicable provisions of the Employee Housing Act – limited to employee housing of six or fewer employees.

(§ 36, Ord. 1095, eff. November 20, 2010; as amended by § 4, Ord. 1182, eff. May 1, 2020; § 3, Ord. 1188, eff. December 2, 2020; and § 3, Ord. 1189, eff. December 2, 2020)

§ 9-3.503. Uses subject to securing use permits (R-C).

Off-sale and on-sale alcoholic beverages, either separately or in conjunction with a use permitted in the district.
(§ 36, Ord. 1095, eff. November 20, 2010)

§ 9-3.504. Height limits (R-C).

Buildings shall have maximum height limits as established per the Rail Trail Corridor Regulating

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Plan.
(§ 36, Ord. 1095, eff. November 20, 2010)

§ 9-3.505. Parking standards (R-C).

Parking standards shall be those as established per the Rail Trail Corridor Regulating Plan.
(§ 36, Ord. 1095, eff. November 20, 2010)

§ 9-3.506. Yards, open space and building standards (R-C).

Yards, open space and building standards shall be those as established per the Rail Trail Corridor Regulating Plan.
(§ 36, Ord. 1095, eff. November 20, 2010)

§ 9-3.507. Lot sizes and setback standards (R-C).

Lot sizes and setback standards shall be those as established per the Rail Trail Corridor Regulating Plan.
(§ 36, Ord. 1095, eff. November 20, 2010)

§ 9-3.508. Revisions and amendments (R-C).

The Regulating Code may be as amended by the City Council after a recommendation by the Planning Commission whenever the public necessity, convenience or general welfare requires such amendment.
(§ 36, Ord. 1095, eff. November 20, 2010)

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ARTICLE 6
LOW DENSITY RESIDENTIAL DISTRICT (R-1)

§ 9-3.601. Purpose (R-1).

The purpose of the Low Density Residential District (R-1) is to stabilize and protect the residential character of the district and promote and encourage a suitable environment for family life on a neighborhood basis.
(§ 4.21, Ord. 342, as amended by § 25, Ord. 1095, eff. November 20, 2010)

§ 9-3.602. Uses permitted (R-1).

The following uses shall be permitted in the Low Density Residential District:

(a) Single-family dwellings;

(b) Public schools;

(c) Public parks and playgrounds;

(d) One secondary dwelling unit subject to the provisions of this chapter;

(e) Employee housing that complies with California Health and Safety Code Sections17008 and 17021.5 and other applicable provisions of the Employee Housing Act – limited to employee housing of six or fewer employees;

(f) Group home;

(g) Residential care facility for up to six unrelated persons;

(h) Special needs housing for up to six unrelated persons;

(i) Transitional and/or supportive housing for up to six unrelated persons;

(j) Accessory buildings if secondary to primary use;

(k) Home occupations;

(l) Small family day care homes and large family day care homes; and

(m) Public utility distribution and transmission line towers and poles and underground facilities for the distribution of gas, water, communications, and electricity.

(§ 4.21, Ord. 342, as amended by § 1, Ord. 714, eff. September 2, 1983; § 7, Ord. 917, eff. June 6, 1997; § 26, Ord. 1095, eff. November 20, 2010; § 5, Ord. 1182, eff. May 1, 2020; § 4, Ord. 1188, eff. December 2, 2020; and § 4, Ord. 1189, eff. December 2, 2020)

§ 9-3.603. Uses permitted subject to securing use permits (R-1).

The following uses shall be permitted in the Low Density Residential District subject to securing a use permit:

(a) Parochial schools;

(b) Private academic schools when teaching an approved academic curriculum;

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(c) Churches and public uses;

(d) Home occupations involving an employee or employees, advertising of the residence and/or customers on site;

(e) Public utility uses, but not including storage or corporation yards;

(f) Ducks, pigeons, geese, and chickens serving as household pets or 4H or FFA animal projects, in a number deemed appropriate;

(g) Day care centers;

(h) Employee housing that complies with California Health and Safety Code Sections17008 and 17021.5 and other applicable provisions of the Employee Housing Act – employee housing for more than six employees;

(i) Residential care facility for more than six unrelated persons;

(j) Special needs housing for more than six unrelated persons;

(k) Transitional and/or supportive housing for more than six unrelated persons; and

(l) Emergency homeless shelter.

(§ 4.21, Ord. 342, as amended by § 5, Ord. 914, eff. April 19, 1997; § 6, Ord. 915, eff. April 19, 1997; § 8, Ord. 917, eff. June 6, 1997; § 27, Ord. 1095, eff. November 20, 2010; § 1, Ord. 1101, eff. December 2, 2011; § 4, Ord. 1174, eff. September 20, 2019; § 6, Ord. 1182, eff. May 1, 2020; § 5, Ord. 1188, eff. December 2, 2020; and § 5, Ord. 1189, eff. December 2, 2020)

§ 9-3.604. Height limits (R-1).

The maximum height of buildings in the Low Density Residential District shall be thirty (30′) feet.

(§ 4.21, Ord. 342, as amended by § 29, Ord. 1095, eff. November 20, 2010)

§ 9-3.605. Building sites (R-1).

Building sites for single-family dwellings in the Low Density Residential District shall be a minimum of 6,000 square feet.

(§ 4.21, Ord. 342, as amended by § 30, Ord. 1095, eff. November 20, 2010)

§ 9-3.606. Lot widths (R-1).

The width of lots for single-family dwellings in the Low Density Residential District shall be a minimum of sixty (60′) feet for interior lots and sixty-five (65′) feet for corner lots.

(§ 4.21, Ord. 342, as amended by § 31, Ord. 1095, eff. November 20, 2010)

§ 9-3.607. Building site coverage (R-1).

Not more than 70% of the total lot area shall be devoted to main and accessory building areas, parking areas, driveways and patios, the remaining 30% shall be devoted to landscaping, lawns and outdoor recreational facilities (i.e., swimming pools).

(§ 4.21, Ord. 342, as amended by § 32, Ord. 1095, eff. November 20, 2010)

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§ 9-3.608. Setbacks and yards (R-1).

The minimum setbacks from property lines for structures and fences and walls exceeding three (3′) feet in height, except as otherwise provided for in this Code, shall be as follows:

(a) Front yard, twenty (20′) feet except that for lots that front on a cul-de-sac bulb the setback may be reduced to ten (10′) feet.

(b) Side yards:

(1) Interior—Five (5′) feet; fence zero feet.

(2) Street—Ten (10′) feet for building structures; fence zero feet except that on reverse corner lots, twenty (20′) feet for building structures and fence fifteen (15′) feet.

(3) Where a dwelling unit is located on a lot so that the main entrance is located on the side of the building, the required side setback, from the front setback line to such entrance, shall be not less than ten (10′) feet.

(c) Rear yards:

(1) Single story, accessory structures, ten (10′) feet;

(2) Two or more stories and second story decks, twenty (20′) feet; fences zero feet.

(d) Where four or more lots in a block have been improved with buildings (not including accessory buildings) on or before January 15, 1964, the minimum required front setback shall be the average of the improved lots if such setback is more or less than the requirements set forth for such districts.

For irregularly shaped lots, the rear setback may be reduced to one-half the required setback if the average setback is equal to or greater than that required by this section. In no case however shall there be less than 1,000 square feet of open space clear of any structures maintained in the rear yard.

(§ 4.21, Ord. 342, as amended by § 2, Ord. 881, eff. January 21, 1995; § 1, Ord. 908, eff. October 18, 1996; and § 33, Ord. 1095, eff. November 20, 2010)

§ 9-3.609. Placement of dwellings on lots in single-family districts (R-1).

The following regulations governing the placement of all dwellings, including manufactured housing, on lots zoned for single-family dwellings shall apply:

(a) The unit shall be a minimum width of twenty (20′) feet containing not less than 800 square feet.

(b) The unit shall be placed on a permanent foundation approved by the Building Inspector as to material and height above grade. However, the foundation exposure shall not exceed that of surrounding units in the area.

(c) The unit shall be covered with an exterior material customarily used on conventional dwellings.

(d) The roof materials for manufactured housing shall consist of customarily accepted materials used in residential neighborhoods and conventional housing.

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(e) The unit shall be subject to all the provisions of this chapter applicable to residential structures.

(f) No housing shall be occupied until all conditions have been met and a final inspection has been made.

(g) The main building and garage or carport shall extend a minimum distance of 50% across the lot width.

(h) A garage or carport shall be constructed of materials compatible to those of the main building.

(i) The unit shall have a minimum of a twelve (12″) inch roof overhang which shall be architecturally integrated into the design of the unit.

(§ 35, Ord. 1095, eff. November 20, 2010)

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ARTICLE 7
MEDIUM DENSITY RESIDENTIAL DISTRICT (R-2)

§ 9-3.701. Purpose (R-2).

The purpose of the Medium Density Residential District (R-2) is to stabilize and maintain the residential character of the district and permit a suitable environment for family living on a smaller scale by permitting a higher density, with up to three families to the building site, while maintaining individual privacy, open space, and facilities.
(§ 4.22, Ord. 342, as amended by § 38, Ord. 1095, eff. November 20, 2010)

§ 9-3.702. Uses permitted (R-2).

The following uses shall be permitted in the Medium Density Residential District:

(a) Triplexes, duplexes, attached or detached single-family dwellings;

(b) Public schools;

(c) Public parks and playgrounds;

(d) Employee housing that complies with California Health and Safety Code Sections17008 and 17021.5 and other applicable provisions of the Employee Housing Act – limited to employee housing of six or fewer employees;

(e) Group home;

(f) Residential care facility for up to six unrelated persons;

(g) Special needs housing for up to six unrelated persons;

(h) Transitional and/or supportive housing for up to six unrelated persons;

(i) Accessory buildings if secondary to primary use;

(j) Home occupations;

(k) Small family day care homes and large family day care homes;

(l) Public utility distribution and transmission line towers and poles and underground facilities for the distribution of gas, water, communications, and electricity;

(m) Emergency homeless shelters.
(§ 4.22, Ord. 342, as amended by § 10, Ord. 917, eff. June 6, 1997; § 39, Ord. 1095, eff. November 20, 2010; § 7, Ord. 1182, eff. May 1, 2020; § 6, Ord. 1188, eff. December 2, 2020; and § 6, Ord. 1189, eff. December 2, 2020)

§ 9-3.703. Uses permitted subject to securing use permits (R-2).

The following uses shall be permitted in the Medium Density Residential District subject to securing a use permit:

(a) Parochial schools;

(b) Private academic schools when teaching an approved academic curriculum;

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(c) Home occupations involving an employee or employees, advertising of the residence and/or customers on site;

(d) Churches and public uses;

(e) Public utility uses, but not including storage or corporation yards;

(f) Ducks, pigeons, geese, and chickens serving as household pets or 4H or FFA animal projects, in a number deemed appropriate;

(g) Day care centers;

(h) Employee housing that complies with California Health and Safety Code Sections17008 and 17021.5 and other applicable provisions of the Employee Housing Act – employee housing for more than six employees;

(i) Residential care facility for more than six unrelated persons;

(j) Special needs housing for more than six unrelated persons;

(k) Transitional and/or supportive housing for more than six unrelated persons; and

(l) Mobile home parks (subject to requirements of Article 17 of this chapter).

(§ 4.22, Ord. 342, as amended by § 7, Ord. 914, eff. April 19, 1997; § 7, Ord. 915, eff. April 19, 1997; § 11, Ord. 917, eff. June 6, 1997; § 40, Ord. 1095, eff. November 20, 2010; § 2, Ord. 1101, eff. December 2, 2011; § 5, Ord. 1174, eff. September 20, 2019; § 8, Ord. 1182, eff. May 1, 2020; § 7, Ord. 1188, eff. December 2, 2020; and § 7, Ord. 1189, eff. December 2, 2020)

§ 9-3.704. Height limits (R-2).

The maximum height of buildings in the Medium Density Residential District shall be thirty (30′) feet.

(§ 4.22, Ord. 342, as amended by § 42, Ord. 1095, eff. November 20, 2010)

§ 9-3.705. Building sites (R-2).

Building sites for dwellings in the Medium Density Residential District shall be a minimum of 4,000 square feet.

(§ 4.22, Ord. 342, as amended by § 43, Ord. 1095, eff. November 20, 2010)

§ 9-3.706. Lot widths (R-2).

The width of lots for dwellings in the Medium Density Residential District shall be a minimum of forty (40′) feet for interior lots and forty-five (45′) feet for corner lots.

(§ 4.22, Ord. 342, as amended by § 44, Ord. 1095, eff. November 20, 2010)

§ 9-3.707. Lot coverage and density (R-2).

Not more than 70% of the total lot area shall be devoted to main and accessory building areas, parking areas, driveways and patios, the remaining 30% shall be devoted to landscaping, lawns and outdoor recreational facilities (i.e., swimming pools).

(§ 4.22, Ord. 342, as amended by § 2, Ord. 345; and § 45, Ord. 1095, eff. November 20, 2010)

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§ 9-3.708. Setbacks and yards (R-2).

The minimum setbacks from property lines for structures and fences and walls exceeding three (3′) feet in height except as otherwise provided for in this code, shall be as follows:

(a) Front yard, twenty (20′) feet except that for lots that front on a cul-de-sac bulb the setback may be reduced to ten (10′) feet.

(b) Side yards:

(1) Interior—Five (5′) feet; fence zero feet.

(2) Street—Ten (10′) feet for building structures; fence zero feet except that on reverse corner lots, twenty (20′) feet for building structures and fence fifteen (15′) feet.

(3) Where a dwelling unit is located on a lot so that the main entrance is located on the side of the building, the required side setback, from the front setback line to such entrance, shall be not less than ten (10′) feet.

(c) Rear yards:

(1) Single story, accessory structures, ten (10′) feet;

(2) Two or more stories and second story decks, twenty (20′) feet; fences zero feet.

(d) Where four or more lots in a block have been improved with buildings (not including accessory buildings) on or before January 15, 1964, the minimum required front setback shall be the average of the improved lots if such setback is more or less than the requirements set forth for such districts.

For irregularly shaped lots, the rear setback may be reduced to one-half the required setback if the average setback is equal to or greater than that required by this section.

(§ 4.22, Ord. 342, as amended by § 2, Ord. 881, eff. January 21, 1995; § 2, Ord. 908, eff. October 18, 1996; and § 46, Ord. 1095, eff. November 20, 2010)

§ 9-3.709. Placement of dwellings on lots in the Medium Density District (R-2).

The following regulations governing the placement of all dwellings, including manufactured housing, on lots zoned medium density use shall apply:

(a) The unit shall be a minimum width of twenty (20′) feet containing not less than 800 square feet.

(b) The unit shall be placed on a permanent foundation approved by the Building Inspector as to material and height above grade. However, the foundation exposure shall not exceed that of surrounding units in the area.

(c) The unit shall be covered with an exterior material customarily used on conventional dwellings.

(d) The roof materials for manufactured housing shall consist of customarily accepted materials used in residential neighborhoods and conventional housing.

(e) The unit shall be subject to all the provisions of this chapter applicable to residential

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structures, including the exceptions set forth in this article.

(f) No housing shall be occupied until all conditions have been met and a final inspection has been made.

(g) The main building and garage or carport shall extend a minimum distance of 50% across the lot width.

(h) A garage or carport shall be constructed of materials compatible to those of the main building.

(i) The unit shall have a minimum of a twelve (12″) inch roof overhang which shall be architecturally integrated into the design of the unit.

(§ 48, Ord. 1095, eff. November 20, 2010)

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ARTICLE 8
HIGH DENSITY RESIDENTIAL DISTRICT (R-3)

§ 9-3.801. Purpose (R-3).

The purpose of the High Density Residential District (R-3) is to stabilize and maintain the residential character of the district for multifamily living with substantial space for cooperatively-used facilities and open spaces.
(§ 4.23, Ord. 342, as amended by § 50, Ord. 1095, eff. November 20, 2010)

§ 9-3.802. Uses permitted (R-3).

The following uses shall be permitted in the High Density Residential District:

(a) Multifamily uses;

(b) Apartments;

(c) Triplexes;

(d) Group dwellings with more than six residents;

(e) Public schools;

(f) Public parks and playgrounds;

(g) Employee housing that complies with California Health and Safety Code Sections17008 and 17021.5 and other applicable provisions of the Employee Housing Act – employee housing for more than six employees;

(h) Residential care facility for more than six unrelated persons;

(i) Special needs housing for more than six unrelated persons;

(j) Transitional and/or supportive housing for more than six unrelated persons;

(k) Accessory buildings;

(l) Small family day care homes and large family day care homes;

(m) Home occupations;

(n) Public utility distribution and transmission line towers and poles and underground facilities for the distribution of gas, water, communications, and electricity; and

(o) Emergency homeless shelter.
(§ 4.23, Ord. 342, as amended by § 13, Ord. 917, eff. June 6, 1997, § 51, Ord. 1095, eff. November 20, 2010; § 9, Ord. 1182, eff. May 1, 2020; § 8, Ord. 1188, eff. December 2, 2020, and § 8, Ord. 1189, eff. December 2, 2020)

§ 9-3.803. Uses permitted subject to securing use permits (R-3).

The following uses shall be permitted in the High Density Residential District subject to securing a use permit:

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(a) Parochial schools;

(b) Private academic schools when teaching an approved academic curriculum;

(c) Churches and public uses;

(d) Public utility uses;

(e) Mobile home parks (subject to requirements of Article 17 of this chapter);

(f) Ducks, pigeons, geese, and chickens serving as household pets or 4H or FFA animal projects, in a number deemed appropriate;

(g) Day care centers;

(h) Home occupations involving an employee or employees, advertising of the residence and/or customers on site; and

(i) A not for profit membership or charitable organization provided the chief activity is not customarily carried on as a business.

(§ 4.23, Ord. 342, as amended by § 9, Ord. 914, eff. April 19, 1997; § 8, Ord. 915, eff. April 19, 1997; § 14, Ord. 917, eff. June 6, 1997; § 52, Ord. 1095, eff. November 20, 2010; § 3, Ord. 1101, eff. December 2, 2011; § 6, Ord. 1174, eff. September 20, 2019; § 10, Ord. 1182, eff. May 1, 2020; and § 9, Ord. 1189, eff. December 2, 2020)

§ 9-3.804. Height limits (R-3).

The maximum height of buildings in the High Density Residential District shall be fifty (50′) feet; provided, however, no structure shall be erected to a height over thirty (30′) feet within fifty (50′) feet of any Low Density Residential (R-1) or Medium Density Residential (R-2) District boundary.

(§ 4.23, Ord. 342, as amended by § 54, Ord. 1095, eff. November 20, 2010)

§ 9-3.805. Building sites (R-3).

Three dwelling units shall be permitted for the first 6,000 square feet. One dwelling unit shall be permitted per each 1,500 square feet over the required area for three dwelling units (maximum density 30 with an average of 20 dwelling units per net acre).

(§ 4.23, Ord. 342, as amended by § 55, Ord. 1095, eff. November 20, 2010)

§ 9-3.806. Lot widths (R-3).

The width of lots for dwellings and structures in the High Density Residential District shall be a minimum of seventy-five (75′) feet.

(§ 4.23, Ord. 342, as amended by § 56, Ord. 1095, eff. November 20, 2010)

§ 9-3.807. Lot coverage (R-3).

Not more than 70% of the total lot area of a lot in the High Density Residential District shall be devoted to main and accessory building areas, parking areas, driveways, and patios. The remaining 30% of the total lot area shall be devoted to landscaping, lawns, and outdoor recreational facilities incidental to residential developments, such as swimming pools, tennis courts, putting greens.

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(§ 4.23, Ord. 342, as amended by § 57, Ord. 1095, eff. November 20, 2010)

§ 9-3.808. Setbacks and yards (R-3).

The minimum setbacks from property lines for structures and fences and walls exceeding three (3′) feet in height except as otherwise provided for in this code, shall be as follows:

(a) Front yard, fifteen (15′) feet except that for lots that front on a cul-de-sac bulb the setback may be reduced to ten (10′) feet.

(b) Side yards:

(1) Interior—Five (5′) feet; fence zero feet.

(2) Street—Ten (10′) feet for building structures; fence zero feet except that on reverse corner lots, twenty (20′) feet for building structures and fence fifteen (15′) feet.

(3) Where a dwelling unit is located on a lot so that the main entrance is located on the side of the building, the required side setback, from the front setback line to such entrance, shall be not less than ten (10′) feet.

(c) Rear yards, ten (10′) feet except where abutting a lot zoned for lower density than the setbacks required in that zone shall apply; fences zero feet.

(§ 4.23, Ord. 342, as amended by § 2, Ord. 881, eff. January 21, 1995; § 3, Ord. 908, eff. October 18, 1996; and § 58, Ord. 1095, eff. November 20, 2010)

§ 9-3.809. Open space (R-3).

The following density and open space requirements shall apply in the High Density Residential District:

Not less than 200 square feet of open area per family unit shall be provided on the site, which may include landscaped areas, walkways, recreation areas without structures, driveways, or parking spaces.

(§ 4.23, Ord. 342, as amended by § 3, Ord. 345; and § 59, Ord. 1095, eff. November 20, 2010)

§ 9-3.811. Development standards (R-3).

All developments in the High Density Residential District shall comply with the following standards:

(a) All required open areas shall be landscaped and maintained in accordance with an approved detailed landscape plan;

(b) Prior to the submission of the development plans to the Commission, the owner or representative shall confer with the Planning Department concerning the necessity for a runoff study of the area to be developed. If such a study is considered necessary, it shall be filed with the City Engineer for his or her approval;

(c) All trash and garbage collection areas shall be surrounded on at least three sides by a five (5′) foot block wall and shall have adequate access for collection vehicles; and

(d) All points of vehicular access to and from off-street parking areas, driveways, and public

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rights-of-way shall be approved by the Planning Department.
(§ 4.23, Ord. 342, as amended by § 62, Ord. 1095, eff. November 20, 2010)

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ARTICLE 9
MIXED USE (M-X)

§ 9-3.901. Purpose (M-X).

The purpose of this district is to allow shops on multiple levels, with the first floor primarily retail, with retail, office, residential and other non-retail uses permitted on upper levels. Uses are advocated which foster retail development, with associated residential thereby enhancing the district as a pedestrian oriented shopping area.
(§ 76, Ord. 1095, eff. November 20, 2010)

§ 9-3.902. Uses permitted (M-X).

The following uses shall be permitted in the Mixed Use District:

(a) Art, craft and photography galleries/studios;

(b) Music and dance studios;

(c) Banks, savings and loan facilities;

(d) Eating and/or drinking establishments;

(e) Communication facilities;

(f) Food service;

(g) Specialty food or drink shops;

(h) Health clubs or exercise studios;

(i) Maintenance and repair service, small equipment;

(j) Offices, business, professional or medical;

(k) Personal services;

(l) Recreation and entertainment;

(m) Bed and breakfast inn, hotel or motel;

(n) Cultural and/or historical institutions;

(o) Government offices;

(p) Public parking facilities;

(q) Retail sales;

(r) Residential;

(s) Small family day care homes and large family day care homes;

(t) Public utility distribution and transmission line towers and poles and underground facilities for the distribution of gas, water, communications, and electricity;

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(u) Churches.

(v) Supportive housing;

(w) Transitional housing; and

(x) Employee housing that complies with California Health and Safety Code Sections17008 and 17021.5 and other applicable provisions of the Employee Housing Act – limited to employee housing of six or fewer employees.

(§ 76, Ord. 1095, eff. November 20, 2010, as amended by § 11, Ord. 1182, eff. May 1, 2020; § 9, Ord. 1188, eff. December 2, 2020; and § 10, Ord. 1189, eff. December 2, 2020)

§ 9-3.903. Uses subject to securing use permits (M-X).

(a) Off-sale and on-sale alcoholic beverages, either separately or in conjunction with a use permitted in the district.

(b) Any other use deemed appropriate by the Planning Commission.

(c) Day care centers.

(§ 76, Ord. 1095, eff. November 20, 2010; as amended by § 7, Ord. 1174, eff. September 20, 2019; and § 11, Ord. 1189, eff. December 2, 2020)

§ 9-3.904. Height limits (M-X).

The maximum height of buildings in the Mixed Use District shall be fifty (50′) feet.
(§ 76, Ord. 1095, eff. November 20, 2010)

§ 9-3.905. Building sites (M-X).

Building sites in the Mixed Use (M-X) District shall be a minimum of 1,000 square feet.
(§ 76, Ord. 1095, eff. November 20, 2010)

§ 9-3.906. Yards (M-X).

Where yards border on a major or collector street, the requirements for yards in the Mixed Use District shall be as set forth in Article 19 of this chapter, otherwise, there are no requirements.
(§ 76, Ord. 1095, eff. November 20, 2010)

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ARTICLE 10
PROFESSIONAL OFFICE (P-O)

§ 9-3.1001. Purpose (P-O).

The purpose of the Professional Office Zone is to provide a location for business and professional offices, institutions and related services of a less intensive nature than allowed in commercial zones not adjacent to residential areas.
(§ 86, Ord. 1095, eff. November 20, 2010)

§ 9-3.1002. Uses permitted (P-O).

(a) Business office (including government office, insurance sales and services, real estate sales and services, stockbroker, utility office; excluding retail or wholesale sales, banks, savings and loans and similar financial institutions);

(b) Medical and dental office or laboratory, chiropractor, chiropodist, optometrist;

(c) Pharmacy (excluding manufacture or distribution of pharmaceuticals) only when accessory to a medical office or clinic;

(d) Professional office (including accountant, architect, attorney, engineer, surveyor);

(e) Public utility distribution and transmission line towers and poles and underground facilities for the distribution of gas, water, communications, and electricity.
(§ 86, Ord. 1095, eff. November 20, 2010)

§ 9-3.1003. Uses permitted subject to securing a use permit (P-O).

(a) Ambulance service;

(b) Buildings, facilities and grounds of a utility which are not a permitted use;

(c) Day care centers;

(d) Church;

(e) Hospital supply sales;

(f) Not for profit educational or scientific agency;

(g) Substance abuse clinic/facility;

(h) Twenty-four hour care for seven or more persons;

(i) Veterinary hospital (small animal);

(j) Vocational school; and

(k) Delicatessen, coffee shop or restaurant with or without alcohol sales.
(§ 86, Ord. 1095, eff. November 20, 2010; as amended by §§ 8, 9, Ord. 1174, eff. September 20, 2019; and § 12, Ord. 1189, eff. December 2, 2020)

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§ 9-3.1004. Height limits (P-O).

The maximum height of buildings in the Professional Office District shall be thirty (30′) feet.
(§ 86, Ord. 1095, eff. November 20, 2010)

§ 9-3.1005. Building sites (P-O).

Building sites in the Professional Office (P-O) District shall be a minimum of 1,000 square feet.
(§ 86, Ord. 1095, eff. November 20, 2010)

§ 9-3.1006. Yards (P-O).

Where yards border on a major or collector street, the requirements for yards in the Professional Office District shall be as set forth in Article 19 of this chapter, otherwise, there are no requirements.
(§ 86, Ord. 1095, eff. November 20, 2010)

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ARTICLE 11
NEIGHBORHOOD COMMERCIAL DISTRICT (C-N)

§ 9-3.1101. Purpose (C-N).

The purpose of the Neighborhood Commercial District (C-N) is to provide centers for convenient shopping in the residential neighborhoods, planned and controlled to the extent that any such center will perform a vital service to the neighborhood in which it is located and become an integral part thereof.
(§ 4.24, Ord. 342, as amended by § 64, Ord. 1095, eff. November 20, 2010)

§ 9-3.1102. Uses permitted (C-N).

The following uses shall be permitted in the Neighborhood Commercial District:

(a) Food stores;

(b) Drugstores;

(c) Variety stores;

(d) Hardware stores;

(e) Shoe repair shops;

(f) Book stores;

(g) Gift shops;

(h) Stationery stores;

(i) Music stores;

(j) Flower shops;

(k) Specialty shops;

(l) Beauty shops;

(m) Barber shops;

(n) Cleaning and laundry agencies, including coin-operated;

(o) Business and professional offices;

(p) Pet shops;

(q) Real estate offices;

(r) Insurance offices;

(s) Bookkeeping offices;

(t) Public schools;

(u) Delicatessens, specialized food stores and coffee shops;

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(v) Bake shops employing no more than four persons on the premises;

(w) Churches;

(x) Public utility distribution and transmission line towers and poles and underground facilities for the distribution of gas, water, communications, and electricity; and

(y) Reverse vending machines.

(§ 4.24, Ord. 342, as amended by § 16, Ord. 917, eff. June 6, 1997; and § 65, Ord. 1095, eff. November 20, 2010)

§ 9-3.1103. Uses permitted subject to securing use permits (C-N).

The following uses shall be permitted in the Neighborhood Commercial District subject to securing a use permit:

(a) Catering services;

(b) Home appliance, radio, and television repair shops;

(c) Studios for arts, crafts, exercise, photography, music, and dance;

(d) Off-sale and on-sale alcoholic beverages, either separately or in conjunction with a use permitted in the district;

(e) Service stations;

(f) Public, quasi-public, and private utility uses but not including storage or corporation yards;

(g) Any building in single use in excess of 5,000 square feet of floor area;

(h) Other uses similar in character when determined by the Commission that the uses are no less restrictive in nature (generate no more traffic, parking, dust, noise, and the like). When retail uses are referred to, "similar," as used in this subsection, shall mean retail;

(i) Used car sales: vehicles not to exceed 7,200 GVW;

(j) Parochial, private academic and commercial trade schools;

(k) Public uses; and

(l) Small collection recycling facilities.

(§ 4.24, Ord. 342, as amended by § 1, Ord. 542, eff. March 19, 1976; § 17, Ord. 917, eff. June 6, 1997; § 66, Ord. 1095, eff. November 20, 2010; and § 13, Ord. 1189, eff. December 2, 2020)

§ 9-3.1104. Height limits (C-N).

The maximum height of buildings in the Neighborhood Commercial District shall be thirty (30′) feet.

(§ 4.24, Ord. 342, as amended by § 68, Ord. 1095, eff. November 20, 2010)

§ 9-3.1105. Building sites (C-N).

Building sites in the Neighborhood Commercial District shall be a minimum of 1,000 square feet.

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(§ 4.24, Ord. 342, as amended by § 69, Ord. 1095, eff. November 20, 2010)

§ 9-3.1106. Yards (C-N).

Where yards border on a major or collector street, the requirements for yards in the Neighborhood Commercial District shall be as set forth in Article 19 of this chapter, otherwise, there are no requirements.
(§ 4.24, Ord. 342, as amended by § 71, Ord. 1095, eff. November 20, 2010)

§ 9-3.1107. Site plans and landscaping (C-N).

Side and rear yard areas in the Neighborhood Commercial District adjacent to residential zones shall be fully landscaped. Elevations, site plans, and landscaping plans shall be approved by the Commission. All businesses in the Neighborhood Commercial District shall be conducted within a building, except for the sale of gasoline and oil in service stations and used car sales.
(§ 4.24, Ord. 342, as amended by § 2, Ord. 542, eff. March 19, 1976; and § 72, Ord. 1095, eff. November 20, 2010)

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ARTICLE 12
GENERAL COMMERCIAL DISTRICT (C-1)

§ 9-3.1201. Purpose (C-1).

The purpose of the General Commercial District is to provide a district for the sale of goods and services which meet the needs of a broad trade area.
(§ 4.26, Ord. 342, as amended by § 78, Ord. 1095, eff. November 20, 2010)

§ 9-3.1202. Uses permitted (C-1).

The following uses shall be permitted in the General Commercial District:

(a) New and used car, boat, and trailer sales;

(b) Sales of secondhand goods;

(c) Service stations and repair garages;

(d) Bus storage and service with screening;

(e) Truck terminals with screening;

(f) Wholesale stores and storage within buildings;

(g) Electrical, plumbing, heating, ventilating, sheet metal, and upholstery shops;

(h) Furniture repair shops;

(i) Farm equipment sales and services;

(j) Public utilities and services;

(k) Print shops and other reproduction services;

(l) Agriculture processing and packing plants;

(m) Tow truck yards with screening;

(n) Cabinet shops;

(o) Bakeries;

(p) Laundries and dry cleaning plants;

(q) Veterinary hospitals and clinics;

(r) Restaurants;

(s) Plant or tree nursery;

(t) Health club;

(u) Public utility distribution and transmission line towers and poles and underground facilities for the distribution of gas, water, communications, and electricity;

(v) Eating and/or drinking establishments;

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(w) Recreation services (bowling alley, ice or roller skating rink, racquetball club, billiards hall, video arcade, movie theaters or similar indoor use);

(x) Tattoo parlors; and

(y) Any use permitted by right in the Neighborhood Commercial (C-N) Zoning Classification.
(§ 4.26, Ord. 342, as amended by § 79, Ord. 1095, eff. November 20, 2010)

§ 9-3.1203. Uses permitted subject to securing use permits (C-1).

The following uses shall be permitted in the General Commercial District subject to securing a use permit:

(a) Paint and spray booths; provided all paint and spraying operations are conducted within booths which meet all the requirements of the latest edition of the National Board of Fire Underwriters Pamphlet 33 for Paint Spray Booths:

(b) Planing mills in conjunction with lumber yards and cabinet shops;

(c) Creameries;

(d) Bottling plants;

(e) Food packing and processing plants;

(f) Lumber yards;

(g) Building materials and sales yards, but not including concrete or asphalt batch plants;

(h) Outside storage when appurtenant to a permitted use;

(i) Off-sale and on-sale alcoholic beverages, either separately or in conjunction with a use permitted in the district;

(j) Non-appurtenant outdoor advertising signs which shall be located within fifty (50′) feet of the boundaries of State Highway 33 between Texas Avenue and Pacheco Pass Boulevard;

(k) Other uses not set forth in this section which are determined by the Commission to be similar in character by reason of no additional generation of traffic, parking, dust, noise, and the like;

(l) The storage of liquefied petroleum gas (LPG) exceeding 500 gallons;

(m) The kenneling, boarding, breeding, and/or training of household pets;

(n) Storage units;

(o) Small collection recycling facilities; and

(p) Day care centers.
(§ 4.26, Ord. 342, as amended by § 3, Ord. 417; § 3, Ord. 733, eff. June 14, 1985; § 1, Ord. 748, eff. August 15, 1986; § 3, Ord. 869, eff. June 18, 1993; § 11, Ord. 914, eff. April 19, 1997; § 80, Ord. 1095, eff. November 20, 2010; § 10, Ord. 1174, eff. September 20, 2019; and § 14, Ord. 1189, eff. December 2, 2020)

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§ 9-3.1204. Height limits (C-1).

The maximum height of buildings in the General Commercial District shall be fifty (50′) feet.
(§ 4.26, Ord. 342, as amended by § 82, Ord. 1095, eff. November 20, 2010)

§ 9-3.1205. Building sites (C-1).

Building sites in the General Commercial District shall be a minimum of 2,000 square feet.
(§ 4.26, Ord. 342, as amended by § 83, Ord. 1095, eff. November 20, 2010)

§ 9-3.1206. Yards (C-1).

Where yards border on a major or collector street, the requirements for yards in the General Commercial District shall be as set forth in Article 19 of this chapter; otherwise none shall be required.
(§ 4.26, Ord. 342, as amended by § 84, Ord. 1095, eff. November 20, 2010)

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ARTICLE 13
HIGHWAY COMMERCIAL DISTRICT (H-C)

§ 9-3.1301. Purpose (H-C).

The purpose of the Highway Commercial District is to provide a district for commercial uses which do not specialize in serving the pedestrian shopper but rather, because of their character, are more appropriately located along a highway or major street and where drive-in operations are more feasible.
(§ 4.27, Ord. 342, as amended by § 88, Ord. 1095, eff. November 20, 2010)

§ 9-3.1302. Uses permitted (H-C).

The following uses shall be permitted in the Highway Commercial District:

(a) Retail stores, including department stores;

(b) Beauty shops;

(c) Barber shops;

(d) Print shops and other reproduction services;

(e) Food stores;

(f) Repair shops within buildings;

(g) Offices;

(h) Services;

(i) Auto sales and service and automotive parts;

(j) Building supplies and lumber yards;

(k) Bus passenger terminals;

(l) Commercial repair garages;

(m) Gasoline service stations; provided all operations, except the servicing of gasoline, oil, air, and water, be carried on within a building;

(n) Public utility uses but not including storage or corporation yards;

(o) Coin-operated laundries and cleaning;

(p) Pressing shops and laundry and dry cleaning agencies;

(q) Used car lots; provided no repair facilities are permitted except within a building;

(r) Business and professional offices;

(s) Lodge halls;

(t) Clubs;

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(u) Churches;

(v) Community centers;

(w) Veterinary clinics and hospitals when completely enclosed within a building;

(x) Schools and public and private recreational facilities;

(y) Unfenced public places;

(z) Delicatessen and specialized food stores and catering services;

(aa) Real estate, insurance, bookkeeping, and business offices;

(bb) Commercial trade schools;

(cc) Hotels, motels, and restaurants;

(dd) Refreshment stands;

(ee) Curio shops;

(ff) Plant and tree nurseries;

(gg) Public premises;

(hh) Studios for arts, crafts, exercise, photography, music, and dance;

(ii) Tow truck yards with screening;

(jj) Incidental storage and accessory uses provided such uses are clearly incidental to the permitted use;

(kk) Incidental storage and accessory uses provided such uses are incidental to the permitted use;

(ll) Public utility distribution and transmission line towers and poles and underground facilities for the distribution of gas, water, communications, and electricity;

(mm) Miniature golf courses, water parks or other similar outdoor recreational activities;

(nn) Taverns, lounges and card rooms; and

(oo) Any use permitted by right in the General Commercial (C-1) District.
(§ 4.27, Ord. 342, as amended by § 4, Ord. 733, eff. June 14, 1985; § 20, Ord. 917, eff. June 6, 1997; and § 89, Ord. 1095, eff. November 20, 2010)

§ 9-3.1303. Uses permitted subject to securing use permits (H-C).

The following uses shall be permitted in the Highway Commercial District subject to securing a use permit:

(a) Non-appurtenant outdoor advertising signs;

(b) Truck terminals with screening;

(c) Off-sale and on-sale alcoholic beverages, either separately or in conjunction with a use

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permitted in the district;

(d) Day care centers;

(e) Small collection recycling facilities; and

(f) All other uses as deemed appropriate by the Planning Commission.
(§ 4.27, Ord. 342, as amended by § 2, Ord. 417; § 1, Ord. 429; § 4, Ord. 733, eff. June 14, 1985; § 21, Ord. 917, eff. June 6, 1997; § 90, Ord. 1095, eff. November 20, 2010; § 11, Ord. 1174, eff. September 20, 2019; and § 15, Ord. 1189, eff. December 2, 2020)

§ 9-3.1304. Height limits (H-C).

The maximum height of buildings in the Highway Commercial District shall be fifty (50′) feet.
(§ 4.27, Ord. 342, as amended by § 92, Ord. 1095, eff. November 20, 2010)

§ 9-3.1305. Building sites (H-C).

Building sites in the Highway Commercial District shall be a minimum of 1,000 square feet.
(§ 4.27, Ord. 342, as amended by § 93, Ord. 1095, eff. November 20, 2010)

§ 9-3.1306. Yards (H-C).

Where yards border on a major or collector street, the requirements for yards in the Highway Commercial District shall be as set forth in Article 19 of this chapter; otherwise none shall be required.
(§ 4.27, Ord. 342, as amended by § 94, Ord. 1095, eff. November 20, 2010)

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ARTICLE 14
LIGHT INDUSTRIAL DISTRICT (L-I)

§ 9-3.1401. Purpose (L-I).

The purpose of the Light Industrial District is to provide a district which will insure an environment conducive to the development and protection of modern industry, research institutions, and administrative facilities, all well designed and properly landscaped to be compatible with surrounding uses.
(§ 4.28, Ord. 342, as amended by § 97, Ord. 1095, eff. November 20, 2010)

§ 9-3.1402. Uses permitted (L-I).

None but the following uses shall be permitted in the Light Industrial District:

(a) Administrative and professional offices (excluding: real estate, insurance or personal services);

(b) Cafeterias and auditoriums for employees;

(c) Chemical laboratories, research laboratories, and institutes;

(d) Manufacture of electrical, electromechanical, and electronic products and instruments;

(e) Cartography, bookbinding, printing and lithography;

(f) Fabrication of plastic and finished paper products;

(g) Research and development laboratories;

(h) Storage warehouses excluding inflammable materials;

(i) Precision machine shops;

(j) Editorial and designing;

(k) Prototype production and fabrication of components;

(l) Furniture upholstering and manufacturing;

(m) Finished paper products;

(n) Processing of agricultural products;

(o) Assembly and construction of paper products with finished paper stock;

(p) Garment manufacturing;

(q) Laundry and dry cleaning plants;

(r) Manufacture of novelties, toys, and small appliances;

(s) Public utility uses;

(t) Wholesale stores and storage;

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(u) Small collection recycling facilities;

(v) Dance studios;

(w) Call centers;

(x) Medical facilities;

(y) Brewery;

(z) Technology based companies;

(aa) Building materials yards;

(bb) Cabinet shops;

(cc) Contractor's yards;

(dd) Distribution center;

(ee) Warehouses;

(ff) Tow truck yard with screening;

(gg) All accessory uses incidental to uses permitted on the premises; and

(hh) Public utility distribution and transmission line towers and poles and underground facilities for the distribution of gas, water, communications, and electricity.

The maintenance and operation of all permitted uses shall be subject to the provisions of Article 21 of this chapter relating to performance standards.

(§ 4.28, Ord. 342, as amended by § 1, Ord. 869, eff. June 18, 1993, and § 98, Ord. 1095, eff. November 20, 2010)

§ 9-3.1403. Uses permitted subject to securing use permits (L-I).

The following uses shall be permitted in the Light Industrial District subject to securing a use permit:

(a) Packing plants;

(b) Truck terminals;

(c) Bulk storage of petroleum or gas;

(d) Nonappurtenant outdoor advertising signs;

(e) Large collection recycling facilities;

(f) Other uses as deemed appropriate by the Planning Commission; and

(g) Adult entertainment businesses subject to the provisions starting in Section 11-15.1.01.

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All manufacturing and fabrication operations shall be conducted within buildings. All equipment and material storage areas shall be screened by solid fences, walls, or screen plantings not less than six (6′) feet in height.

(§ 4.28, Ord. 342, as amended by § 1, Ord. 515, eff. March 7, 1975, § 4, Ord. 869, eff. June 18, 1993, § 2, Ord. 919, eff. March 19, 1997, and § 99, Ord. 1095, eff. November 20, 2010)

§ 9-3.1404. Height limits (L-I).

The maximum height of buildings in the Light Industrial District shall be fifty (50′) feet, provided, however, no structure shall be erected to a height over thirty (30′) feet within fifty (50′) feet of any Low Density Residential (R-1) or Medium Density Residential (R-2) District boundary.
(§ 4.28, Ord. 342, as amended by § 101, Ord. 1095, eff. November 20, 2010)

§ 9-3.1405. Gross floor area (L-I).

The gross floor area in the Light Industrial District shall not exceed three and one-half (3-1/2) times the building site area if the building is over forty (40′) feet in height.
(§ 4.28, Ord. 342, as amended by § 102, Ord. 1095, eff. November 20, 2010)

§ 9-3.1406. Building sites (L-I).

Building sites in the Light Industrial District shall be a minimum of 5,000 square feet.
(§ 4.28, Ord. 342, as amended by § 103, Ord. 1095, eff. November 20, 2010)

§ 9-3.1407. Lot widths (L-I).

The width of lots in the Light Industrial District shall be a minimum of one hundred (100′) feet.
(§ 4.28, Ord. 342, as amended by § 104, Ord. 1095, eff. November 20, 2010)

§ 9-3.1408. Yards (L-I).

Where yards border on a major or collector street, the requirements for yards in the Light Industrial District shall be as set forth in Article 19 of this chapter. The minimum yard requirements in the L-I District shall be as follows:

(a) If adjacent to the R-1 or R-2 Zoning Classifications, a twenty-five (25′) foot landscape setback applies, otherwise there are none.

(§ 4.28, Ord. 342, as amended by § 106, Ord. 1095, eff. November 20, 2010)

§ 9-3.1409. Elevations, site plans, and landscaping (L-I).

Site plans and approval of elevations shall be required for all uses in the Light Industrial District and shall be approved by the Commission. Minimum landscaping requirements shall be in accordance with the City of Los Banos Standards and Specifications.
(§ 4.28, Ord. 342, as amended by § 107, Ord. 1095, eff. November 20, 2010)

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ARTICLE 15
GENERAL INDUSTRIAL DISTRICT (I)

§ 9-3.1501. Purpose (I).

The purpose of the General Industrial District is to provide a district exclusively for industrial development wherein manufacturing and other industries can locate and operate away from the restricting influences on nonindustrial uses while maintaining an environment free from offensive or objectionable noise, dust, odor, or other nuisances.
(§ 4.29, Ord. 342, as amended by § 110, Ord. 1095, eff. November 20, 2010)

§ 9-3.1502. Uses permitted (I).

The following uses shall be permitted in the General Industrial District:

(a) Manufacturing, processing, fabricating, and assembly operations;

(b) Wholesale business, storage, warehousing, research, and experimental operations;

(c) Truck terminals, and railroad yards;

(d) Public utility uses;

(e) Heavy equipment repair and service;

(f) Cement pipe and cement block manufacturing;

(g) Pottery manufacturing;

(h) Distribution centers;

(i) Natural gas and gas products;

(j) Petroleum and petroleum products;

(k) Railroad repair shop, classification yard;

(l) Winery, breweries and distilleries;

(m) Public utility distribution and transmission line towers and poles and underground facilities for the distribution of gas, water, communications, and electricity; and

(n) Small and large collection recycling facilities.

The maintenance and operation of all permitted uses shall be subject to the provisions of Article 21 of this chapter relating to performance standards.

(§ 4.29, Ord. 342, as amended by § 111, Ord. 1095, eff. November 20, 2010)

§ 9-3.1503. Uses permitted subject to obtaining use permits (I).

The following uses shall be permitted in the General Industrial District subject to securing a use permit:

(a) Material storage yards (auto wrecking and salvage yards) when conducted within a solid

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fence at least seven (7′) feet in height and when all material is stacked below the top of the fence;

(b) Meat packing, stockyards, and the slaughter of animals and fowl;

(c) Storage and handling of explosive materials;

(d) Outdoor advertising structures not appurtenant to any permitted use;

(e) Adult entertainment businesses subject to the provisions starting in Section 11-15.1.01;

(f) Emergency shelters; and

(g) Other uses as deemed appropriate by the Planning Commission.
(§ 4.29, Ord. 342, as amended by § 5, Ord. 869, eff. June 18, 1993, § 2, Ord. 919, eff. March 19, 1997, § 112, Ord. 1095, eff. November 20, 2010, and § 12, Ord. 1182, eff. May 1, 2020)

§ 9-3.1504. Accessory uses permitted (I).

The following accessory uses shall be permitted in the General Industrial District:

(a) Accessory buildings and uses incidental to the uses permitted in the district.
(§ 4.29, Ord. 342, as amended by § 14, Ord. 771, eff. December 4, 1987, and § 113, Ord. 1095, eff. November 20, 2010)

§ 9-3.1505. Building sites (I).

Building sites in the General Industrial District shall be a minimum of one-half acre.
(§ 4.29, Ord. 342, as amended by § 114, Ord. 1095, eff. November 20, 2010)

§ 9-3.1506. Lot widths (I).

The width of lots in the General Industrial District shall be a minimum of one hundred (100′) feet.
(§ 4.29, Ord. 342, as amended by § 115, Ord. 1095, eff. November 20, 2010)

§ 9-3.1507. Yards (I).

Where yards border on a major or collector street, the requirements for yards in the General Industrial District shall be as set forth in Article 19 of this chapter. There shall be no minimum yard requirements in the I District except where yards abut a residential district a twenty-five (25′) foot landscape setback applies.
(§ 4.29, Ord. 342, as amended by § 116, Ord. 1095, eff. November 20, 2010)

§ 9-3.1508. Elevations and site plans (I).

Elevations and site plans for all uses in the General Industrial District shall be submitted to the Commission for its approval.
(§ 4.29, Ord. 342, as amended by § 117, Ord. 1095, eff. November 20, 2010)

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ARTICLE 16
PUBLIC FACILITIES (PF) ZONE DISTRICT

§ 9-3.1601. Purpose and findings.

The purpose of the Public Facilities (PF) District is to identify community facilities of a public or quasi-public nature, protect public facilities from intrusion by other uses, and to set forth a review process that ensures such public facilities will be compatible with surrounding land uses. (§ 1, Ord. 958, eff. May 19, 2000, as amended by § 257, Ord. 1095, eff. November 20, 2010, and § 7, Ord. 1097, eff. May 20, 2011)

§ 9-3.1602. Permitted uses.

The following uses shall be permitted in the Public Facilities District:

(a) Public schools;

(b) Storm drainage basins;

(c) Wastewater treatment facilities;

(d) Water wells and related treatment facilities;

(e) Pum/lift stations;

(f) Public libraries, museums;

(g) Public and/or municipal recreation facilities; and

(h) Building and facilities owned or operated by a governmental or quasi-public agency.
(§ 1, Ord. 958, eff. May 19, 2000, as amended by § 257, Ord. 1095, eff. November 20, 2010, and § 7, Ord. 1097, eff. May 20, 2011)

§ 9-3.1603. Uses permitted subject to securing a use permit.

The following uses shall be permitted in the Public Facilities District subject to securing a use permit:

(a) Churches, church schools, and other religious facilities including residential quarters incidental to a church use or other religious facility;

(b) Private recreation; and

(c) Day care centers.
(§ 1, Ord. 958, eff. May 19, 2000, as amended by § 257, Ord. 1095, eff. November 20, 2010, § 7, Ord. 1097, eff. May 20, 2011, and § 12, Ord. 1174, eff. September 20, 2019)

§ 9-3.1604. Existing public facilities.

All public facility uses and structures, as identified above, that are existing as of the date of adoption of the ordinance codified in this title, are declared to be conforming uses and structures. (§ 1, Ord. 958, eff. May 19, 2000, as amended by § 257, Ord. 1095, eff. November 20, 2010, and § 7, Ord. 1097, eff. May 20, 2011)

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§ 9-3.1605. Development standards.

Any proposed development of use of land within the Public Facilities District shall be subject to the site plan review process. Through this review process, appropriate setbacks, lot coverage, building height and design, parking, signage and other development standards shall be determined in an effort to ensure compatibility with surrounding lands and uses.
(§ 1, Ord. 958, eff. May 19, 2000, as amended by § 257, Ord. 1095, eff. November 20, 2010, and § 7, Ord. 1097, eff. May 20, 2011)

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ARTICLE 17
MOBILE HOME SUBDIVISIONS: DEVELOPMENT STANDARDS

§ 9-3.1701. Purpose.

Notwithstanding anything to the contrary set forth in this chapter or in Chapter 2 of this title relating to subdivisions, the following shall be the minimum standards of development within the Medium Density Residential (R-2) and High Density Residential (R-3) Districts for mobile home subdivisions:

(a) Height. No building, structure, or vehicle, except a recreation building, erected on or moved onto a lot shall have a height which exceeds thirty (30′) feet.

(b) Front Yards. There shall be a front yard depth of not less than five (5′) feet. No recreation building shall be stored in a front yard.

(c) Rear Yards. There shall be a rear yard depth of not less than five (5′) feet.

(d) Side Yards. There shall be a side yard of at least five (5′) feet on both sides; provided, however, an open carport or patio, and the support columns thereof, may be placed within four (4′) feet of the side property line.

(e) Lot Size. Every lot shall be of a size and shape which will provide reasonable area for private use and development and for the convenient placement of one mobile home and appropriate accessory buildings or structures.

(f) Roofed Area. The total roofed area, including the mobile home and accessory buildings or structures, shall not exceed 75% of the net area of the lot.

(§ 2, Ord. 661, eff. June 20, 1980, as amended by § 124, Ord. 1095, eff. November 20, 2010)

§ 9-3.1702. Landscaping.

Setback areas in the Medium and High Density Residential Districts abutting public streets shall be planted in grass, shrubs, trees, or other appropriate decorative materials and shall be kept landscaped and maintained in a clean and orderly manner.

(§ 2, Ord. 661, eff. June 20, 1980, as amended by § 125, Ord. 1095, eff. November 20, 2010)

§ 9-3.1703. Fences.

A solid fence not less than six (6′) feet in height, and not exceeding eight (8′) feet, shall be placed and maintained around the interior perimeter of a mobile home park or mobile home subdivision.

(§ 2, Ord. 661, eff. June 20, 1980, as amended by § 126, Ord. 1095, eff. November 20, 2010)

§ 9-3.1704. Access.

All mobile home spaces shall be served from internal, private streets within the mobile home park or mobile home subdivision, and there shall be no direct access from a mobile home space to a public street or alley.

(§ 2, Ord. 661, eff. June 20, 1980, as amended by § 127, Ord. 1095, eff. November 20, 2010)

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§ 9-3.1705. Internal streets.

All private internal streets within mobile home parks and mobile home subdivisions shall be paved with surfacing and improvements to the satisfaction of the City Engineer. The pavement width shall be in accordance with the Los Banos Standards and Specifications.
(§ 2, Ord. 661, eff. June 20, 1980, as amended by § 128, Ord. 1095, eff. November 20, 2010)

§ 9-3.1706. Parking requirements.

In every mobile home park or mobile home subdivision, two off-street parking spaces shall be provided for each mobile home space. One off-street guest parking space shall also be provided for every four mobile home spaces if on-street parking is not provided. Each off-street guest parking space shall be accessible to each of the four mobile home spaces and shall be within a reasonable distance of the four mobile home spaces.
(§ 2, Ord. 661, eff. June 20, 1980, as amended by § 129, Ord. 1095, eff. November 20, 2010)

§ 9-3.1707. Open space.

Recreational or open space at least 1,000 square feet in area, plus 150 square feet for each mobile home space over 10, shall be provided in each mobile home park and mobile home subdivision. Such open space may be used in more than one location, but no one location shall contain less than 1,000 square feet. Each recreational space shall be accessible to all of the mobile home spaces in the park or subdivision and shall not be used for any other purpose.
(§ 2, Ord. 661, eff. June 20, 1980, as amended by § 130, Ord. 1095, eff. November 20, 2010)

§ 9-3.1708. Mobile home subdivisions: Application of State laws.

The provisions of Part 2 of Division 13 of the Health and Safety Code of the State (commencing with Section 18000), Part 6 of Division 13 of said Health and Safety Code (commencing with Section 19960), the California Factory-Built Housing Law, and the rules and regulations promulgated thereunder shall apply to mobile home subdivisions in the Medium and High Density Residential Districts; provided, however, all installations of sewer lines, water lines, fire hydrants, electrical equipment, and gas lines shall comply with City standards when such standards exceed State standards.
(§ 2, Ord. 661, eff. June 20, 1980, as amended by § 131, Ord. 1095, eff. November 20, 2010)

§ 9-3.1709. Mobile home subdivisions: Maintenance of non-dedicated common areas and improvements.

All common areas, including open or green spaces, community recreation facilities, washrooms, common walkways, parking areas, private streets, sidewalks, curbs, gutters, and all improvements set forth in Section 9-2.602 of Article 6 of Chapter 2 of this title which are not dedicated and accepted may be constructed only upon full and adequate provisions for their preservation and future maintenance in a manner acceptable to the Commission. Such provisions may be satisfied by a declaration of covenants, conditions, and restrictions duly signed and acknowledged by the owner; articles of incorporation or association, to be filed with the Secretary of State, forming a corporation or association, which shall include provisions empowering the entity created to own and maintain all the properties within its jurisdiction and to exercise the powers and duties of the entity which shall be fully set forth in the declaration; bylaws of the entity which shall set forth rules of membership, fees, assessments, membership rights, and principles; and forms of deeds incorporating the declaration by reference to its

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recording data. All documents shall be referred to the City Attorney for review and have the approval of the Commission as to their sufficiency to accomplish this purpose. The owners of the individual lots, as a condition of ownership of such lots, shall be required to participate in the legal entity so formed and be responsible to such legal entity for the cost of performing the necessary maintenance.

Any failure to properly maintain the common areas and improvements shall be, and the same is hereby declared to be, unlawful and a public nuisance endangering the health, safety, and general welfare of the public.
(§ 2, Ord. 661, eff. June 20, 1980, as amended by § 132, Ord. 1095, eff. November 20, 2010)

§ 9-3.1710. Signs.

Not more than one sign for each entrance to a public street from a mobile home park or mobile home subdivision shall be constructed. Such sign shall not exceed 20 square feet in area or eight (8′) feet in height from the ground and shall be parallel to the property line. If illuminated, the illumination shall be by indirect lighting. Each sign shall be adjacent to the entrance from the public street to the mobile home park or mobile home subdivision and not closer than three hundred (300′) feet to any other such sign. No flashing or intermittent lighting shall be permitted.
(§ 2, Ord. 661, eff. June 20, 1980, as amended by § 133, Ord. 1095, eff. November 20, 2010)

§ 9-3.1711. Plans: Approval.

Whenever a mobile home park or mobile home subdivision plan is submitted to the City by the Division of Housing of the State pursuant to the provisions of Part 2 of Division 13 of the Health and Safety Code of the State and Part 6 of Division 13 of said Health and Safety Code (commencing with Section 19960), the California Factory-Built Housing Law, the park plan shall be submitted to the Commission for approval as to proper zoning and compliance with the provisions of this article. The Commission, by a majority vote of all its members, shall have the authority to grant such approval or to vary the terms and conditions of this article by making them less restrictive when, as, and if, in a particular instance, hardship, or peculiar circumstance, it appears equitable to vary them and the main purpose and intent of the provisions of this article can still be preserved.
(§ 2, Ord. 661, eff. June 20, 1980, as amended by § 135, Ord. 1095, eff. November 20, 2010)

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ARTICLE 18
GENERAL PROVISIONS, CONDITIONS AND EXCEPTIONS

§ 9-3.1801. Scope.

The provisions of this article shall apply to the districts established and set forth in Section 9-3.301 of Article 3 of this chapter.
(§ 5.01, Ord. 342, as amended by § 138, Ord. 1095, eff. November 20, 2010)

§ 9-3.1802. Use of buildings, structures, and land.

Except as otherwise provided in this article, no structure shall be erected, reconstructed, enlarged, altered, or moved, nor shall any building or land be used, except as specifically provided and allowed in the districts in which such structure and land are located.
(§ 4.01, Ord. 342, as amended by § 139, Ord. 1095, eff. November 20, 2010)

§ 9-3.1806. Public utility facilities.

Public utility distribution and transmission line towers and poles and underground facilities for the distribution of gas, water, communications, and electricity shall be permitted in all districts without limitation as to height or without obtaining a use permit therefor.
(§ 5.05, Ord. 342, as amended by § 141, Ord. 1095, eff. November 20, 2010)

§ 9-3.1808. Substandard building sites.

In residential districts single-family dwellings only may be erected on any parcel of land the area of which is less than the building site required for the particular district in which such parcel is located if such parcel was in single ownership on or before July 3, 1964. No structure shall be erected on any substandard parcel if such parcel was acquired from the owner of record of contiguous property or such contiguous owner transferee after July 3, 1964.

In any commercial or industrial district the uses stipulated in the respective districts may be erected on any parcel of land the area of which is less than the building site area required for the particular district in which such parcel is located, but only if such parcel was in single ownership on or before January 15, 1964.
(§ 5.17, Ord. 342, as amended by § 4, Ord. 345, § 2, Ord. 364, and § 144, Ord. 1095, eff. November 20, 2010)

§ 9-3.1809. Projections into yards: Architectural features.

Architectural features on the main building, such as cornices, eaves, and canopies, may not extend closer than three (3′) feet to any side lot line. Eaves and canopies may extend a maximum of three (3′) feet into the required front or rear yard. Fireplaces not exceeding six (6′) feet in breadth may extend not closer than three (3′) feet to any side lot line.
(§ 5.11, Ord. 342, as amended by § 146, Ord. 1095, eff. November 20, 2010)

§ 9-3.1810. Projections into yards: Porches, landings, and outside stairways.

Open, uncovered, raised porches, landing places, and outside stairways may project not closer than four (4′) feet to any side lot line and not exceeding six (6′) feet into any required rear yard.
(§ 5.12, Ord. 342, as amended by § 146, Ord. 1095, eff. November 20, 2010)

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§ 9-3.1811. Yards: Measurement: Encroachments on building lines.

Whenever an Official Plan Line has been established for any street, required yards shall be measured from such line, and in no case shall the provisions of this chapter be construed as permitting any encroachment upon any Official Plan Line.
(§ 5.13, Ord. 342, as amended by § 146, Ord. 1095, eff. November 20, 2010)

§ 9-3.1812. Dwelling groups.

Dwelling groups shall be constructed so that the following minimum distances are provided:

(a) Ten (10′) feet between buildings;

(b) Twelve (12′) feet between the side yard line and the access side of single row dwelling groups; and

(c) Twenty (20′) feet between the access sides of buildings in double rows.
(§ 5.20, Ord. 342, as amended by § 148, Ord. 1095, eff. November 20, 2010)

§ 9-3.1813. Satellite or dish antennas: Location.

The location of any exterior satellite or dish antenna shall not be in a front yard area.
(§ 1, Ord. 737, eff. January 3, 1986, as amended by § 150, Ord. 1095, eff. November 20, 2010)

§ 9-3.1814. Animals: Health hazard.

In all of the several districts into which the City is divided, no person shall keep or maintain or permit to be kept or maintained upon his or her premises or lot any animal or animals in such manner so as to be injurious to health, offensive to the senses, or so as to interfere with the comfortable life or property of his or her immediate neighbor or surrounding neighborhood.

Any use of a lot or premises contrary to the provisions set forth in this section is hereby declared to be unlawful and a public nuisance.

Every person who maintains, permits, or allows a public nuisance to exist upon his or her property or premises, and every person occupying or leasing the property or premises of another who maintains, permits, or allows a public nuisance to exist thereon, after reasonable notice in writing from a health officer or the District Attorney, City Attorney or Code Enforcement Officer to remove, discontinue, or abate the same has been served upon such person, shall be guilty of a misdemeanor.
(§ 1, Ord. 699, eff. September 17, 1982, as amended by § 3, Ord. 914, eff. April 19, 1997, and § 7, Ord. 1095, eff. November 20, 2010)

§ 9-3.1815. Animals: Prohibited within City limits.

It is unlawful and a public nuisance for any person to keep, possess, maintain, or harbor any of the following animals within the corporate limits of the City:

(a) Any dog for which a license has not been obtained for that year, excepting those which are currently licensed by other public entities which will also require effective rabies vaccinations, and which will be kept within the City for a period exceeding seven days;

(b) Any horse, cow, goat, sheep, other equine, bovine, ovine, or ruminant animals, pigs,

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predatory wild animals, or other livestock, except that such animals may be brought into the City for any regularly scheduled authorized parade, public exhibition or auction but only for the time reasonably required for the parade, exhibition or auction;

(c) Any turkey, game bird and fowl, other domestic fowl, which constitute an agricultural use, such as animals raised for commercial selling of offspring, eggs, or for consumptive purposes;

(d) Any stand or hive of bees;

(e) Any duck, pigeon, goose, chicken or small exotic fowl unless approved by use permit;

(f) The keeping of any household pet(s) which constitute a health hazard as defined in Section 9-3.1814; and

(g) Any animal which does not comply with all provisions of this chapter or any other ordinance of the City.

(§ 4, Ord. 914, eff. April 19, 1997, as amended by § 8, Ord. 1095, eff. November 20, 2010)

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ARTICLE 19
BUILDING LINES

§ 9-3.1901. Building sites abutting secondary, major, and thoroughfare streets adopted in the Street and Highway Plan.

Front, side, or rear yards required on building sites abutting highways or streets adopted in the Street and Highway Plan as secondary, major, or thoroughfare streets shall have the following setbacks, which shall be measured from the centerline of the street or highway:

Building Lines for Secondary Streets (Highway Right-of-Way 64 Feet)			
District	Front Yards	Side Yards	Rear Yards
R-1	52	42	37
R-2	52	42	37
R-3	47	42	42
M-X	32	32	32
P-O	32	32	32
R-C	32	32	32
C-N	47	32	32
C-1	32	32	32
L-I	57	47	42
I	32	32	32

Building Lines for Major Streets (Highway Right-of-Way 80 Feet)			
District	Front Yards	Side Yards	Rear Yards
R-1	60	50	45
R-2	60	50	45
R-3	55	50	50
M-X	40	40	40
P-O	40	40	40
R-C	40	40	40
C-N	55	40	40
C-1	40	40	40
H-C	40	40	40
L-I	65	55	50
I	40	40	40

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Building Lines for Thoroughfare Streets (Highway Right-of-Way 110 Feet)			
District	Front Yards	Side Yards	Rear Yards
R-1	75	65	60
R-2	75	65	60
R-3	70	65	65
M-X	55	55	55
P-O	55	55	55
R-C	55	55	55
C-N	70	55	55
C-1	55	55	55
H-C	55	55	55
L-I	80	70	65
I	55	55	55

(§ 5.24, Ord. 342, as amended by § 173, Ord. 1095, eff. November 20, 2010)

§ 9-3.1902. Erection of light standards and signs within building lines: Approval: Agreements.

In any commercial, highway-commercial, or industrial district the following structures may be permitted within building lines:

(a) Lighting standards where the supporting pole does not exceed ten (10″) inches in diameter; the setback from the property line shall not be less than five (5′) feet; and

(b) Appurtenant signs where the supporting pole does not exceed two (2″) inches in diameter and is not more than ten (10″) inches in diameter; the minimum setback to the pole shall be five (5′) feet, and the minimum distance from the curb grade to the bottom of the sign shall be twelve (12′) feet.

Such approval may be given by the City Inspector upon receipt of a satisfactory agreement, approved by the City Attorney, which guarantees the removal of any such structures within the building line area on the order of the Council and at such time as the street upon which such signs border is proposed for widening. Such removal shall be at the expense of the property owner involved without any liability whatsoever on the part of the City.

(§ 5.24, Ord. 342, as amended by § 1, Ord. 364, and § 174, Ord. 1095, eff. November 20, 2010)

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ARTICLE 20
OFF-STREET PARKING

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Part 1
General Provisions

§ 9-3.2001. Purpose.

These regulations are intended to accommodate vehicles uses by occupants, visitors, customers, clientele, and employees of such buildings as per the following:

(a) To provide accessible, attractive, secure, properly lighted, and well-maintained, and screened off-street parking facilities;

(b) To reduce traffic congestion and hazards;

(c) To protect neighborhoods from the effects of vehicular noise and traffic generated by adjacent non-residential land use districts;

(d) To assure maneuverability of emergency vehicles; and

(e) To provide appropriately designed parking facilities in proportion to the needs generated by varying types of land use.

(§ 3, Ord. 916, eff. April 19, 1997, as amended by § 176, Ord. 1095, eff. November 20, 2010)

§ 9-3.2002. Applicability.

Every use hereafter inaugurated, and every structure hereafter erected or altered, shall have permanently maintained off-street parking areas pursuant to the provisions as defined in this article.

(§ 3, Ord. 916, eff. April 19, 1997, as amended by § 176, Ord. 1095, eff. November 20, 2010)

§ 9-3.2003. General regulations.

(a) No structure or use shall be permitted or constructed unless off-street parking spaces are provided in accordance with the provisions of this article.

(b) The word "use" shall mean both the type and intensity of the use, and that a change in use shall be subject to all of the requirements of this article.

(c) When a structure is enlarged or increased in excess of 25% of the floor area, or when a change in use creates an increase in the required amount of parking, additional parking spaces shall be provided in accordance with the provisions of the article.

(d) Requirements for uses not specifically listed herein shall be determined by the Planning Director based upon the requirements for comparable uses and upon the particular characteristics of the use.

(e) Fractional space requirements shall be rounded up to the next whole space.

(f) Required guest parking in residential districts shall be designated as such and restricted to the use of guests.

(g) Senior citizen apartments/congregate care parking requirements may be adjusted on an individual project basis, subject to a parking study based on project location and proximity to services for senior citizens including, but not limited to, medical offices, shopping areas, mass transit, etc.

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(h) Existing residential lots of record, 10,800 square feet or larger which front on a major or secondary arterial shall provide circular drives or turnarounds.

(§ 3, Ord. 916, eff. April 19, 1997, as amended by § 176, Ord. 1095, eff. November 20, 2010)

§ 9-3.2004. Number of off-street parking spaces required.

The following minimum number of off-street parking spaces as defined for residential in Section 9-3.226 and for non-residential in Section 9-3.240, shall be provided for each use (where "s.f." refers to square foot and "g.f.a." refers to gross floor area):

Use	Number of Required Spaces
Residential Uses	
Single-family residential	2 off-street spaces per each dwelling 1,000 s.f. or more or 1 off-street space for dwellings less than 1,000 s.f.
Dwellings, two-, three-, and four-family	1.5 off-street spaces per each living unit of 1 bedroom or less and 2 off-street spaces per each living unit of 2 or more bedrooms
Multiple-family residential	1.5 off-street spaces per each living unit of 1 bedroom or less and 2 off-street spaces per each living unit of 2 or more bedrooms
Mobile home parks	1.5 spaces per each living unit
Senior Residential Housing	
Semi-independent/dependent units	0.5 spaces per dwelling unit plus 1 per employee or as established at project review
Retirement homes	1.50 per dwelling unit plus 1 per employee or as established at project review
Institutional Uses	
Churches, conference/meeting facilities auditoriums, mortuary or funeral homes	1 space per 5 fixed seats or, 1 space per 50 s.f. of seating area in the principal sanctuary, conference space, or auditorium, whichever is greater
Assembly halls (without fixed seats) and exhibition halls	1 space per each 100 s.f. of floor area used for assembly purposes
Day care/nursery	1 additional space for each employee or attendant beyond 2
Libraries, museums, art galleries	1 space for each 300 s.f. of g.f.a.
Hotels, motels, lodgings/roominghouses and clubs and fraternity/sorority houses having sleeping rooms	1 space per each living or sleeping unit plus requirements for related commercial uses, plus 1 space per each 50 s.f. of g.f.a. of main assembly room plus 2 spaces for manager's unit. For facilities visible from any freeway or highway, on-site parking for "big rigs" shall be determined at project review.

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Use	Number of Required Spaces
Health Care and Medical Facilities	
Hospitals	1 space for each bed, plus 1 space per each 1,000 s.f. of floor area
Sanitariums/nursing/convalescent homes/ homes for the aged and children	1 space per each 2 beds, plus 1 space per each 1,000 s.f. of floor area
Medical/dental/optometry offices/clinics	1 space per each 200 s.f. of g.f.a.
Residential care facilities (other than sanitariums or nursing homes)	1 additional space for each employee or attendant beyond 2
Schools and Educational Facilities	
Art/dance studios	1 space per each employee, plus 1 space per 2 students
Pre-school	1 space per each faculty and employee
Elementary/junior high (public/private)	1 space per each faculty and employee
Senior high schools, colleges, universities, and institutions of higher learning, parochial and private	1 space per each 300 s.f.
Business/professional trade schools	1 space per each 300 s.f.
Professional Office Uses (Non-Health Care)	
Business and professional offices (except medical/dental/optometrical offices/clinics)	1 space per 200 s.f. of g.f.a.
Financial institutions, banks, savings and loans, post offices	1 space per each 250 s.f. of g.f.a. plus 1 lane for each drive-up window and/or automatic teller machine with stacking space for 6 vehicles (8′ × 23′ per vehicle) per lane before the teller machine
Office conversions from single-family	Determined at project review by the Planning Director
Retail Commercial/Service Uses (Including Multi-Tenant Users)	
Retail stores (except furniture/carpet/major appliance stores, and household equipment or furniture repair shops)	1 space per each 300 s.f. of g.f.a.
Indoor retail concession mall	1 space per each 200 s.f. of g.f.a. plus 1 space for each vendor
Multi-tenant auto-related	1 space per each 200 s.f. of g.f.a. plus 1 space per each employee
Barber shops/beauty shops	1 space per each 250 s.f. of g.f.a.
Furniture/carpet/major appliance stores, and household equipment, furniture repair shops	1 space per each 500 s.f. of g.f.a.

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Use	Number of Required Spaces
Self-serve laundry	1 space for each 3 machines
Eating Establishments/Uses (Restaurants, Cafés, Bars, with G.F.A. Including Outdoor Seating/Eating Areas)	
Restaurants, taverns, and night clubs	1 space per each 60 s.f. of customer seating area pus 1 space per each 400 s.f. of non-customer area
Take-out only (180 s.f. of customer seating area or less and no more than 12 tables or counter seats) restaurants	1 space per each 300 s.f. of g.f.a.
Delicatessen/donut shops	1 space per each 200 s.f. of g.f.a.
Restaurants with drive-up or drive-thru facilities	In addition to required parking, 1 lane for each drive-up window with stacking space for 6 vehicles (8′ × 23′ per vehicle) before the menu board, per lane
Industrial/Warehousing/Public Utility Uses	
Auto dismantling/junk	1 space per each 300 s.f. of g.f.a. plus 1 space for every 10,000 s.f. of gross yard area
Communication equipment	2 spaces per each 3 employees on the building's shift having the greatest number of employees, but not less than 1 space for each 5,000 s.f. of g.f.a.
Industrial manufacturing plants, research and testing laboratories, and bottling plants	1 space per each 500 s.f. of g.f.a.
Wholesale warehousing/storage and utility buildings	1 space per each 600 s.f. of g.f.a.
Industrial office area	1 space per each 200 s.f. of g.f.a.
Machinery retail/wholesale	1 space per 500 s.f. of g.f.a.
Special Stand Alone Uses	
Amusement/Recreational/Entertainment Facilities/Health Clubs	
Aerobics	1 space per 100 s.f. of g.f.a.
Basketball courts	5 spaces per court
Billiard halls	2 spaces per table
Bowling alleys	1 space for each 300 s.f.
Dance halls	1 space per each 50 s.f. of dance floor area, plus additional spaces as required for accessory uses determined at project review
Driving ranges	2 spaces plus 1 space per tee
Golf course	3 spaces per hole, plus as required for incidental uses (i.e., pro shop, bar, banquet room, etc.)

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Use	Number of Required Spaces
Gyms for health/fitness/body building	1 space per 200 s.f. of g.f.a.
Miniature golf course	3 spaces per hole, plus as required for incidental uses (i.e., game room, food service, etc.)
RV parks	1 space per each recreational vehicle space
Skating rinks	1 space per each 50 s.f. of skating area plus each additional use as required
Spectator entertainment (sports arenas, stadiums, auditoriums, theaters, and gymnasiums)	1 space per each 5 fixed seats or 1 space per each 50 s.f. seating area
Swimming pools	1 space per each 500 s.f. of pool area plus 1 per employee
Tennis/racquetball	2 spaces per court
Theme amusement/recreational parks	Determined at project review
Video arcade	1 space per each 100 s.f. of g.f.a.
Water slides	4 spaces per each slide lane
Carwash—self service	2 spaces per stall plus 2 space queuing lane (8′ × 23′ per vehicle) in front of each stall
Carwash—full service	1 space per every 3 employees on the maximum shift plus reservoir capacity equal to 2 times the capacity of the washing operation (the length of the conveyor divided by 20)
Commercial stables	1 space for each 5 horses boarded on-site
Convenience stores (stand alone)	5.4 spaces per 1,000 s.f. of (stand alone) g.f.a.
Fuel sales	2 spaces minimum plus 1 space per each service bay, plus each additional use as required
Mini-storage facilities	2 spaces (minimum) plus 1 space per each 200 s.f. of office area
Plant nurseries/garden centers (in conjunction with retail uses)	1 space per 2,000 s.f. outdoor display area plus 1 space per 400 s.f. of g.f.a.
Swap meet	1 space per each 200 s.f. of g.f.a. plus 1 space per vendor space
Transportation facilities	To be determined at project review
Vehicle repair/garage	1 space per 500 .sf. of g.f.a.
Vehicle service/motor vehicle tune-up	1 space per 400 s.f. of g.f.a. or 3 lubrication and spaces per bay (whichever is greater) plus 1 per company vehicle
Vehicle/RV sales	1 space per 1,000 s.f. of lot area plus each additional use as required

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Use	Number of Required Spaces
Veterinary hospitals	4 spaces per doctor plus 1 per employee

(§ 3, Ord. 916, eff. April 19, 1997, as amended by § 177, Ord. 1095, eff. November 20, 2010)

§ 9-3.2005. Parking spaces for people with disabilities.

The design and layout of all parking facilities, the quantity of parking space required and their dimensions for people with disabilities shall comply with the handicap accessibility requirements of the California Administrative Code and with the sign requirements of the California Vehicle Code. The number of accessible parking spaces are identical to those established by the State at the time of the adoption of this article, with any changes in the State's handicap parking preempting the affected requirements of this article. Exception: The number of accessible spaces shall not apply to existing facilities where compliance was achieved with previous Municipal Code requirements.

(a) Handicap accessible parking for residential uses shall be provided at the rate of one space for each dwelling unit that is designed for occupancy by the handicap.

(b) Handicap accessible parking spaces shall be provided for all uses other than residential at the following rate:

Total Number of Parking Spaces in Lot or Garage	Minimum Required Number of Accessible Spaces
1 — 25	1
26 — 50	2
51 — 75	3
76 — 100	4
101 — 150	5
151 — 200	6
201 — 300	7
301 — 400	8
401 — 500	9
501 — 1,000	2% of total
1,001 and greater	20% plus 1 for each 100, or fraction thereof over 1,001

(c) Handicap accessible parking spaces shall meet State of California and Americans with Disabilities Act (ADA) design criteria as applied to dimensions for designated handicap and van accessible spaces.

(d) Handicap accessible parking spaces as required by this article shall count towards fulfilling off-street parking requirements.

(§ 3, Ord. 916, eff. April 19, 1997, as amended by § 178, Ord. 1095, eff. November 20, 2010)

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§ 9-3.2006. Bicycle/motorcycle parking.

Bicycle and motorcycle parking shall be provided for all commercial, industrial, public, and semi-public uses, and shall be in addition to required automobile parking spaces.

(a) Number Required. Where 10 or more automobile parking spaces are required, the number of bicycle and motorcycle parking spaces provided shall be a minimum of 10% or the number of required automobile parking spaces.

(b) Bicycle Rack Design Requirement. For each bicycle parking space required, a compatible bike rack shall be provided to which a user can secure a bicycle. The stationary object may be either a freestanding bicycle rack or a wall-mounted bracket.

(c) Noninterference with Circulation. Bicycle parking shall be provided in a manner which does not interfere with pedestrian or vehicular circulation and shall be located near building entrances.

(§ 3, Ord. 916, eff. April 19, 1997, as amended by § 178, Ord. 1095, eff. November 20, 2010)

§ 9-3.2007. In-lieu parking fee.

In lieu of providing off-street parking spaces as required by this article, an owner may pay the City a sum equal to 50% of the value per each parking space at the time a building permit is issued. The value shall be fixed by resolution of the City Council based upon a cost analysis of developing municipal off-street parking facilities as determined by the City Engineer. The money shall be deposited in a special fund for the exclusive purpose of providing future public parking facilities in the general vicinity of the buildings to be served which will benefit from the use, or used for expanding and improving existing uses, or a change of use within an existing structure, or maintaining off-street parking facilities in the district insofar as practical.

(a) In-lieu fees collected shall be committed by the City Treasurer by allocation to a project, within a period of 10 years after payment of such fees or after issuance of building permits, whichever occurs later. If such fees are not committed within that time, they shall be distributed and paid to the then owner of record along with a proportional share of interest earned, less administrative costs for handling.

(b) The first 1,500 square feet of gross building area of existing buildings shall be exempt from calculation of the in-lieu fee in cases where occupancy is changing to a more intensive use. This exemption shall not apply to residential uses converting to office or commercial uses.

(§ 3, Ord. 916, eff. April 19, 1997, as amended by § 178, Ord. 1095, eff. November 20, 2010)

§ 9-3.2008. Joint-use parking facilities.

(a) Joint-Use Parking Facilities. The authorized agent of the Planning Commission may, upon application by the owner or lessee of any property, authorize the joint use of parking facilities by the following uses or activities upon the conditions specified in this section:

(1) Up to 50% of the parking facilities required by this section for a use considered to be primarily a daytime use may be provided by the parking facilities of a church or an auditorium incidental to a public or parochial school or of a use considered to be primarily a nighttime use; up to 50% of the parking facilities required by this section for a use considered to be primarily a nighttime use, may be provided by the parking facilities of a use considered to be primarily a daytime use; provided, such reciprocal

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parking area shall be subject to conditions set forth in Section 9-3.2008(b).

(2) Up to 100% of the parking facilities required by this section for a church or for an auditorium incidental to a public or parochial school may be supplied by parking facilities of a use considered to be primarily a daytime use; provided, such reciprocal parking area shall be subject to conditions set forth in Section 9-3.2008(b).

(3) The following uses are typical daytime uses: banks, business offices, retail stores, personal service shops, clothing or shoe repair or service shops, manufacturing or wholesale buildings and similar uses. The following uses are typical nighttime uses: dance halls, theaters, and auditoriums other than those incidental to a public or parochial school or church.

(4) Up to 50% of the parking facilities required by this section for a use from 5:00 p.m., Friday until 12:00 midnight, Sunday, may be provided by the parking facilities of a use considered to be primarily a weekday use; provided, such reciprocal parking area shall be subject to conditions set forth in Section 9-3.2008(b).

(b) Conditions Required for Joint Use of Parking Facilities.

(1) The building or use for which application is being made for authority to utilize the existing off-street parking facilities provided by another building or use, shall be located within two hundred (200′) feet of the parking facility.

(2) The applicant shall show that there will be no substantial conflict in the principal operating hours of the building or uses for which the joint use of off-street parking facilities is proposed.

(3) If the building, structure, or improvement requiring parking space is one ownership, and the required parking space provided is another ownership, partially or wholly, there shall be a recording in the office of the County Recorder of a covenant by such owner or owners for the benefit of the City in the form first approved by the City that such owner or owners will continue to maintain the parking space so long as the building, structure, or improvement is maintained within the City. The covenant shall stipulate that the title to and right to use the parcel or parcels upon which the parking space is to be provided will be subservient to the title to the premises upon which the building is to be erected and that it is warranted that the parcel or parcels are not and will not be made subject to any other covenant or contract for use without prior written consent of the City.

(§ 3, Ord. 916, eff. April 19, 1997, as amended by § 179, Ord. 1095, eff. November 20, 2010)

§ 9-3.2009. Parking design standards.

The following standards shall apply to parking lot design and minimal dimensions for off-street nonresidential and multifamily residential motor vehicle parking spaces.

(a) Minimal Parking Space Dimensions, Ratios, and Parking Lot Design. Standards for full-size and small (compact) size nonresidential (commercial, industrial, assembly, church, and other nonresidential) and residential motor vehicle parking spaces for perpendicular and diagonal ("angled") layouts shall be as specified in the adopted Improvement Standards and Specifications. Compact motor vehicle parking shall not exceed 20% of the total number of spaces in a parking lot. Compact parking spaces shall not count towards meeting

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minimum required parking for single-family, two-, three-, and four-family dwellings.

(b) Projections and Encroachments. Off-street parking spaces shall provide the minimum dimensions in either a perpendicular or diagonal ("angled") parking configuration. Such parking spaces shall be located off the City right-of-way. Any projection or encroachment into a yard, whether by a porch, landing, outside stairwell, or architectural feature shall leave the minimum clearance from the right-of-way for off-street nonresidential or residential parking.

(c) Accessibility. All off-street parking areas shall have sufficient accessibility and interior circulation as determined by the site plan review of the Planning Director, and, excepting for four dwelling units or less:

(1) Off-street parking area shall be designed so that the vehicle within the parking area will not have to enter a street to move from one location to any other location within that parking area;

(2) Parking and maneuvering areas shall be designed so that any vehicle is able to leave the parking area and enter into an adjoining vehicular right-of-way in a forward direction;

(3) For residential dwelling units, all required off-street parking areas shall be located not more than two hundred (200′) feet from, and conveniently accessible to the dwelling unit served by the parking space;

(4) Off-street parking facilities shall be located on: (i) the same site as the use for which the spaces are required, or (ii) the adjoining site separated by a public alley.

(d) Parking Obstructions. Parked vehicles shall not obstruct sidewalks, pedestrian walkways, and vehicular circular/drive-through areas.

(e) Tandem Parking. Parking spaces resulting from a "tandem" arrangement shall not be counted.

(f) Commercial Driveways. Commercial driveways shall be used on all driveways servicing four or more parking stalls. Maximum commercial and residential driveway widths and exceptions therefrom shall be as specified in the adopted Improvement Standards and Specifications.

(g) Repair Work in Parking Areas. For all non-residential uses, no repair work or servicing of vehicles shall be conducted in a parking area.

(h) Loading/Unloading Areas. Loading/unloading areas and dimensions shall be as specified in the adopted Improvement Standards and Specifications.

(i) Illuminated Parking Areas. For illuminated parking areas of nonresidential uses, lighting fixtures should be equipped with directional prismatic lenses and hooding devices to deflect lighting away from residential sites and from interfering with the driving safety of vehicular traffic.

(§ 3, Ord. 916, eff. April 19, 1997, as amended by § 178, Ord. 1095, eff. November 20, 2010)

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§ 9-3.2010. Application of parking design and improvement requirements.

The standards of this article shall be fulfilled: (1) prior to the issuance of use permit and occupancy of any buildings or, (2) in the event of a conditional use permit involving no building permits, prior to validation of the conditional use permit. The standards of this article apply to all uses listed unless otherwise exempted by variance request at which time, as a condition of the variance, the parking areas, maneuvering/circulation areas, and driveways shall be surfaced with appropriate material based on vehicular characteristics, soil conditions, and surrounding land uses.
(§ 3, Ord. 916, eff. April 19, 1997, as amended by § 178, Ord. 1095, eff. November 20, 2010)

§ 9-3.2011. Parking improvement standards.

(a) Development Standards. All off-street parking areas, circulation/maneuvering areas, and driveways shall be paved and maintained as per the adopted Improvement Standards and Specifications of asphaltic concrete or other similar recognized surface, and all parking stalls shall be marked with a suitable paint or other material visibly indicating parking spaces.

(b) Other Parking Lot Improvements. Excepting for four dwelling units or less, other parking lot improvements shall apply as specified in the adopted Improvement Standards and Specifications:

(1) Required handicap parking shall be provided and labeled in accordance with Federal and ADA (Americans with Disabilities Act) requirements.

(2) All parking areas shall have a minimum gross area as designated in the adopted Improvement Standards and Specifications for interior landscaping to make such parking area compatible with adjoining uses. Landscaping material installed shall be as defined in the Municipal Code.

(d) Landscaping. All parking areas shall have an area of not less than 4% of the gross area devoted to interior landscaping to make such parking area compatible with adjoining uses.

(e) Site Plan Review. A plot plan indicating the locations of stalls, egress and ingress points, landscaping, and the internal circulation pattern shall be submitted to the Planning Director for approval prior to development.

(f) Controlling Provisions. The provisions set forth in this section shall be controlling, and any other provisions of the Code to the contrary shall be governed by the provisions of this section.
(§ 3, Ord. 916, eff. April 19, 1997, as amended by § 178, Ord. 1095, eff. November 20, 2010)

§ 9-3.2012. Parking lot shading standards and master parking lot shade tree list.

Nonresidential (commercial, industrial, assembly, church, and other nonresidential uses) developments shall provide as part of the overall site landscape plan a minimum 50% shade tree canopy coverage as counted entirely on the subject site for designated parking lots and related areas, to be installed prior to occupancy. Parking lots and related areas shall be shaded at 50% shade coverage with tree canopies within five years of issuance of building permit. Development of such canopies shall be in accordance with City of Los Banos parking lot shading standards and master parking lot shade tree list. Parking lot shading standards and master parking lot shade tree

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list shall be adopted by the Los Banos Parks and Recreation Commission and approved by the Los Banos City Council. Such changes and/or modifications to the parking lot shading standards and master parking lot shade tree list may be implemented through a resolution by the Los Banos City Council, as recommended by the Los Banos Parks and Recreation Commission.
(§ 3, Ord. 916, eff. April 19, 1997, as amended by § 1, Ord. 1049, eff. October 20, 2006, and § 180, Ord. 1095, eff. November 20, 2010)

§ 9-3.2013. Parking or storage of vehicles prohibited on unpaved surfaces.

Subject to the provisions of Section 9-3.2017(b) no vehicle, including, but not limited to, automobiles, trucks, motorcycles, recreational vehicles, and campers, nor any trailer, camper shell, watercraft, or other similar equipment, nor any other mode of transportation, whether or not motorized or operational, shall be parked or stored upon any lawn, landscaped, or other unpaved surface in any zoning district within the City.
(§ 2, Ord. 1165, eff. January 4, 2019)

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Part 2

On-Site Parking and Storage of Vehicles in the R-1 and R-2 Residential Zoning Districts

§ 9-3.2014. Purpose and applicability.

The purpose of this article is to establish standards to regulate on-site parking and storage of vehicles, in the R-1 and R-2 residential zoning districts within the City, to ensure that the on-site parking and storage of vehicles: (a) does not create public safety or public nuisance issues; (b) does not create an adverse aesthetic from street rights-of-way or adjacent/neighboring properties; and (c) does not create an adverse impact to adjacent parcels or the surrounding neighborhood.
(§ 3, Ord. 1165, eff. January 4, 2019)

§ 9-3.2015. Definitions.

For the purposes of this article, "paved driveway" shall mean a surface area improved by means of application of concrete, cement, asphalt, blacktop, bricks, interlocking pavers, or other all-weather impermeable material which provides direct access to a garage or carport from a public street or private street, with a City-approved driveway approach or curb cut for access.

For the purposes of this article, "paved driveway extension" shall mean that area of the front yard adjacent to the public right-of-way, and between the paved driveway and its nearest side property line, that is improved for use in a manner substantially similar to the paved driveway.

For the purposes of this article, "improved parking area" shall mean a surface area improved by means of application of concrete, cement, asphalt, blacktop, bricks, interlocking pavers, or other all-weather impermeable material accessed from a public or private street, with a City-approved driveway approach or curb cut for access.
(§ 3, Ord. 1165, eff. January 4, 2019)

§ 9-3.2016. Zoning clearance certificate and encroachment permits.

(a) All paved driveways, paved driveway extensions, and or improved parking areas in the R-1 and R-2 residential zoning districts within the City require a zoning clearance certificate issued by the Community and Economic Development Director verifying that the improvement complies with the requirements of this Article and/or other applicable provisions of the Los Banos Municipal Codes whether or not a building permit is required.

(b) Paved driveways, paved driveway extensions, and or improved parking areas in the R-1 and R-2 residential zoning districts approved as part of a discretionary approval such as a site plan, conditional use permit, or variance shall not require a zoning clearance certificate.

(c) Access other than from a City-approved driveway approach or curb cut shall require an encroachment permit issued by the Public Works Director. The Director may grant relief from the requirements of this subsection in order to address practical hardships that would result from the application of this subsection, subject to reasonable conditions. In evaluating the hardship and imposing reasonable conditions the Director shall consider the degree and nature of the hardship as against the stated purpose of this article.

(d) Use of a handicap sidewalk curb ramp or return or landing for required driveway approach and access is strictly prohibited.
(§ 3, Ord. 1165, eff. January 4, 2019)

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§ 9-3.2017. Parking or storage of vehicles prohibited on unpaved surfaces in the R-1 and R-2 residential zoning districts.

(a) No vehicle, including, but not limited to, automobiles, trucks, motorcycles, recreational vehicles, and campers, nor any utility trailer, camper shell, watercraft, or other similar equipment, nor any other mode of transportation, whether or not motorized or operational, shall be parked or stored upon any lawn, landscaped, or other unpaved surface in the R-1 and R-2 residential zoning districts.

(b) Parking on a graveled driveway in existence on January 1, 2019 that otherwise meets the requirements of this Article shall be permitted as a nonconforming use. Nonconforming driveways may continue to be utilized as long as they are maintained in good operational condition as determined by the Chief Building Official and do not create a hazard or a public nuisance, except as follows:

(1) If a residential property is redeveloped, and the costs exceed more than 50% of the value of the property, the parking and paving requirements must be brought up to current development requirements and shall no longer be considered a nonconforming condition.

(2) If the use of a residential property is changed to a nonresidential use, the parking and paving standards for the new use must comply with current paving and parking requirements specified for the new use.

(c) Existing nonconforming gravel driveways shall be maintained with compressed gravel or compacted crushed stone within a distinct border and shall be maintained with a minimum surface to base depth of four (4″) inches.

(§ 3, Ord. 1165, eff. January 4, 2019)

§ 9-3.2018. On-site vehicle parking and vehicle storage—Front yard—Lot coverage.

(a) No vehicle, including, but not limited to, automobiles, trucks, motorcycles, recreational vehicles, and campers, nor any utility trailer, camper shell, watercraft, or other similar equipment, nor any other mode of transportation, whether or not motorized or operational, shall be parked or stored in a residential front yard except on a paved driveway or paved driveway extension or improved parking area specifically and properly designed for the purpose of parking vehicles as defined in Section 9-3.2015.

(b) No more than 50% of the residential front yard may be improved with a paved driveway, paved driveway extension, and or improved parking area or any combination thereof.

(c) No more than 50% of the residential front yard may be used for on-site vehicle parking.

(d) No vehicle, in excess of twelve (12′) feet six (6″) inches in height including, but not limited to, automobiles, trucks, motorcycles, recreational vehicles, and campers, nor any utility trailer, camper shell, watercraft, or other similar equipment, nor any other mode of transportation, whether or not motorized or operational, shall be parked or stored in a residential front yard.

(e) No semi truck or tractor or semi truck or tractor trailer shall be parked or stored in a residential front yard.

(f) Recreational vehicles and utility trailers are subject to the regulations set forth in Part 3 of

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this article in addition to the provisions of this Part 2.
(§ 3, Ord. 1165, eff. January 4, 2019)

§ 9-3.2019. On-site vehicle parking and vehicle storage—Side yard.

(a) No vehicle, including, but not limited to, automobiles, trucks, motorcycles, recreational vehicles, and campers, nor any trailer, camper shell, watercraft, or other similar equipment, nor any other mode of transportation, whether or not motorized or operational, shall be parked or stored in a residential side yard except on a paved driveway or paved driveway extension or improved parking area specifically and properly designed for the purpose of parking vehicles as defined in Section 9-3.2015.

(b) No vehicle, in excess of twelve (12′) feet six (6″) inches in height including, but not limited to, automobiles, trucks, motorcycles, recreational vehicles, and campers, nor any trailer, camper shell, watercraft, or other similar equipment, nor any other mode of transportation, whether or not motorized or operational, shall be parked or stored in a residential side yard.

(c) No semi truck or tractor or semi truck or tractor trailer shall be parked or stored in a residential side yard.

(d) Recreational vehicles and utility trailers are subject to the regulations set forth in Part 3 of this article in addition to the provisions of this Part 2.
(§ 3, Ord. 1165, eff. January 4, 2019)

§ 9-3.2020. On-site vehicle parking and vehicle storage—Back yard.

(a) No vehicle, including, but not limited to, automobiles, trucks, motorcycles, recreational vehicles, and campers, nor any trailer, camper shell, watercraft, or other similar equipment, nor any other mode of transportation, whether or not motorized or operational, shall be parked or stored in a residential back yard except on a paved driveway or paved driveway extension or improved parking area specifically and properly designed for the purpose of parking vehicles as defined in Section 9-3.2015.

(b) No vehicle, in excess of twelve (12′) feet six (6″) inches in height including, but not limited to, automobiles, trucks, motorcycles, recreational vehicles, and campers, nor any trailer, camper shell, watercraft, or other similar equipment, nor any other mode of transportation, whether or not motorized or operational, shall be parked or stored in a residential back yard.

(c) No semi truck or tractor or semi truck or tractor trailer shall be parked or stored in a residential back yard.

(d) No more than three vehicles, including, but not limited to, automobiles, trucks, motorcycles, recreational vehicles, and campers, nor any trailer, camper shell, watercraft, or other similar equipment, nor any other mode of transportation, whether or not motorized or operational, shall be parked or stored in a residential back yard with the following limitations:

(1) No more than one vehicle parked or stored in a residential back yard may exceed the height of the fence line to a maximum of twelve (12′) feet six (6″) inches.

(2) Except as set forth above in subsection (1) vehicles parked or stored in a residential back yard shall not exceed the height of the fence line.

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(e) Recreational vehicles and utility trailers are subject to the regulations set forth in Part 3 of this article in addition to the provisions of this Part 2.

(§ 3, Ord. 1165, eff. January 4, 2019)

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Part 3

Regulating the Use, Storage, and Parking of Recreational Vehicles, Recreational Trailers, and Utility Trailers

§ 9-3.2021. Purpose.

The purpose of this article is to regulate the use, storage, and parking of recreational vehicles, recreational trailers, heavy equipment and utility trailers in the City, in the interest of public health, safety, and welfare to prevent such vehicles from being utilized as housing except in lawfully established trailer parks and to ameliorate street congestion, sight blockage and aesthetic blight caused by the improper storage and parking of such vehicles.
(§ 1, Ord. 1007, eff. June 18, 2004, as amended by § 259, Ord. 1095, eff. November 20, 2010, and § 5, Ord. 1165, eff. January 4, 2019)

§ 9-3.2022. Definitions.

For the purposes of this article, unless otherwise apparent from the context, certain words and phrases used in this article are defined as follows:

"Camp car" shall mean a vehicle with or without motor power which is designed or used for human habitation and which may contain plumbing, refrigeration, cooking, heating, or electrical equipment, but does not include an installed "mobile home" as set forth in Government Code Sections 65852.3 and 65852.7.

"Camper" shall mean a structure designed to be mounted upon a motor vehicle and to provide facilities for human habitation or camping purposes. The term "camper" does not include a camper shell.

"Camper shell" shall mean a structure designed to be mounted upon a motor vehicle and to provide shelter from the elements but does not contain plumbing refrigeration, cooking, heating, electrical equipment or other facilities for human habitation.

"Driveway" shall mean an established paved path leading directly from a garage or parking facility on a lot to the street or alleyway, and used primarily for the ingress or egress of vehicles.

"Heavy equipment" shall mean heavy-duty vehicles, specially designed for executing construction tasks, most frequently, ones involving earth moving.

"Motor home" shall mean a vehicle that is a self-propelled device used or maintained for the transportation of persons or property upon a street or highway which is designed or used for human habitation and which may contain plumbing refrigeration, cooking, heating, or electrical equipment.

"Motor vehicle" shall mean a self-propelled device used or maintained for the transportation of persons or property upon a street or highway.

"Person" shall mean an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, excepting the United States of America, the State of California, and any political subdivision of either thereof.

"Public storage" shall mean a facility, the purpose of which is to provide secure storage area and which has been approved by the City to operate as a public storage business with designated parking areas for outside storage of vehicles or boats.

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"Recreational vehicle" shall mean any vehicle or trailer designed, or modified for habitation or recreational uses including, but not limited to: a camp car, camper, motor home, house car, trailer coach, travel trailer, or camping trailer; boat, snowmobile, jet ski, recreational equipment; and any trailer designed or modified for use in transporting boats, motorcycles, jet skis, snowmobiles, horses or other livestock, tents and any other recreational equipment.

"Store" shall mean the leaving, standing, or parking.

"Trailer coach" shall mean a structure designed to be drawn by a motor vehicle for human habitation, or human occupancy for carrying persons or property on its own structure.

"Utility trailer" shall mean a trailer, whether open or enclosed, utilized for hauling equipment, materials or debris or for any similar purpose including but not limited to a utility or box trailer, farm trailer, auxiliary and pull dollies.
(§ 1, Ord. 1007, eff. June 18, 2004, as amended by § 260, Ord. 1095, eff. November 20, 2010, and § 5, Ord. 1165, eff. January 4, 2019)

§ 9-3.2023. Use restrictions.

It is unlawful for any person, between the hours of 10:00 p.m. of any day and 6:00 a.m. of the next ensuing day, to use or occupy or permit the use or occupancy of any motor vehicle or recreational vehicle upon any lot, piece or parcel of land within the City, for temporary or permanent habitation purposes including but not limited to use for living or sleeping quarters, except as follows:

Within a residential zoning district, a resident of a single-family or two family lot located in a residential district may use a recreational vehicle that is lawfully stored within the front, side or rear yard of the resident's lot, for the purpose of temporary sleeping quarters, subject to the following limitations: any such recreational vehicle must be fully contained and must not require any plumbing hookups to the residential structure, and such use as temporary sleeping quarters shall in no event extend beyond seven calendar days (or portions thereof) within any 90-day period.

Upon a commercial parking lot where the business allows such parking by policy for transient travelers subject to the following limitations: any such recreational vehicle must be fully self-contained and must not require any electrical or plumbing hookups external to the recreational vehicle, and such use as temporary sleeping quarters shall in no event extend beyond one day.
(§ 1, Ord. 1007, eff. June 18, 2004, as amended by § 261, Ord. 1095, eff. November 20, 2010, and § 5, Ord. 1165, eff. January 4, 2019)

§ 9-3.2024. Storage and parking.

(a) It is unlawful for any person to store or park heavy equipment on any lot or piece or parcel of land within an area zoned for residential purposes unless it is wholly enclosed within a structure.

(b) It is unlawful for any person to store or park a recreational vehicle, utility trailer or camper shell not securely fastened to a vehicle, upon any lot or piece or parcel of land within an area zoned for residential purposes, including multiple-family areas in the City, except:

(1) In a licensed trailer park or licensed public storage facility;

(2) Within the side or rear yard of the lot, provided that the recreational vehicle or utility

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trailer be located no closer than three (3′) feet to any exit from a building used for human habitation, that its wheels are properly blocked or locked, that it does not encroach on a public right-of-way, and that it is not stored or parked in a clear vision zone of a corner lot, that it is no closer than five (5′) feet to any abutting side yard or five (5′) feet to any abutting rear yard, and provided further that it is screened from adjacent lots by a solid nontransparent fence six (6′) feet in height, unless a waiver is granted by the Planning Director; or

(3) Within the front yard of the lot, provided that the recreational vehicle or utility trailer is located entirely within a paved driveway, paved driveway extension, or an improved parking area, that its wheels are properly blocked or locked, that it does not encroach on a public right-of-way, that it is no closer than five (5′) feet to any abutting side or front yard, and that it is not parked or stored in a clear vision zone on a corner lot. Additional improved parking areas may be provided in the front yard of a residential lot for the purpose of storing recreational vehicles, provided further that the paved area including the driveway does not exceed 50% of the front yard area. The provisions of this subsection allowing the storage or parking of recreational vehicles and utility trailers within the front yard shall be limited to one such vehicle.

(§ 1, Ord. 1007, eff. June 18, 2004, as amended by § 262, Ord. 1095, eff. November 20, 2010, and §§ 5, 6, Ord. 1165, eff. January 4, 2019)

§ 9-3.2025. Parking on City streets.

The parking of any recreational vehicle on any public street or avenue, highway, lane, alley, court or public place remains subject to regulation of parking pursuant to established City or State traffic and zoning regulations.

(§ 1, Ord. 1007, eff. June 18, 2004, as amended by § 263, Ord. 1095, eff. November 20, 2010; § 5, Ord. 1165, eff. January 4, 2019)

§ 9-3.2026. Dimensions.

No recreational vehicle or utility trailer which exceeds thirty-eight (38′) feet in length, eight (8′) feet six (6″) inches in width, or twelve (12′) feet six (6″) inches in height may be stored, parked and/or maintained within any residential district of the City.

(§ 1, Ord. 1007, eff. June 18, 2004, as amended by § 264, Ord. 1095, eff. November 20, 2010, and § 5, Ord. 1165, eff. January 4, 2019)

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Part 4
Minor Adjustments, Appeals, and Enforcement

§ 9-3.2027. Minor adjustments.

(a) The Director may grant minor adjustments to provide for minor exceptions from the site standards established by this article in order to address practical hardships that would result from the strict application of site standards or to accommodate a superior design that is also compatible with the neighborhood. In evaluating the hardship the Director shall consider the degree and nature of the hardship as against the stated purpose of the article.

(b) Minor adjustments shall be limited to the following exceptions from site standards:

(1) Lot Coverage. Up to a 15% increase of the allowable front yard lot coverage.

(2) Height. Up to fifteen (15′) feet in height.

(3) Number of Vehicles. Up to a maximum of two additional motorcycles, small watercraft or other similar equipment stored in a residential back yard.

(c) When the Director approves a minor adjustment, property owners existing at the time, located within three hundred (300′) feet shall be notified of the decision in compliance with Section 9-3.2323 of this title (Administrative Permit) and Chapter 3 Part 4 of this title (Use Permits). The notice shall identify the proposed adjustment and the available appeal process. The decision shall not take effect until the appeal period ends in compliance with Section 9-3.2330 of this title (Appeals).

(§ 7, Ord. 1165, eff. January 4, 2019)

§ 9-3.2028. Appeal.

The decision of the Community and Economic Development Director or designee may be appealed as provided by the appeal procedure provided in Part 6 of Article 23 of this chapter.
(§ 7, Ord. 1165, eff. January 4, 2019)

§ 9-3.2029. Enforcement.

(a) It is unlawful and a public nuisance to intentionally violate any of the provisions of this article. Violation of this article may be charged as either an infraction or a misdemeanor. Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code Section 36901.

(b) In addition to any other remedy or penalty set forth in this article or this Code, administrative penalties may be imposed pursuant to applicable provisions of Chapter 11 Title 4 of this Code against any responsible party, in violation of any of the provisions of this article. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 11 Title 4 of this Code.

(c) Remedies under this article are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

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(§ 7, Ord. 1165, eff. January 4, 2019)

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ARTICLE 21
PERFORMANCE STANDARDS

§ 9-3.2101. Fire and explosion hazards.

All activities involving, and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire-suppression equipment and devices standard in industry and as approved by the Fire Department. All incineration shall be prohibited.
(§ 5.25, Ord. 342, as amended by § 182, Ord. 1095, eff. November 20, 2010)

§ 9-3.2102. Radioactivity and electrical disturbances.

Any device which radiates radio frequency energy shall be so operated as not to cause interference with any activity carried on beyond the boundary line of the property upon which the device is located. No radiation of any kind shall be emitted which is dangerous to human beings.
(§ 5.25, Ord. 342, as amended by § 182, Ord. 1095, eff. November 20, 2010)

§ 9-3.2103. Noise.
(§ 5.25, Ord. 342; repealed by § 1, Ord. 770, eff. December 4, 1987)

§ 9-3.2104. Vibration.
(§ 5.25, Ord. 342; repealed by § 2, Ord. 770, eff. December 4, 1987)

§ 9-3.2105. Smoke.

No emission shall be permitted at any point from any chimney or otherwise of visible gray smoke of a shade equal to or darker than No. 2 on the Power's Micro-Ringlemann Chart, copyrighted 1954, published by the McGraw-Hill Publishing Co., Inc. (being a direct facsimile reduction of a Standard Ringlemann Chart as issued by the United States Bureau of Mines), except that visible gray smoke of a shade equal to No. 3 on said chart may be emitted for four minutes in any 30 minute period.
(§ 5.25, Ord. 342, as amended by § 182, Ord. 1095, eff. November 20, 2010)

§ 9-3.2106. Odors.

No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable when diluted in the ratio of one volume of odorous air to four volumes of clean air at the lot line. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system so that control will be maintained if the primary safeguard system should fail. Table III, "Odor Thresholds," of Chapter 5, "Air Pollution Abatement Manual," copyrighted 1951, published by the Manufacturing Chemists' Association, Inc., Washington, D.C., is hereby established as a guide for determining quantities of offensive odors.
(§ 5.25, Ord. 342, as amended by § 182, Ord. 1095, eff. November 20, 2010)

§ 9-3.2107. Fly ash, dust, fumes, vapors, gases, and other forms of air pollution.

No emission shall be permitted which can cause any damage to health, animals, vegetation, or other forms of property or which can cause any excessive soiling at any point. No emission shall

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be permitted in excess of the standards set forth in Table I of Chapter 5, "Industrial Hygiene Standards, Maximum Allowable Concentrations" of the "Air Pollution Abatement Manual," copyrighted 1951, published by the Manufacturing Chemists' Association, Inc., Washington, D.C. In no event shall any emission from any chimney or otherwise of any solid or liquid particles in concentrations exceed three-tenths grains per cubic foot of the conveying gas at any point. For the measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500 degrees Fahrenheit and 50% excess air.
(§ 5.25, Ord. 342, as amended by § 182, Ord. 1095, eff. November 20, 2010)

§ 9-3.2108. Glare.

No direct or reflected glare, whether produced by floodlight, high temperature processes, such as combustion or welding, or other processes, so as to be visible from any boundary line of property on which the same is produced shall be permitted. Sky-reflected glare from buildings, or portions thereof, shall be so controlled by such reasonable means as are practical to the end that the sky-reflected glare will not inconvenience or annoy persons or interfere with the use and enjoyment of property in and about the area where such glare occurs.
(§ 5.25, Ord. 342, as amended by § 182, Ord. 1095, eff. November 20, 2010)

§ 9-3.2109. Liquid and solid wastes.

No discharge at any point into any public sewer, private sewage disposal system, or stream, or into the ground of any materials of such nature or temperature as can contaminate any water supply, interfere with bacterial processes in sewage treatment, or otherwise cause the emission of dangerous or offensive elements shall be permitted except in accordance with standards approved by the Department of Public Health of the State or such other governmental agency as shall have jurisdiction over such activities.
(§ 5.25, Ord. 342, as amended by § 182, Ord. 1095, eff. November 20, 2010)

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ARTICLE 22
NONCONFORMING LAND, BUILDINGS, USES, AND SIGNS

§ 9-3.2201. Nonconforming uses.

(a) Continuance. Except as otherwise provided in this article, uses of land, buildings, or structures existing on or before January 15, 1964, may be continued although the particular use, building, or structure does not conform to the provisions of this chapter for the district in which the particular building or structure is located or use is made; provided, however, no nonconforming structure or use of land may be extended to occupy a greater area of land, building, or structure than is occupied on January 15, 1964.

(b) Discontinuance: Subsequent Uses. If any nonconforming use is discontinued or abandoned, any subsequent use of such land or building shall conform to the provisions of this chapter for the district in which such land or building is located. If any use is wholly discontinued for any reason, except pursuant to a valid order of a court of law, for a period of one year, it shall be conclusively presumed that such use has been abandoned within the meaning of the provisions of this chapter, and all future uses shall comply with the provisions of this chapter for the district in which the land or building is located.

(§ 6.01, Ord. 342, as amended by § 184, Ord. 1095, eff. November 20, 2010)

§ 9-3.2202. Nonconforming land.

If any land upon which no building or structure of any kind is located is used for a purpose which is not in compliance with the provisions of this chapter for the district where such land is located, such use may continue until January 15, 1967. On and after January 15, 1967, such land shall be used only in conformance with the provisions of this chapter for the district in which the land is located. The provisions of this section are in no way intended to extend the time limit involved by other laws of the City.

(§ 6.02, Ord. 342, as amended by § 185, Ord. 1095, eff. November 20, 2010)

§ 9-3.2203. Nonconforming buildings.

No building or structure existing on or before January 15, 1964, which building or structure is nonconforming either in use, design, or arrangement, shall be enlarged, extended, reconstructed, or structurally altered unless such enlargement, extensions, reconstruction, or alteration is in compliance with the provisions of this chapter for the district where such building or structure may be maintained or repaired, or portions thereof replaced, and such maintenance, repairs, or replacements do not exceed 25% of the appraised valuation of such building or structure.

A nonconforming building destroyed to the extent of more than 50% of its reasonable value at the time of its destruction by fire, explosion, or other casualty or act of God may be restored and used only in compliance with the provisions of this chapter for the district wherein such nonconforming building is located.

(§§ 6.03 and 6.04, Ord. 342, as amended by § 1, Ord. 787, eff. November 19, 1988, § 1, Ord. 905, eff. September 20, 1996, and § 186, Ord. 1095, eff. November 20, 2010)

§ 9-3.2204. Exceptions: All districts: Use permits.

Single-family or multiple-family dwelling units in any district, destroyed to less than 50% of their value, may be rebuilt upon securing a use permit, subject to the current Building Code

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provisions.
(§ 2, Ord. 905, eff. September 20, 1996, as amended by § 1, Ord. 907, eff. October 18, 1996, and § 187, Ord. 1095, eff. November 20, 2010)

§ 9-3.2205. Nonconforming signs.

Every sign or advertising structure in existence on September 3, 1969, which sign or advertising structure violates or does not conform to the provisions of this chapter, shall be removed, altered, or replaced so as to conform with the provisions of this chapter on or before October 3, 1974.
(§ 6.06, Ord. 342, as amended by § 4, Ord. 417, and § 189, Ord. 1095, eff. November 20, 2010)

§ 9-3.2206. Effect of reclassifications.

The provisions of this article shall apply to structures, land, uses, and signs which become nonconforming due to the redistricting of any land as provided in this chapter.
(§ 6.05, Ord. 342, as amended by § 189, Ord. 1095, eff. November 20, 2010)

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ARTICLE 23

APPLICATION PROCESSING, SITE PLAN REVIEW PROCEDURE, ADMINISTRATIVE PERMITS, USE PERMITS, VARIANCES AND APPEALS

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Part 1
General Provisions

§ 9-3.2301. Application processing: Making an application.

Applications for a discretionary permit or a zone change shall be made to the Planning Director on such forms and contain such information as is prescribed by City Resolution, and shall be accompanied by the appropriate fee as determined by a resolution of the City Council.
(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 191, Ord. 1095, eff. November 20, 2010)

§ 9-3.2302. Acceptance of complete application.

Within 10 calendar days of the receipt of an application and accompanying information, the Planning Director shall determine if the application is complete and adequate information has been supplied to determine compliance with this Code. If the application is determined to be incomplete then the Planning Director shall notify the applicant in writing of all the additional items required to complete the application. If the Planning Director does not receive the additional items with 30 calendar days of the original receipt of the application, he/she may reject the application. Thereafter such application shall be null and void and the property shall have the same status as if no application had been filed.
(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 192, Ord. 1095, eff. November 20, 2010)

§ 9-3.2303. Who may apply.

A property owner, or a person with written authorization to act on behalf of the property owner, shall be eligible to apply for a discretionary permit or zone change. The Planning Commission or City Council may, on its own motion, initiate an application for zone change.
(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 193, Ord. 1095, eff. November 20, 2010)

§ 9-3.2304. Notice of public hearing.

Notice of any public hearing pertinent to the granting, revocation, or modifying of a discretionary permit or zone change shall be given in the manner provided by California Government Code, Title 7, Division I "Planning and Zoning" and scheduled by the Planning Director, or by the Clerk of the City of Los Banos (in the case of an appeal), as follows:

(a) Such notice shall be mailed, postage prepaid, at least 10 days prior to the date of such hearing to the owners of property within a radius of three hundred (300′) feet of the exterior boundaries of the property for which the permit is sought or has been granted. The names and addresses used for such notice shall be those appearing on the last equalized County assessment roll.

(b) At least 10 days prior to the date of such hearing, notices shall be published once in a newspaper of general circulation in the city.

(c) In addition to the notice provided for in subsections (a) and (b) of this section, if any person has filed a written request with the Planning Director to receive notice of a public hearing, then such notice shall be given first class mail.

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(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 194, Ord. 1095, eff. November 20, 2010)

§ 9-3.2305. Content of notice.

A notice of hearing an application shall describe the location of the property under consideration, the nature of the application, the time and place at which the public hearing or hearing on the matter will be held, and the name, address, and telephone number of the Planning Director who may be contacted to request additional information or to whom comments may be submitted regarding the application, or as required by Title 7 of the Planning and Zoning Law, California Government Code.
(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 194, Ord. 1095, eff. November 20, 2010)

§ 9-3.2306. Withdrawing an application.

With the concurrence of or at the written request of the applicant, any application for a discretionary permit or zone change may be withdrawn. When the application is withdrawn, such an action is effective immediately and is not subject to appeal. Thereafter, such application shall be null and void and the property shall have the same status as if no application had been filed.
(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 194, Ord. 1095, eff. November 20, 2010)

§ 9-3.2307. Notice of action on an application.

Notice of the decision on an application for a discretionary permit or zone change shall be filed in the office of the Planning Department and the applicant shall be supplied with a copy of the resolution or ordinance.
(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 195, Ord. 1095, eff. November 20, 2010)

§ 9-3.2308. Effective date.

Decisions of the Community and Economic Development Director or designee or the Planning Commission on an application for a discretionary permit shall become final and effective after an elapsed period of 10 days, from which the act, decision, or determination was made, unless an appeal of the decision is filed pursuant to the appeals procedure provided in Part 6 of Article 23 of this chapter. If such date falls on a weekend or city holiday, then the 10 days shall be extended until 5:00 p.m. on the next business day.
(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 196, Ord. 1095, eff. November 20, 2010, § 1, Ord. 1119, eff. July 18, 2014, and § 4, Ord. 1137, eff. October 2, 2015)

§ 9-3.2309. Imposition of conditions.

A discretionary permit may be granted, modified, or extended subject to the performance of such conditions, including, but not limited to, the provision of required improvements, and for such period of time as the granting authority shall deem to be reasonable and necessary or advisable under the circumstances so that the objectives of this Code shall be achieved. Such conditions shall be imposed and enforced as provided in the abatement section of the Municipal Code.

Whenever a discretionary permit is granted subject to a condition(s), use of the property without

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observance of any such condition shall constitute a violation of this Code.
(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 196, Ord. 1095, eff. November 20, 2010)

§ 9-3.2310. Discontinuance and expiration of approved use.

Each discretionary permit granted pursuant to these provisions shall expire and become null and void at the expiration of one year after the purpose for which it was granted has been discontinued.

Each valid discretionary permit shall expire at the time specified in each permit, or if no time is specified, at the expiration of one year after granting except where construction and/or use of the property in reliance on such discretionary permit has commenced prior to its expiration. However, the period within which such construction and/or use must be commenced may be extended.
(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 196, Ord. 1095, eff. November 20, 2010)

§ 9-3.2311. Application for extension of approval.

If prior to expiration of the discretionary permit the applicant files a written application for extension, the period within which construction or use of the property must be commenced, may be extended for a one-year period by the Community and Economic Development Director. If an additional extension is needed, the approval may be extended subject to conditions by order of the Planning Commission for a maximum period of two years after the date of expiration as originally established. An application for such an extension shall be made on the prescribed form, shall be accompanied by the fee fixed by the City Council, and shall be filed with the Community and Economic Development Director. Decisions of the Community and Economic Development Director or Planning Commission, as applicable, may be appealed as provided by the appeal procedure provided in Part 6 of Article 23 of this chapter.
(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 197, Ord. 1095, eff. November 20, 2010, and § 5, Ord. 1137, eff. October 2, 2015)

§ 9-3.2312. Revocation or modification for cause.

A discretionary permit may be revoked or modified for cause as provided by the provisions of this section. For purposes of this section, such modification may include the modification of the terms of the permit itself or the waiver, alteration, and imposition of new conditions.

(a) Grounds for Revocation or Modification. Revocations or modifications may be made upon a finding of any one or more of the following grounds:

(1) That such permit was obtained or extended by fraud;

(2) That one or more of the conditions upon which such permit was granted have been violated, or the approved site plan is not followed;

(3) That the use for which the permit was granted is so conducted as to be a nuisance or detrimental to the public health, welfare, or safety of the City of Los Banos.

(b) Initiation of Action. An action to revoke or modify may be initiated by order of the City Council or Planning Commission, on its own motion or on the request of any City Official.

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(c) Notice, Review, Hearing and Decision. An action to revoke or modify shall be noticed, reviewed, heard, and decided in the same manner and by the same authority as originally granted the discretionary permit.

(d) An action to revoke or modify may be appealed as provided by the appeal procedure provided in Part 6 of Article 23 of this chapter.

(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 198, Ord. 1095, eff. November 20, 2010, and § 6, Ord. 1137, eff. October 2, 2015)

§ 9-3.2313. Reapplication.

No applications for variances, conditional use permit or zone changes pursuant to this Code shall be reconsidered within less than one year of their denial by action of the Planning Commission or City Council, unless the surrounding area has been rezoned or a major change in the area has taken place.

(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 198, Ord. 1095, eff. November 20, 2010)

§ 9-3.2314. Decision-making authority.

(a) The Planning Director shall be the decision-making authority for administrative permits.

(b) The Planning Commission shall be the decision-making authority for site plan reviews, use permits, and variances.

(c) The Planning Commission is the recommending body to the City Council for zone change, ordinance amendment, general plan amendment, specific plan adoption and amendment, and annexation applications and for use permit applications for alcohol sales. The City Council is the final decision-making authority for said applications.

(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 198, Ord. 1095, eff. November 20, 2010, and § 4, Ord. 1201, eff. December 2, 2022)

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Part 2
Site Plan Review

§ 9-3.2315. Site plan review: Purpose.

The provisions of this part are intended to establish a process by which certain types of development projects and structures are subject to a comprehensive discretionary review approval process before the City's Planning Commission; to ensure that projects conform to City development standards; to ensure that the site plan, building layout, size, shape, scale, mass, height, architectural design, architectural components, materials, colors, landscaping, on- and off-site parking and traffic circulation, and other aspects of the physical plan for the development project are compatible with neighboring developments, are adequate and appropriate for the site, and achieve the highest level of design that is feasible for the project; and to ensure that city services are adequate and available to the project. The City intends to use this process to improve the aesthetic character of the community, to preserve and enhance property values, protect adjacent properties from adverse impacts caused by development projects, to assist private and public developers to be more cognizant of public concerns for the aesthetics of projects, and to bring about a community that is livable, safe, functional and attractive.
(§ 5, Ord. 1119, eff. July 18, 2014)

§ 9-3.2316. Applicability: Projects subject to site plan review.

(a) Nonresidential. All new nonresidential buildings or structures requiring a building permit, the expansion of any nonresidential buildings or structures requiring a building permit, or the modification of the exterior design or façade of an existing nonresidential building or structure or element requiring a building permit shall be subject to site plan review in accordance with this Part 2.

(b) Residential. All new residential buildings or structures requiring a building permit for a new residential project of five or more units or the addition to an existing project that would result in five or more units shall be subject to site plan review in accordance with this Part 2. Exception: a new residential project consisting of solely individual owner custom built lots/homes.

(c) Discretionary entitlement. When design and site review in accordance with this Part 2 is required as a condition of approval of a subdivision, conditional use permit, variance, or other discretionary entitlement.

(d) Consolidation of application. Whenever feasible, the Planning Commission shall consider a site plan review application for a proposed development project in conjunction with any other applications for discretionary permits or other land use approvals for the same project.
(§ 5, Ord. 1119, eff. July 18, 2014)

§ 9-3.2317. Project Review Board.

In addition to other duties and responsibilities as specified by the provisions of Title 9, Chapter 2, Article 3 in this Code, the Project Review Board shall have the following duties and responsibilities:

(a) The Project Review Board shall review and consider the site plan design of project

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proposals in light of the City's general plan, any applicable specific plan, the adopted design review policies set forth in the City Community Design Standards, any applicable development standards set forth in this Code, and shall provide an advisory recommendation to the Planning Commission.

(b) The Project Review Board shall evaluate the following: site plan considerations, including building layout, location, orientation, of all new and existing structures and the relationship to one another and surrounding properties; methods of landscape irrigation; location and design of facilities for physically disabled persons; location of fencing and other screening; location and screening of refuse facilities; traffic circulation on-site and off-site; pedestrian and bicycle circulation and safety; arrangement of off-street parking and loading facilities; location and intensity of all onsite lighting; and provision of municipal and public services including such items as curb cuts, curbs, gutters and sidewalks, sidewalk design, grading and drainage, location of fire hydrants; location and type of signage; location and design of facilities of public safety concern.

(§ 5, Ord. 1119, eff. July 18, 2014)

§ 9-3.2318. Planning Commission project study session review.

(a) The Planning Commission may conduct study sessions on the aesthetic aspects related to a proposed project, at the request of the applicant or upon referral from the Community Development Director or designee. The purpose of the study session is to provide the applicant with feedback from the Planning Commission early on in the design process, before becoming overly invested in a given design. This review shall be in the nature of a discussion between the Planning Commission and the applicant concerning the aesthetic aspects of a project proposal, and shall not constitute a final decision by the Planning Commission concerning the proposed development.

(b) The Planning Commission shall review and consider the architectural, landscaping, and the lighting elements of project proposals in light of the City's general plan, any applicable specific plan, the adopted design review policies set forth in the City Community Design Standards, any applicable development standards set forth in this Code, and shall provide the applicant with feedback on the proposed design.

(c) The Planning Commission shall evaluate the following: architectural considerations, including architectural style and consistency, height, bulk, area, color of buildings, types of construction materials, physical and architectural relationships with existing and proposed structures; height; materials, and variations in boundary walls, fences, exterior elevations of all sides of the buildings or structures, and methods used to screen mechanical equipment from public view; landscape and site treatment, including: types of planting and vegetation, rock groupings, topography and location of landscaping areas; and aesthetics of exterior lighting elements, and shall provide the applicant with feedback on the proposed design.

(§ 5, Ord. 1119, eff. July 18, 2014)

§ 9-3.2319. Project submittals.

(a) Application. Any person requiring design review approval shall submit an application on a form prepared by the Community Development Department. All information specified on the form shall be provided by the applicant. An application fee shall be submitted at the time the application is submitted in an amount specified by the City's current fee resolution. If the applicant is not the property owner, the application shall contain the signature of the

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property owner or the duly authorized representative or agent of the property owner. The accuracy of all information, maps and documents submitted on or with the application shall be the responsibility of the applicant. The applicant shall also submit any additional information required by the application or requested by City staff.

(b) Plans and drawings to be submitted. In addition to meeting all of the other application requirements of this Code, projects subject to site plan review shall be required to have the following materials submitted to the Community Development Department:

(1) A site plan, drawn to scale, showing the parcel dimensions, proposed location, size and height of proposed and existing structures and other improvements including, where appropriate, driveways, fences and walls (their location, height and materials), landscaped areas, off-street parking and loading areas, pedestrian walks, signing, lighting, storage areas, loading spaces. The site plan shall indicate the locations of off-street parking areas, including entrances and exits, and the direction of traffic flow into and out of off-street parking areas. The site plan shall indicate street dedication and improvements.

(2) A landscape plan, drawn to scale, showing the locations of existing trees proposed to be removed and proposed to be retained on the site and showing conformance to the City's shade canopy requirements; the location and design of landscaped areas and the varieties and sizes of plant materials to be planted therein; and other landscape features, including sprinkler and irrigation systems in compliance with the City's applicable landscaping codes and regulations.

(3) Architectural drawings or sketches, drawn to scale, including floor plans in sufficient detail to permit computation of yard requirements and showing all elevations of the proposed structures as they will appear upon completion. All exterior surfacing colors and materials shall be specified.

(4) Accurate scale drawings of all signs indicating sign color, illumination, material, and size.

(5) Preliminary grading and drainage plans.

(6) Other data as may be required by City staff to ensure that the intent and purposes of this section are satisfied.

(c) Review and recommendation. When deemed complete, the Community Development Department shall refer the application and submittals to the Project Review Board for review and recommendation. The Project Review Board shall consider the application within 30 days after it is deemed complete by the Community Development Department. After consideration the Project Review Board shall issue an advisory recommendation to the Planning Commission and, where applicable, the recommended conditions which should be imposed on the project. The recommendations shall be included in the staff report to the Planning Commission on the project.

(d) Study session. When deemed complete, the Community Development Department may refer the application and submittals to the Planning Commission for a study session to be placed on the Planning Commission agenda within 30 days after it is deemed complete by the Community Development Department.

(§ 5, Ord. 1119, eff. July 18, 2014)

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§ 9-3.2320. Planning Commission criteria for approval.

(a) Findings. The Planning Commission shall approve a site plan if it makes all of the findings specified in these sections. In making the findings set forth herein the Planning Commission shall consider and evaluate those aspects of the project described in Sections 9-3.2317(b) and 9-3.2318(c). In approving a site plan, the Planning Commission may impose any reasonable conditions it deems appropriate. The Planning Commission shall make the following findings before approving a site plan:

(1) That the proposed development is consistent with the general plan, any specific plans, and any design standards adopted by the City Council;

(2) That the design and location of the proposed development and its relationship to existing or proposed developments and traffic in the vicinity thereof is such that it will not impair the desirability of investment or occupation in the neighborhood; and that it will not unreasonably interfere with the use and enjoyment of existing or proposed developments in the vicinity thereof, and that it will not create traffic hazards or congestion;

(3) That the design of the proposed development is in keeping with the character of the surrounding neighborhood and is not detrimental to the harmonious, orderly, and attractive development contemplated by this ordinance and the general plan of the City;

(4) That the design of the proposed development would provide a desirable environment for its occupants, as well as for its neighbors, and that it is aesthetically of good composition, materials, textures, and colors;

(5) That the proposed use complies with all applicable requirements of the zoning district in which it is located and all other applicable requirements; and

(6) That the overall development of the subject property is designed to ensure the protection of the public health, safety, and general welfare.

(b) Conditions. In approving a site plan review application, reasonable conditions may be imposed that are deemed necessary to implement the intent and purpose of the design and site development review procedure and to protect the public health, safety and general welfare.

(c) Conformity of building permit plans to site plan review approval. Any application for a building permit subject to this section shall be reviewed by the Community Development Department for a determination as to whether such application conforms to the prior design and site development review approval by the Planning Commission. In order that such determination can be made, the building permit application shall incorporate the information and materials required by this section. No building permit shall be issued unless the Community Development Department determines that such permit conforms to such design and site development review approval.

(§ 5, Ord. 1119, eff. July 18, 2014)

§ 9-3.2321. Effective date and expiration.

(a) Effective date. A site plan approval shall become effective after an elapsed period of 10

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days from the date of the decision by the Planning Commission unless an appeal of the decision is filed pursuant to the appeals procedure provided in Part 6 of Article 23 of this chapter.

(b) Time limit. A site plan review approval shall expire 24 months after the effective date of the approval, unless a building permit has been issued for the project. A site plan review approval shall expire upon expiration of a building permit which has been issued in accordance with this chapter.

(c) Extensions. When an applicant desires an extension of a site plan review approval, and the approval is not coupled with a tentative tract map or parcel map, the provisions of Section 9-3.2311 shall apply. Notwithstanding the provisions of Section 9-3.2311, when an applicant desires to be granted an extension of a site plan review approval, and the approval is coupled with a tentative tract map or parcel map, the Planning Commission at its sole discretion may grant an extension of time not to exceed the life of the map including any extensions approved by the City or by state law. The application to file an extension for a site plan review approval must be filed on a form as provided by the City and must be completed and filed with the City prior to the expiration of said permit including any applicable processing fee.

(§ 5, Ord. 1119, eff. July 18, 2014, as amended by § 7, Ord. 1137, eff. October 2, 2015)

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Part 3
Administrative Permits

§ 9-3.2322. Administrative permits and use permits: Purpose.

The administrative permit and use permit processes provide for uses that cannot be readily classified as principally permitted uses in individual zones. Because of their unusual characteristics, these uses require special review and control so that they may be located and developed properly with respect to the objectives of this Code and to their effects on surrounding properties.

Land uses that require an administrative permit are less likely to have as great an impact on the neighborhood and are more similar to the zone's principally permitted uses than those land uses requiring a use permit. The review and granting of administrative permits and use permits shall be a discretionary administrative action.
(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 198, Ord. 1095, eff. November 20, 2010, and § 3, Ord. 1119, eff. July 18, 2014)

§ 9-3.2323. Administrative permit: Review and notice.

The Planning Director shall review and evaluate administrative permit applications for conformance with the standards and criteria set forth in the pertinent sections of this Code.

(a) Action. Upon completion of the review and evaluation of an application for an administrative permit, the Planning Director, or other appropriate authority shall either:

(1) Make such findings or other determination as is required by the pertinent sections of this Code and approve the application; or

(2) Notify the applicant of the changes and modifications required for approval of the application; or

(3) Deny the administrative permit. The Planning Director authority shall deny the permit if:

(A) The permit cannot be modified or conditioned adequately to insure compliance with applicable regulations, or

(B) The application has caused sufficient controversy that the Planning Director believes a public hearing by the Planning Commission is appropriate, or

(C) The proposed development will be incompatible, injurious, or a nuisance to surrounding properties, or the public health, safety, and general welfare.

(b) Time period. Within 21 days of receipt of a complete application as acknowledged by the Planning Director for an administrative permit, the Planning Director shall take such action as is specified in subsection (a) of this section. This time limit shall not apply when an administrative permit application is made concurrently with an application for a conditional use permit, variance, special exception or zone change. The 21 day time period may be extended with the written consent of the applicant. If the Planning Director does not act within the specified time period or extension thereof, the application shall be deemed to have been denied.

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(c) Consent of surrounding property owners. If the Planning Director determines a proposed use may be objectionable to persons living or working in the vicinity of the subject site, he/she shall require one or both of the following procedures:

(1) The Planning Director shall supply the applicant with the name and address of all property owners within three hundred (300′) feet or more of the parcel for which the application is made. He or she shall instruct the applicant to show the property owners maps, and whatever other information the Planning Director believes appropriate. The Planning Director shall direct the applicant to request the surrounding property owners to give their consent or objection to the proposed use as evidenced by their signature on a petition. The application shall not be considered complete and officially made until this consent petition is completed.

(2) The Planning Director shall mail a notice, postage prepaid, to all persons whose names appear on the last adopted Assessor's roll of Merced County as owning property within three hundred (300′) feet or more of the parcel for which the application is made. Such notice shall identify the subject site, describe the proposed project, and define the manner and time within which written comments may be submitted to the Planning Director on said use. The Planning Director shall consider such written comments in evaluating the use and prior to taking action on the application.

(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 199, Ord. 1095, eff. November 20, 2010, and § 3, Ord. 1119, eff. July 18, 2014)

§ 9-3.2324. Administrative permit: Relationship to other applications.

If an application for an administrative permit is submitted concurrently with another discretionary permit or zone change related to the same property, then the administrative permit shall be decided by the body having jurisdiction over the other application, and shall be reviewed and decided concurrently with such other application. A use permit may include authorization for any use, structure, or action for which an administrative permit is required, in which case no administrative permit is required.

(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 200, Ord. 1095, eff. November 20, 2010, and § 3, Ord. 1119, eff. July 18, 2014)

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Part 4
Use Permits

§ 9-3.2325. Use permits: Hearing and notice.

All applications for granting a use permit and all actions to revoke or modify a use permit shall be heard at a public hearing noticed as provided for by this Code.

Following the hearing on an application for granting a use permit, the Planning Commission shall by resolution deny the use permit or shall grant or modify the use permit subject to specified conditions as may be imposed.
(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 200, Ord. 1095, eff. November 20, 2010, and § 3, Ord. 1119, eff. July 18, 2014)

§ 9-3.2326. Use permits: Required findings.

(a) Before any use permit may be granted, the Planning Commission shall make the following findings:

(1) That the proposed use and project is consistent with the City of Los Banos general plan, and this Code;

(2) That the proposed use or project will not be a nuisance or detrimental to the public health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use;

(3) That the proposed use is compatible with the adjacent uses, properties and neighborhoods and will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

(b) Required findings for on-sale and off-sale alcoholic beverages. A use permit is required for any establishment dispensing for sale or other consideration alcoholic beverages, including beer and wine, for on-sale or off-sale. Such use permit may be granted only upon a determination that the proposal conforms to the general use permit criteria set forth in subsection (a) of this section and to all of the following use permit criteria.

(1) That the proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable with consideration given to the area's function and character, problems of crime and loitering, and traffic problems and capacity;

(2) That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds;

(3) That the proposal will not interfere with the movement of people along an important pedestrian street; and

(4) That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, the use will be limited in hours of operation, or designed and operated so as to avoid the disruption of residents' sleep between the hours of 10:00 p.m. and 7:00 a.m.

(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 201, Ord. 1095, eff. November 20,

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2010, and §§ 2, 3, Ord. 1119, eff. July 18, 2014)

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Part 5
Variances

§ 9-3.2327. Variances: Purpose.

Variances from the terms of this Code may be granted only when application of this Code uniformly for an area more stringently burdens one parcel of land than others without serving the public good. For example, a triangular shaped parcel or parcel crossed by a deep ravine may qualify for a variance from a yard setback because strict application of this Code would make the lot unusable. Such special circumstances are rare. Variances are not granted in mass, or in a manner that leads to another so that eventually there is a cumulative adverse effect on the zone district. A variance is not to confer special privileges (i.e., it is only to relieve hardship, not to confer benefits) that are not enjoyed by neighboring properties under identical zoning. The hardship being relieved by a variance should not be self-induced (i.e., by the applicant's choice of building design, or the applicant's construction of a building in violation of this Code). A variance shall not be used to attempt to correct or circumvent the requirements of this Code which should be properly corrected through ordinance amendment or zone change.
(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 200, Ord. 1095, eff. November 20, 2010, and § 3, Ord. 1119, eff. July 18, 2014)

§ 9-3.2328. Variances: Review and notice.

All applications for granting a variance and all actions to revoke a variance shall be heard at a public hearing noticed as provided for by the Code. Following the hearing on an application for granting a variance, the Planning Commission by resolution shall grant the variance subject to specified conditions as may be imposed or shall deny the variance.
(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 200, Ord. 1095, eff. November 20, 2010, and § 3, Ord. 1119, eff. July 18, 2014)

§ 9-3.2329. Variances: Required findings.

Before any variance shall be granted, the granting authority shall find that:

(a) Because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this Code deprives such property of privileges enjoyed by the other property in the vicinity and under identical zoning classifications;

(b) The granting of the variance is subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant or special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated;

(c) The variance does not authorize a use or activity which is not otherwise expressly authorized by the zone regulations governing the parcel of property;

(d) That the granting of the variance would not be contrary to the intent of this chapter or to the public safety, health, and welfare; and

(e) That granting the variance or its modifications will not be inconsistent with the City of Los Banos general plan.

(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 200, Ord. 1095, eff. November 20, 2010, and § 3, Ord. 1119, eff. July 18, 2014)

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Part 6
Appeals

§ 9-3.2330. Appeals: Purpose.

(a) The purpose of this part is to provide an orderly and fair method of appeal, rehearing or review of administrative decisions of the Planning Commission, or Community and Economic Development Director, relating to the provisions of this chapter. However, this part shall not apply where other specific procedures for appeal, rehearing, or review are established by other provisions of the Municipal Code.

(b) Any interested person adversely affected with an act, decision, or determination of the Planning Commission, or Community and Economic Development Director, relating to the provisions of this chapter, may appeal such act, decision, or determination by filing written notice thereof with the Community and Economic Development Director, or with the Clerk of the City of Los Banos (in the case of an appeal of a Planning Commission decision), not later than 5:00 p.m. 10 days after the day on which the act, decision, or determination being appealed was made. If such date falls on a weekend or City holiday, then the deadline shall be extended until 5:00 p.m. the next business day. The first day of the appeal period is the day following the action. A filing fee set by resolution of the City Council shall accompany the notice of appeal.

(c) The filing of the notice of appeal shall have the effect of staying the issuance of any permit, license, or entitlement until such time as the matter is disposed of on appeal.

(d) The notice of appeal shall state the act, decision, or determination which is being appealed, the identity of the appellant and his or her interest in the matter, and shall set forth in concise statement the reasons which, in the opinion of the appellant, render the decision made unjustified or inappropriate.

(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 200, Ord. 1095, eff. November 20, 2010, § 3, Ord. 1119, eff. July 18, 2014, and § 1, Ord. 1137, eff. October 2, 2015)

§ 9-3.2331. Appeals to the Planning Commission.

(a) The Planning Commission shall hear and decide all appeals from the actions of the Community and Economic Development Director, relating to the provisions of this chapter. Upon receipt of a notice of appeal to be heard by the Planning Commission, the Community and Economic Development Director shall set the same for hearing not later than 30 days following the date the notice of appeal was filed. Notice of the hearing shall be given in the same manner as was given for the hearing in which the decision was rendered and which is subject to appeal; provided, however, that if the act, decision, or determination being appealed did not require a hearing notice, no notice other than 10 days' prior notice to the appellant and applicant shall be required.

(b) The Planning Commission may review the entire proceeding or proceedings relating to the act, decision, or determination being appealed, and in the process of such review may rehear the matter anew (de novo) and may by majority vote confirm, overturn, or confirm with modifications the actions of the Community and Economic Development Director. Any hearing may be continued from time to time. In the case of a tie vote, the decision appealed from shall stand. The Planning Commission's decision on appeal shall be effective 10 days from the date of the decision.

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(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 200, Ord. 1095, eff. November 20, 2010, § 3, Ord. 1119, eff. July 18, 2014, and § 2, Ord. 1137, eff. October 2, 2015)

§ 9-3.2332. Appeals to the City Council.

(a) The City Council shall hear and decide all appeals from the actions of the Planning Commission relating to the provisions of this chapter. Upon receipt of a notice of appeal of a decision of the Planning Commission, the Clerk of the City of Los Banos shall set the same for hearing, not later than 30 days following the date the notice of appeal was filed. Notice of the hearing shall be given in the same manner as was given for the hearing in which the decision was rendered and which is subject to the appeal; provided, however, that if the act, decision, or determination being appealed did not require a hearing notice, no notice other than 10 days' prior notice to the appellant and applicant shall be required.

(b) The City Council may review the entire proceeding held before the Planning Commission and in the process of such review may rehear the matter anew (de novo), and may by majority vote confirm, overturn, or confirm with modifications the actions of the Planning Commission. In the case of a tie vote, the decision appealed from shall stand. Any hearing may be continued from time to time. The City Council's decision on appeal shall be effective immediately.

(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 200, Ord. 1095, eff. November 20, 2010, § 3, Ord. 1119, eff. July 18, 2014, and § 3, Ord. 1137, eff. October 2, 2015)

§ 9-3.2333. Limitation of actions.

Any court action or proceeding to attack, review, set aside, void, or annul any decision of matters listed in this Code, shall not be maintained by any person unless such action or proceeding is commenced and service of summons effected within 30 days after the effective date of such decision. Thereafter, all persons are barred from any such action or proceeding.

(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 200, Ord. 1095, eff. November 20, 2010, and § 3, Ord. 1119, eff. July 18, 2014)

§ 9-3.2334. Notice of decision.

Following the hearing on the appeal, the Planning Director shall transmit a notice of the decision of the granting authority to the appellant and the applicant and a copy of said notice shall be kept in the Planning Department office.

(§ 1, Ord. 933, eff. September 19, 1997, as amended by § 202, Ord. 1095, eff. November 20, 2010, and § 3, Ord. 1119, eff. July 18, 2014)

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Part 7
Annexation

§ 9-3.2335. Application eligibility criteria.

(a) Any land requested to be annexed must be contiguous with existing City limits, within the Urban Growth Boundary, and within the Sphere of Influence.

(b) Annexation must be consistent with the policies of the City's general plan and all appropriate City development standards and must be processed under an application for a specific plan funded fully by the applicant that includes zoning for the subject area and that may also include a development agreement.

(c) Existing ground water infrastructure must remain with the land and be transferred to the City upon annexation; no new wells or septic systems shall be allowed. Water supplies controlled by special water districts will remain with the special district.

(§ 5, Ord. 1201, eff. December 2, 2022)

§ 9-3.2336. Findings necessary for approval.

(a) Adequate City utilities and public safety services must be able to be provided.

(b) The new development must fully fund construction of all improvements needed both on and off site to mitigate its impacts on public safety services, utility and transportation infrastructure, and parks, recreation and educational facilities.

(c) Upon annexation, the land must be detached from a special water district according to the policies of that district.

(§ 5, Ord. 1201, eff. December 2, 2022)

§ 9-3.2337. Specific plan contents.

(a) All specific plans shall include:

(1) Location and extent of land uses, including standards for land use intensity, and transportation routes, including precise alignment of streets, bikeways and sidewalks.

(2) Design standards for public arterials, collectors and local streets that address street widths and lane configurations, landscaping and street trees, and the location of sidewalks, crosswalks and pedestrian amenities, as well as bike routes and on-street parking.

(3) Location and specifications for sewer, water and drainage facilities needed to serve new development consistent with City infrastructure master plans.

(4) Location and financing of parks, trails, schools and other public and quasi-public facilities.

(5) Design standards for all new buildings and public and private improvements, including landscaping, park layout and improvement, neighborhood identification signs and monuments, and walls and fences.

(6) Phasing plans that require areas closest to existing urban development to be

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developed first and include and timing of improvements needed to fully mitigate impacts to public services or facilities.

(7) Provisions for minimizing conflicts between new development and agricultural uses.

(8) Fiscal analysis of the effect of the development on the City's general fund and means for funding needed additional public services and facilities.

(b) Specific plans for areas with residential uses shall also include:

(1) A range and locational mix of housing types that promotes social and economic integration.

(2) A connected street pattern.

(3) Drainage facilities that utilize green infrastructure or are designed as natural waterways wherever possible and consistent with public safety considerations.

(4) A system of pedestrian trails or pathways and linear open-space corridors that link residents to parks, schools, downtown, shopping areas, and employment centers.

(5) Sites and funding for school facilities needed to meet the demand created by the proposed development.

(c) Specific plans for areas with industrial and business park uses shall also include:

(1) Provisions for services and amenities for employees including recreation, childcare, and dining.

(§ 5, Ord. 1201, eff. December 2, 2022)

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ARTICLE 24
ZONING AMENDMENTS

§ 9-3.2401. Initiation: Fees.

Any zoning amendment may be initiated by:

(a) Filing with the Commission a resolution of intention of the Council;

(b) Passage of a resolution of intention by the Commission; or

(c) Filing with the Commission a petition of one or more record owners, or their authorized agents, of property which is the subject of the proposed amendment. A petition for amendment shall be accompanied by a fee set by the Council.

(§ 8.03, Ord. 342, as amended by § 204, Ord. 1095, eff. November 20, 2010)

§ 9-3.2402. Commission hearings.

Upon receipt of a petition or resolution of intention to amend the provisions of this chapter the Commission shall set a date for a public hearing thereon. Such date shall not be later than 45 days after the receipt of such petition or resolution unless CEQA needs to be considered.
(§ 8.04, Ord. 342, as amended by § 205, Ord. 1095, eff. November 20, 2010)

§ 9-3.2403. Commission hearings: Notices.

Notice of the public hearing required by the provisions of Section 9-3.2402 of this article shall be given as required by law. Additional notice of the time and place of such hearing and the purpose thereof shall be given by posting at least three notices thereof not less than 10 days prior to such hearing along the streets upon which the property proposed to be affected abuts.

Each such notice shall consist of the words "Notice of Proposed Zoning Change" in letters not less than one inch in height and a statement in small letters setting forth a general description of the property proposed to be affected, the time and place of the public hearing thereon, and such other information as the Commission deems necessary.
(§ 8.05, Ord. 342, as amended by § 206, Ord. 1095, eff. November 20, 2010)

§ 9-3.2404. Commission recommendations.

At the conclusion of the public hearing required by the provisions of Section 9-3.2402 of this article, or continuations thereof, the Commission shall make a report of its findings and recommendations with respect to the proposed zoning amendment. The Commission report shall include a list of the persons who testified at the hearing, a summary of the facts adduced at the hearing, the findings of the Commission, and copies of any maps or other data and/or documentary evidence submitted in connection with the proposed zoning amendments. A copy of such report and recommendation shall be transmitted to the Council within 90 days after the first notice of such hearing; provided, however, such time may be extended with the consent of the Council or the petitioner for such amendment. In the event the Commission fails to report to the Council within such 90 day period of time or within the agreed extension of time, the zoning amendment shall be deemed approved by the Commission.
(§ 8.06, Ord. 342, as amended by § 207, Ord. 1095, eff. November 20, 2010)

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§ 9-3.2405. Council action: Hearings.

Upon the receipt of the recommendation of the Commission, or following the expiration of the 90 day period of time or agreed upon extension of time, the Council shall hold a public hearing on the petition or resolution of intention to amend the provisions of this chapter. Notice of such hearing shall be given as provided by law. At the conclusion of such hearing, the Council, within one year, may adopt the proposed amendment, or any part thereof, set forth in the petition or resolution of intention in such form as the Council deems desirable.
(§ 8.07, Ord. 342, as amended by § 1, Ord. 553, eff. December 31, 1976, and § 208, Ord. 1095, eff. November 20, 2010)

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ARTICLE 25
INTERPRETATION

§ 9-3.2501. Provisions controlling.

Except as otherwise specifically provided in this article, the provisions of this chapter shall not be interpreted to repeal, abrogate, annul, or in any way affect any existing provision of any law, ordinance, regulation, or permit previously adopted or issued relating to the erection, construction, moving, alteration, or enlargement of any building or improvement; provided, however, in any instance where the provisions of this chapter impose greater restrictions upon the erection, construction, establishment, moving, alteration, or improvement of buildings, or the use of any building or structure, than is imposed or required by an existing law, ordinance, or regulation, the provisions of this chapter shall control.
(§ 9.01, Ord. 342, as amended by § 212, Ord. 1095, eff. November 20, 2010)

§ 9-3.2502. Ambiguities: Commission determinations.

If any ambiguity arises concerning the appropriate classification of a particular use within the meaning and intent of this chapter or with respect to matters of height, area requirements, or zone boundaries, the Commission shall ascertain all pertinent facts and by resolution set forth its findings and interpretations, and thereafter such interpretations shall govern unless the Council directs the Commission to adopt a different interpretation.
(§ 5.02, Ord. 342, as amended by § 212, Ord. 1095, eff. November 20, 2010)

§ 9-3.2503. Similarities in district uses: Commission determinations: Criteria.

Whenever the Commission is called upon to determine whether or not the use of land or any structure in any district is similar in character to the particular uses permitted in a district, the Commission shall consider the following factors as criteria for its determination:

(a) The effect upon the public health, safety, and general welfare of the neighborhood involved and the City at large;

(b) The effect upon traffic conditions; and

(c) The effect upon the orderly development of the area in question and the City at large in regard to the general planning of the whole community.

(§ 9.02, Ord. 342, as amended by § 212, Ord. 1095, eff. November 20, 2010)

§ 9-3.2504. Appeals.

The decision of the Community and Economic Development Director or designee or the Planning Commission may be appealed as provided by the appeal procedure provided in Part 6 of Article 23 of this chapter.
(§ 9.03, Ord. 342, as amended by § 212, Ord. 1095, eff. November 20, 2010, and § 8, Ord. 1137, eff. October 2, 2015)

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ARTICLE 26
ENFORCEMENT: VIOLATIONS

§ 9-3.2601. Enforcement.

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this chapter pertaining to the use of land or buildings and the erection, construction, reconstruction, moving, alteration, or addition to any building or structure.
(§ 10.01, Ord. 342, as amended by § 218, Ord. 1095, eff. November 20, 2010)

§ 9-3.2602. Enforcement: Appeals.

The Planning Commission shall have the power to hear and decide appeals based on the enforcement of the provisions of this chapter pursuant to the appeals procedure provided in Part 6 of Article 23 of this chapter.
(§ 9.03, Ord. 342, as amended by § 219, Ord. 1095, eff. November 20, 2010, and § 10, Ord. 1137, eff. October 2, 2015)

§ 9-3.2603. Conflicting permits and licenses.

Any permit or license issued by any department or officer of the City in conflict with the provisions of this chapter is hereby declared to be null and void.
(§ 10.01, Ord. 342, as amended by § 220, Ord. 1095, eff. November 20, 2010)

§ 9-3.2604. Violations: Public nuisances.

Any building or structure erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this chapter, and any use of land or buildings operated or maintained contrary to the provisions of this chapter are hereby declared to be public nuisances.
(§ 10.02, Ord. 342, as amended by § 220, Ord. 1095, eff. November 20, 2010)

§ 9-3.2605. Violations: Public nuisances: Abatement.

The City Attorney, upon order of the Council, shall commence the necessary proceedings for the abatement, removal, and enjoinment of the public nuisances described in Section 9-3.2504 of this article in the manner prescribed by law in the courts which may have jurisdiction to grant such relief as will accomplish such abatement and restraint. The remedies provided for in this section shall be in addition to any other remedies or penalties provided for violations of the provisions of this chapter.
(§ 10.02, Ord. 342, as amended by § 220, Ord. 1095, eff. November 20, 2010)

§ 9-3.2606. Violations: Penalties.

Any person, whether as principal, agent, employee, or otherwise, violating or causing the violation of any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.
(§ 10.03, Ord. 342, as amended by § 220, Ord. 1095, eff. November 20, 2010)

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ARTICLE 27
NOISE CONTROL

§ 9-3.2701. Purpose.

The Council declares and finds that excessive noise levels are detrimental to the public health, welfare, and safety and contrary to the public interest as follows:

(a) By interfering with sleep, communication, relaxation, and the full use of one's property;

(b) By contributing to hearing impairment and a wide range of adverse physiological and psychological stress conditions; and

(c) By adversely affecting the value of real property.
(§ 3, Ord. 770, eff. December 4, 1987)

§ 9-3.2702. Definitions.

For the purposes of this article, unless otherwise apparent from the context, certain words and phrases used in this article are defined as follows:

"Ambient noise level" shall mean the composite of noise from all sources, excluding the alleged offensive noise. In this context it represents the normal or existing level of environmental noise at a given location for a specific time of the day or night.

"A-weighted sound level" shall mean the sound level in decibels as measured with a sound level meter using the "A" weighted network (scale) at slow meter response. The unit of measurement is referred to in this article as dBA.

"Construction" shall mean the construction, erection, enlargement, alteration, conversion, or moving of any building, structure, or land, together with any scientific survey associated therewith.

"Cumulative period" shall mean an additive period of time composed of individual time segments which may be continuous or interrupted.

"Decibel" shall mean a unit for measuring the amplitude of a sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 microPascals.

"Emergency work" shall mean the use of any machinery, equipment, vehicle, manpower, or other activity in a short-term effort to protect or restore safe conditions in the community, or work by private or public utilities when restoring utility services.

"Fixed noise source" shall mean a device or machine, or combination thereof, which creates sounds while fixed or stationary, including, but not limited to, residential, agricultural, industrial, and commercial machinery and equipment, pumps, fans, compressors, air conditioners, and refrigeration equipment.

"Hospital" shall mean any building, or portion thereof, used for the accommodation and medical care of sick, injured, or infirm persons, including rest homes and nursing homes.

"Impulsive noise" shall mean a noise of short duration, usually less than one second, with an abrupt onset and rapid decay.

"Intruding noise level" shall mean the sound level created, caused, maintained, or originating

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from an alleged offensive source, measured in decibels, at a specified location while the alleged offensive source is in operation.

"Mobile noise source" shall mean any source other than a fixed noise source.

"Noise disturbance" shall mean any sound which violates the quantitative standards set forth in this article.

"Residential property" shall mean a parcel of real property which is developed and used either in whole or in part for residential purposes.

"School" shall mean a public or private institution conducting regular academic instruction at preschool, kindergarten, elementary, secondary, or collegiate levels.

"Pure tone noise" shall mean any noise which is distinctly audible as a single pitch (frequency) or set of pitches. For the purposes of this article, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by five dB for center frequencies of 500 Hz and above, and by eight dB for center frequencies between 160 and 400 Hz, and by 15 dB for center frequencies less than or equal to 125 Hz.

"Sound level meter" shall mean an instrument meeting American National Standards Institute (ANSI) Standard S1.4-1971 for Type 1 or Type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.
(§ 3, Ord. 770, eff. December 4, 1987)

§ 9-3.2703. Noise measurement criteria.

Any noise measurement made pursuant to the provisions of this article shall be made with a sound level meter using the "A" weighted network (scale) at slow meter response. The fast meter response shall be used for impulsive type sounds. The calibration of the measurement equipment utilizing an acoustical calibrator certified by its manufacturer to be in compliance with the National Bureau of Standards (NIBS) reference calibration levels shall be performed immediately prior to recording the noise level data.

Exterior noise levels shall be measured within fifty (50′) feet of the affected use. Where practical, the microphone shall be positioned at approximately five (5′) feet above the ground and away from reflective surfaces.

Interior noise levels shall be measured within the affected dwelling unit, at points at least four (4′) feet from the wall, ceiling, or floor nearest the noise source, with the windows in the normal seasonal configuration. Reported interior noise levels shall be determined by taking the arithmetic average of the readings taken at the various microphone locations.
(§ 3, Ord. 770, eff. December 4, 1987)

§ 9-3.2704. Exterior noise standards.

(a) It is unlawful for any person at any location within the City to create any noise, or to allow the creation of any noise, on property owned, leased, occupied, or otherwise controlled by such person which noise causes the exterior noise level, when measured on any other property, to exceed the noise level standards set forth in the following table:

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Receiving Land Use				
Category	Cumulative Number of Minutes in Any One-Hour Time Period	Residential/Noise Sensitive*		Commercial/ Industrial
		Daytime (7 a.m. to 10 p.m.)	Nighttime (10 p.m. to 7 a.m.)	Any Time
1	30	55 dBA	45 dBA	70 dBA
2	15	60 dBA	50 dBA	75 dBA
3	5	65 dBA	55 dBA	80 dBA
4	1	70 dBA	60 dBA	85 dBA
5	0	75 dBA	65 dBA	90 dBA

Notes:

* Includes schools, hospitals, churches, and public libraries.

(b) In the event the measured ambient noise level without the alleged offensive source in operation exceeds an applicable noise level standard in any category in the table set forth in subsection (a) of this section, the applicable standard or standards shall be adjusted so as to equal the ambient noise level.

(c) Each of the noise level standards specified in the table set forth in subsection (a) of this section shall be reduced by five dB for pure tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises.

(d) If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient noise level without the source can be measured, the noise level measured while the source is in operation shall be compared directly to the noise level standards.

(§ 3, Ord. 770, eff. December 4, 1987)

§ 9-3.2705. Residential interior noise standards.

(a) It is unlawful for any person, at any location within the City, to operate, or cause to be operated, within a dwelling unit any source of sound or to allow the creation of any noise which causes the noise level, when measured inside another dwelling unit, to exceed the noise level standards set forth in the following table:

Noise Level Standards, dBA			
Category	Cumulative Number of Minutes in Any One-Hour Time Period	Daytime	Nighttime
		(7 a.m. to 10 p.m.)	(10 p.m. to 7 a.m.)
1	5	45	35
2	1	50	40

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Noise Level Standards, dBA			
Category	Cumulative Number of Minutes in Any One-Hour Time Period	Daytime (7 a.m. to 10 p.m.)	Nighttime (10 p.m. to 7 a.m.)
3	0	55	45

(b) In the event the measured ambient noise level without the alleged offensive source in operation exceeds an applicable noise level standard in any category specified in the table set forth in subsection (a) of this section, the applicable standard or standards shall be adjusted so as to equal the ambient noise level.

(c) Each of the noise level standards specified in the table set forth in subsection (a) of this section shall be reduced by five dB for pure tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises.

(d) If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient noise level without the source can be measured, the noise level measured while the source is in operation shall be compared directly to the noise level standards.

(§ 3, Ord. 770, eff. December 4, 1987)

§ 9-3.2706. Noise source exemptions.

The following activities shall be exempted from the provisions of this chapter:

(a) Activities conducted in public parks, public playgrounds, and public or private school grounds, including, but not limited to, school athletic, school entertainment, or civic events;

(b) Any mechanical device, apparatus, or equipment used, related to, or connected with emergency activities or emergency work or the maintenance of public utilities or public roads and streets;

(c) Noise sources associated with construction provided such activities do not take place before 7:00 a.m. or after 9:00 p.m. on any day, except Saturday or Sunday, or before 8:00 a.m. or after 5:00 p.m. on Saturday or Sunday;

(d) Noise sources associated with the maintenance of residential property provided such activities take place between the hours of 7:00 a.m. and 9:00 p.m. on any day, except Saturday or Sunday, or between the hours of 8:00 a.m. and 9:00 p.m. on Saturday or Sunday;

(e) Noise sources associated with the collection of waste or garbage from property devoted to commercial or industrial uses;

(f) Noise sources associated with existing food processing, agricultural packing, or dairy or other industrial or commercial operations provided the noise levels generated by such operations do not exceed current levels. Any new construction or expansion (but not the repair or replacement of existing equipment) of such operations shall not exceed the exterior noise level standards set forth in Section 9-3.2704 of this article; and

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(g) Any activity to the extent regulation thereof has been preempted by State or Federal laws.
(§ 3, Ord. 770, eff. December 4, 1987)

§ 9-3.2707. Residential air-conditioning and refrigeration systems.

Notwithstanding the provisions of Section 9-3.2704 of this article, where the intruding noise source when measured as provided in said Section 9-3.2704 is an existing residential air-conditioning or refrigeration system or associated equipment, the exterior noise level shall not exceed 55 dBA. For residential air-conditioning or refrigeration systems or associated equipment installed after December 4, 1987, the exterior noise level when measured as provided in said Section 9-3.2704 shall not exceed 50 dBA.
(§ 3, Ord. 770, eff. December 4, 1987)

§ 9-3.2708. Waste and garbage collection equipment.

Notwithstanding the provisions of Section 9-3.2704 of this article, the collection of waste or garbage from residential property by persons authorized to engage in such activity, and who are operating truck-mounted loading or compacting equipment, shall not take place before 6:00 a.m. or after 7:00 p.m. The noise levels created by such activities when measured at a distance of fifty (50′) feet in an open area shall not exceed the following standards:

(a) Eighty-five dBA for equipment in use, purchased, or leased prior to December 4, 1987; and

(b) Eighty dBA for new equipment purchased or leased after December 4, 1987.
(§ 3, Ord. 770, eff. December 4, 1987)

§ 9-3.2709. Electrical substations.

Notwithstanding the provisions of Section 9-3.2704 of this article, noise sources associated with the operation of electrical substations shall not exceed 50 dBA when measured as provided in Section 9-3.2703 of this article.
(§ 3, Ord. 770, eff. December 4, 1987)

§ 9-3.2710. Warning signs in places of public entertainment.

It is lawful for any person to operate or permit the operation or playing of any loudspeaker, musical instrument, motorized racing vehicle, or other source of sound for public entertainment within a building or structure wherein the noise level exceeds 95 dBA, as determined using the slow response of a sound level meter at any point normally occupied by a customer, without a conspicuous and legible sign stating: "Warning! Sound Levels Within May Cause Hearing Impairment."
(§ 3, Ord. 770, eff. December 4, 1987)

§ 9-3.2711. Variances.

(a) Applications. The owner or operator of a noise source for which it has been determined violates any of the provisions of this article may file an application for a variance from the strict compliance with any particular provision of this article where such variance will not result in a hazardous condition or a nuisance, and strict compliance would be unreasonable in view of all the circumstances. The owner or operator shall set forth all actions taken to comply with such provisions and the reasons why immediate compliance cannot be

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achieved.

As a part of the application, the owner shall submit a noise control program which shall include the following:

(1) The identification of the noise source affecting noise sensitive areas or receivers;

(2) The identification of the mitigation and remedial actions which can be used to reduce noise levels generated by the source;

(3) A list of those mitigation and remedial actions which have been completed;

(4) A list of those mitigation and remedial actions which remain to be done and a schedule for their completion; and

(5) A written rationale for the issuance of a variance if the completion of the proposed mitigation and remedial actions will not result in the noise source being in full compliance with the standards contained in this article.

A separate application shall be filed for each noise source; provided, however, several mobile sources under common ownership or fixed sources under common ownership on a single property may be combined in one application.

(b) Fees. Applications for variances from the strict application of the provisions of this article shall be made in writing by the owner of the property, lessee, purchaser in escrow, or optionee, with the consent of the owner, on a form prescribed by the Commission. The application shall be accompanied by a fee set by the Council. In addition to those variance fees enacted by the Council, the applicant may be charged all actual City engineering and consultant costs associated with reviewing the application and may further be subject to a deposit and refund as determined by the Council.

(c) Criteria. Factors which the Commission and Council shall consider shall include, but not be limited to, the following:

(1) Uses of property within the area affected by noise;

(2) Factors related to initiating and completing all remedial work;

(3) The age and useful life of the existing noise source;

(4) The general public interest, welfare, and safety;

(5) The existence of the noise source prior to December 4, 1987; and

(6) The existence of the noise source prior to the existence of affected noise-sensitive receivers.

(d) Planning Commission Hearings: Notices. At least one public hearing shall be held by the Commission on the receipt of any application for a variance, and the Commission may hold any additional hearings deemed necessary. Notices of such hearings shall be mailed to all property owners of record within three hundred (300′) feet of the property which is the subject of the application and by publication of the notice one time in a newspaper of general circulation published in the City. Such mailing and publication shall be completed at least 10 days before the date set for such public hearing. All notices shall be mailed

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postage prepaid using addresses from the last equalized assessment roll or from such other records of the Assessor or the Tax Collector as contain more recent addresses in the opinion of the Commission.

(e) Granting: Planning Commission Recommendations. If the Commission, after holding the public hearing as prescribed by subsection (d) of this section, finds that certain factors set forth in subsection (c) of this section apply to the noise source for which a variance is sought and that such variance is in accordance with the intent of this article, the Commission may recommend granting the variance and, within 30 days following the conclusion of the hearing, shall make a written report setting forth its decision and recommendations, and the reasons therefor, to the Council.

(f) Granting: Council Actions. Upon the receipt of the decision and recommendations of the Commission, the Council may approve, modify, or reverse the same. No public hearing need be held thereon; provided, however, the Council may hold any public hearing it deems necessary in which event notice shall be given as set forth in subsection (d) of this section. The action of the Council shall be based on the findings set forth in subsection (c) of this section. A variance shall not be issued until approved by the Council.

The Council shall make its decision within 45 days after it receives the report of the Commission or after the conclusion of the public hearing by the Council if a public hearing is held. The Council may grant variances from the provisions of this article subject to such terms, conditions, and requirements as may be deemed reasonable to achieve compliance with the provisions and intent of this article.

(g) Revocation: Criteria. Any variance granted in accordance with the provisions of this section may be revoked by the Council if any of the conditions or terms of such permits are violated or if the following finding is made: that continued relief from the strict application of the provisions of this article may be contrary to the public interest, safety, health, and welfare.

(§ 3, Ord. 770, eff. December 4, 1987)

§ 9-3.2712. Violations: Enforcement.

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this article. Any person violating any of the provisions of this article or failing to comply with any of its requirements shall be deemed guilty of a misdemeanor and upon conviction shall be punishable as set forth in Chapter 2 of Title 1 of this Code.

The violation of any of the provisions of this article shall be an infraction as set forth in Chapter 2 of Title 1 of this Code.

The provisions of this article may also be enforced by an injunction issued out of the Superior Court. Any violation of any provision of this article shall be deemed to be a public nuisance.

Nothing in this article shall prevent the City or any of its agencies from the enforcement of other sections of this Code, thePenal Code of the State, or other State statutes which may control or regulate noise within the City.

An Enforcement Officer, as designated by the City Manager, shall enforce the provisions of this article. Right of entry for inspections shall be permitted as provided in this Code.

(§ 3, Ord. 770, eff. December 4, 1987)

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ARTICLE 28
SIGNS

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Part 1
General Provisions

§ 9-3.2801. Title.

This article shall be known as the "Sign Ordinance of the City of Los Banos."
(§ II, Ord. 771, eff. December 4, 1987, as amended by § 1, Ord. 937, eff. February 6, 1998)

§ 9-3.2802. Purpose.

The purpose of the sign regulations is to provide minimum standards for signage (not to include murals) to safeguard life, health, property, and the public welfare in keeping with the character of the City by regulating and controlling the size, height, structural design, quality of materials, construction, location, electrification, and maintenance of all signs and sign structures and to accomplish the following results:

(a) To protect and enhance the character of residential neighborhoods and property values by prohibiting obtrusive and incompatible signs; and

(b) To promote and maintain healthy commercial centers and property values, to effectively communicate the nature of goods and services, and to avoid wasteful, ugly, and unsightly competition in signs; and

(c) To provide a reasonable and comprehensive system of control of signs; and

(d) To encourage signs which are well designed and pleasing in appearance and to provide incentive and latitude for variety, good design relationship, spacing, and location; and

(e) To encourage a desirable urban character which has a minimum of overhead clutter; and

(f) To attract and direct persons to various activities and enterprises in order to provide for the maximum public convenience; and

(g) To enhance the economic value of the community, and each area of it, through the regulation of the size, location, design, and illumination of signs.

(§ II, Ord. 771, eff. December 4, 1987, as amended by § 221, Ord. 1095, eff. November 20, 2010)

§ 9-3.2803. Conforming signs.

Every sign in existence on December 4, 1987, which conforms to the provisions of this article, shall be a legal conforming sign.
(§ II, Ord. 771, eff. December 4, 1987)

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Part 2
Sign Regulations

§ 9-3.2804. Standard provisions for permitted signs.

(a) Approval Required. No sign shall be constructed, maintained, displayed, or altered within the City except pursuant to a sign review permit obtained as provided in this article, unless the sign is specifically exempted from permit requirements. Signs may be erected and maintained in the districts where such structures are permitted after having secured approval of the location, size, and design of such structure, subject to the regulations set forth in this article.

(b) Design, Construction and Maintenance. All signs shall be designed, constructed, and maintained in accordance with the following standards:

(1) All signs shall comply with the requirements of the Public Utilities Commission of the State, the Uniform Sign Code as adopted by the City, the regulations of the Building Department of the City and all other relevant Federal, State, and local laws and regulations.

(2) Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this article, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building or another structure by direct attachment to a rigid wall, frame, or structure.

(3) All signs shall be maintained in good structural condition in compliance with all building and electrical codes, and in conformance with this Code, at all times.

(4) All signs shall be designed in a neat and orderly manner, and all signs, including supporting structures, shall be kept in a presentable condition at all times. All painted signs and all supporting structures of signs shall be repaired to keep them in good condition whenever such action is requested in writing by the Building Official or Planning Director.

(c) Lighting. Lighting for illuminated signs shall be so arranged that it does not create a hazardous glare for pedestrians or vehicles either in a public street or on any private premises. No artificial light of whatever type or nature used in conjunction with, or for the purpose of lighting, any sign shall be so located or constructed, nor any substance or material capable of reflecting light on or into any adjoining or nearby lot, structure, or public right-of-way. Where spotlights or floodlights are used to illuminate a sign, the reflector shall be provided with proper shields or glass lenses concentrating the illumination upon the area of the sign so as to prevent glare upon the street or adjacent property.

(d) Measurement of Sign Areas. The measurement of sign display areas shall be as follows:

(1) Freestanding, ground-mounted, and monument signs shall be measured by taking the entire framed area and background, including the framing surface.

(2) Wall-mounted, roof-mounted, marquee, canopy, and under-canopy signs, if framed either with material or paint outlining the sign, shall be measured by taking the entire framed or outlined area; if consisting of individual letters or symbols, shall be measured by means of the smallest square, circle, rectangle, triangle or combination

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thereof that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed.

(3) The area of all faces of multiple face signs shall be added together to determine the total sign area. However, double-faced signs may be erected having the allowed sign area on each side of the sign, provided the maximum dimension between the two faces shall not exceed twenty-four (24″) inches in width, shall be counted together to determine the total sign area.

(e) Location.

(1) Freestanding, Ground-Mounted, and Monument Signs—Permanent Signage. Freestanding, ground-mounted, and monument signs shall not be less than one foot behind a property line or designated right-of-way for vehicular and pedestrian traffic, but in no case shall such signs be located closer than five (5′) feet behind a sidewalk location and five (5′) feet from any vehicular entrance or driveway, and such signs shall not interfere with the safety of vehicular traffic entering or exiting the premises or with vehicular street traffic or pedestrians.

(2) Wall-Mounted, Canopy, Under-Canopy, Projecting, and Marquee Signs. Wall-mounted, canopy, under-canopy, projecting, and marquee signs shall be located on or over private property, except in those districts where certain signs are allowed over public sidewalks. A minimum of eight (8′) feet clearance shall be maintained.

(3) All Signs. Signs shall be located so as not to interfere with the safety or movement of vehicular or pedestrian traffic.

(f) Master Signage Plan. Required for property that has more than one tenant. No permit shall be issued for an individual sign requiring a permit unless and until a master signage plan for the zone lot on which the sign will be erected has been submitted to the Planning Director and approved by the Planning Director as conforming with this section.

(1) Master Signage Plan. For any zone lot on which the owner proposes to erect one or more signs requiring a permit, the owner shall submit to the Director a master signage plan containing the following:

(A) An accurate site plan of the zone lot, at such scale as the Director may reasonably require;

(B) Location of building, parking lots, driveways, and landscaped areas on such zone lots;

(C) Computation of the maximum total sign area, the maximum area for individual signs, the height of signs, and the number of freestanding signs allowed on the zone lot(s) included in the plan under this article; and

(D) An accurate indication on the site plan of the proposed location of each present and future sign of any type, whether requiring a permit or not, except that incidental signs need not be shown.

(2) Consent. The master signage plan shall be signed by all owners or their authorized

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agents in such form as the Director shall require.

(3) Procedures. A master signage plan shall be included in any development plan, site plan, planned unit development plan, or other official plan required by the City for the proposed development shall be processed simultaneously with such other plan.

(4) Amendment. A master signage plan may be as amended by filing a new master signage plan that conforms with all requirements of the ordinance then in effect.

(5) Binding Effect. After approval of a master signage plan, no sign shall be erected, placed, painted, or maintained, except in conformance with such plan and such plan may be enforced in the same way as any provision of this article. In case of any conflict between the provisions of such a plan and other provision of this article, the article shall control.

(§ II, Ord. 771, eff. December 4, 1987, as amended by §§ 2, 3, 4, Ord. 937, eff. February 6, 1998, and § 222, Ord. 1095, eff. November 20, 2010)

§ 9-3.2805. Exempt signs.

The following signs shall be exempt from the sign review permit requirements of this article but shall be limited by Section 9-3.2806 and other requirements of this article:

(a) Addresses. Street numbers and/or names not exceeding two square feet per sign for single-family or duplex structures and four square feet per sign for all other uses. One sign per street frontage shall be allowed. The provisions of this subsection shall include signs which identify the location of the office of the manager of property;

(b) Bulletin Boards. Bulletin boards not over 24 square feet in area for public, charitable, or religious institutions where the bulletin boards are located on the premises of such institutions;

(c) Commemorative Plaques. Memorial signs and tablets approved under site plan review. Building names and/or erection dates when cut into a permanent surface or constructed on noncombustible materials, or religious symbols and similar emblems when submitted with the design of the building and approved pursuant to the provisions of this chapter;

(d) Community Activity Signs (Temporary). Signs associated with religious, charitable, cultural, civic, or educational organizations which signs do not exceed 32 square feet in size. Such signs shall be temporary and non-illuminated, and shall not create a site visibility hazard; if on public property, approval is required from the appropriate agency;

(e) Construction Announcement Signs. Signs placed on real property on which construction is to take place which signs contain information regarding the individuals and firms directly connected with the construction project, including the name of the contractor, the subcontractors, the real estate licensee, and future tenants. Signs for sites less than two acres shall be limited to a maximum size of 32 square feet. Signs for sites of (2) acres or greater shall not exceed 96 square feet. Such signs shall not be displayed more than six months prior to the construction of the project. Time extensions may be granted by the Planning Director. Construction announcement signs shall be removed within 30 days after the issuance of the certificate of occupancy for a majority of the development;

(f) Credit Cards Accepted: Trading Stamps Given: Association Membership. Signs displaying

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credit cards accepted, trading stamps given, or association membership when not exceeding one-half square foot per window sign and one and one-half square feet per hanging sign and a total of four in number;

(g) Directional Signs. Signs bearing no advertising message and located on the site may be erected when necessary to facilitate circulation within the site and facilitate egress and ingress. Such signs shall not be counted against the site's allowed sign area. The size, number, and placement of informational signs may be limited by the Planning Director;

(h) Informational Signs for the Safety and Convenience of the Public. Signs such as "rest rooms," "telephone," "danger," "impaired clearance," "no smoking," and other signs of a similar nature ("parking in rear," "drive-in window," parking, and facility signs) may be allowed up to five square feet in area pursuant to this subsection;

(i) Interior Signs. Signs located in the interior of any building or within an enclosed lobby or court of any building or group of buildings, and which are not visible from any public right-of-way, shall not be subject to the size and location criteria of this article. However, permits shall be required for signs which require electrical connections or engineered supports;

(j) Nonprofit, Cultural, and Promotion Posters. Temporary display posters in connection with nonprofit civic and cultural events and with noncommercial health, welfare, and safety campaigns (such as Red Cross, United Crusade, TB Seals, Heart Fund, performing arts, and the like). Such posters shall be removed within 14 days after the termination of the event;

(k) Official Signs. Official signs posted pursuant to and in the discharge of any governmental function by public officials in the performance of their duties (including traffic and street name signs, as well as notices, emblems, or other forms of identification and signs required by law);

(l) Political Signs. Signs associated with a candidate for elected office, political party, ballot measure, or which make a political statement, not exceeding 32 square feet in area per candidate or issue per site, subject to the following:

(1) Any such sign shall be erected not earlier than the closing date of the filing candidacy and shall be removed within 14 days after such election. However, those candidates who continue as such after the primary election may continue to display their signs until 14 days after the next general election,

(2) No political or campaign sign shall be attached to trees, fence posts, or utility poles, except on private property where signs may be attached to trees and fence posts with the permission of the property owner,

(3) No political or campaign sign shall be attached and erected on public property or within the public right-of-way,

(4) Political or campaign signs placed upon private property shall not be erected in a manner which, in whole or in part, would create a hazardous condition to pedestrian or traffic alike, either by obstructing the free use of exits, buildings, or sites, or by creating visual distractions, whether by color, glare, or representing a traffic control device,

(5) In cases where political or campaign signs are not removed within the specific time period, the City shall cause to be removed those signs which remain, and the cost and

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expense of such activity shall be paid by the candidate;

(m) Public Signs. Traffic and other municipal signs, legal notices, railroad crossing signs, public utility signs, and civic, community, or non-advertising signs as may be approved by the Council;

(n) Real Estate Signs. Real estate signs, subject to the following:

(1) For sale or lease on-site or structure signs not exceeding six square feet for single-family or duplex, 16 square feet for multiple-family, business, and industrial sites of two acres or less in area, 32 square feet for multiple-family, business, and industrial sites of two acres or larger, and one in number per street frontage. Real estate signs shall be limited to a continuous display of one year,

(2) Open house, on-site or structure signs not exceeding six square feet in area per sign and one in number per site or structure during the time of an open house, and

(3) Open house, off-site ground-mounted signs not exceeding six square feet per sign and one in number in the neighborhood of sales during the time of an open house; not to be located in any center median of a public road or in a sidewalk right-of-way; and directional arrows with addresses, not exceeding two in number in the neighborhood of sales;

(o) Replacing Sign Copy. The removing and replacing of only sign copy without increasing or decreasing the area in conforming signs. The sign container, including the structural and electrical connections, shall remain unchanged. Any change to the sign container shall be reviewed and approved;

(p) Residential Nameplates. Residential nameplates not exceeding two square feet in area and one in number and displaying only the name of the premises upon which it is displayed; the name of the owner or lessee of such premises; and the address of such premises;

(q) Seasonal Decorations. Holiday greetings, decorations, and displays, such as those which relate to Christmas, Thanksgiving, the Fourth the July, and the like, excluding advertising signs disguised as seasonal decorations;

(r) Seasonal garden flags, no larger than six square feet and no more than three (3′) feet in height (from original ground elevation to top of framing) may be placed within the planter areas in the central downtown;

(s) Signs Required by Law. Signs displayed by private individuals when required by law or the regulations of any governmental agency or law;

(t) Window Signs. Temporary window signs (non-internally illuminated) announcing special sales, a change in management, individual product and/or price signs, or similar information and designed to be viewed from adjacent streets, sidewalks, public rights-of-way, or parking lots within a business center. However, no more than two-thirds of the window space is to be covered with window signs. This subsection is not intended to allow additional permanent signs;

(u) Neon window or wall sign for the purpose of letting customers know a business is open, an ATM is available or to provide any other service;

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(v) Signs which are Portable, "A" Frame and "I" Frame Signs and Reader Board Signs. These signs may be located within the public right-of-way (sidewalk) if placed directly in front of the business displaying the sign and there is a minimum of four (4′) feet of clearance on the sidewalk and no blockage of doorways or fire escape exits. In no case may the sign be displayed when a business is closed. "A" frame and "I" frame signs are not to exceed thirty-six (36″) inches by twenty-four (24″) inches in all Zoning Districts and are required to be professionally designed and constructed of durable materials.

(§ II, Ord. 771, eff. December 4, 1987, as amended by § 223, Ord. 1095, eff. November 20, 2010, and § 1, Ord. 1158, eff. December 1, 2017)

§ 9-3.2806. Prohibited signs.

In addition to any sign not specifically in accordance with this article, the following signs shall be prohibited:

(a) Signs having one or a combination of the following characteristics:

(1) Obscene or Offensive to Morals. Containing statements, words, or pictures of an obscene, indecent, or immoral character which, taken as a whole, appeal to the prurient interest in sex, and which signs are patently offensive and, when taken as a whole, do not have serious literary, artistic, political, or scientific value,

(2) Imitative of Official Signs. Signs (other than when used for traffic direction) which contain or are an imitation of an official traffic sign or signal, or contain the words stop, go, slow, caution, danger, warning, or similar words, or signs which imitate or may be construed as other public notices, such as zoning violations, building permits, business licenses, and the like,

(3) Fluorescent Colors. Permanent signs containing fluorescent colors as all or part of their copy,

(4) Privilege Signs. Signs containing the manufacturer's name and/or emblem which exceeds one-fourth of the face of the sign,

(5) Natural Despoliation. Signs which are cut, burnt, limed, painted, or otherwise marked on a field, tree, rock, or other natural item, and

(6) Portable Changeable Copy Signs. Signs designed to have changeable copy as a part or all of their copy and which are portable and not an integral part of a permanent sign;

(b) Signs where there is any production of smoke, sound, or other substances;

(c) Obstructive to Use or Visibility or in Hazardous Locations. No sign shall be erected in any manner which sign, in whole or in part, would create a hazardous condition to pedestrian or traffic alike, either by obstructing the free use of exits, buildings, or sites, or by creating visual distractions, whether by color, sound, glare, or representing a traffic control device. This is in addition to other provisions of this Code;

(d) Signs in one or more of the following locations:

(1) Roof Signs. Roof signs located above the roof ridge line,

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(2) Signs on vehicles:

(A) No vehicle may be used as a platform or substitute for a billboard, freestanding sign, or movable sign, whether parked on private property or the public right-of-way. This subsection is specifically intended to include the use of vehicles as freestanding or off-premises signs,

(B) No vehicle, trailer, camper, boat, or other mobile equipment displaying any sign, advertisement or device for the purpose of advertising that said vehicle, trailer, camper, boat, or other mobile equipment is for sale shall be parked on any private property, except duly licensed sales lots. Exception: the display of one vehicle, trailer, camper, boat, or other mobile equipment for sale on private property of the owner of such vehicle, trailer, camper, boat, or other mobile equipment which property is residentially-zoned and improved with a dwelling, shall be permitted provided any advertising sign is not more than ten (10″) inches by twelve (12″) inches in size, is placed on or within such vehicle, trailer, camper, boat, or other mobile equipment and such display complies with all other sections of this Code,

(3) Bus Bench Signs. Signs located on benches or on other similar structures provided for the use of passengers along the route of a bus shall be prohibited,

(4) In Storage. Signs may not be located on premises so as to be visible from beyond the property line after removal, prior to erection, or while in storage, and

(5) Miscellaneous Temporary Signs and Posters. The tacking, posting, or otherwise affixing of signs of a miscellaneous character, visible from a public way, located on the walls of buildings, barns, and sheds, or on trees, poles, posts, fences, or other structures shall be prohibited, unless specifically permitted by this article;

(e) Strings of lights not permanently mounted to a rigid background except those exempt by Section 9-3.2805(q); and

(f) Banana flags/banners, feather flags/banners, teardrop flags/banners are prohibited.

(§ II, Ord. 771, eff. December 4, 1987, as amended by § 2, Ord. 934, eff. October 17, 1997, § 5, Ord. 937, eff. February 6, 1998, § 1, Ord. 1089, eff. February 20, 2010, § 224, Ord. 1095, eff. November 20, 2010, and § 2, Ord. 1158, eff. December 1, 2017)

§ 9-3.2807. Abandoned or dilapidated signs, frames, structural members, and supporting poles.

Signs advertising an activity, business, product, or service no longer conducted on the premises on which the sign is located, or sign frames, structural members, or supporting poles remaining unused for six months or longer, shall be removed from the site. Signs will be considered abandoned or dilapidated where the sign or element of the sign is excessively weathered or structurally unsound, or where the copy can no longer be seen or understood by a person with normal eyesight under normal viewing conditions.

The owner of a sign, the purpose of which has been abandoned, who desires to make subsequent use of the structural portions of such sign in its present location, may, within six months after the abandonment, make an application to the Planning Director for an extension of time. Where the sign conforms with all other requirements of the law, and where the owner submits reasonable

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evidence that he or she is endeavoring to secure a use for the sign (a new tenant for the structure or the arrival of a new product line for the existing tenant), the Planning Director may grant extensions of time. The Planning Director may require the owner, as a condition of the granting of such extension, to paint out, obscure, or remove some or all elements of the message or face portion of the sign in such a manner as to leave the remaining structure neat and unobtrusive in appearance and in harmony with the structure to which it is attached, and shall require that such work be done within 30 days after the granting of such extension, or the extension shall be invalidated by such failure. Signs which are determined by the City to be structurally unsound and dangerous or hazardous to the public safety or welfare shall be removed immediately upon notification by the City.

(§ II, Ord. 771, eff. December 4, 1987, as amended by § 225, Ord. 1095, eff. November 20, 2010)

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Part 3
Sign Standards

§ 9-3.2808. Residential Districts (R-1), (R-2), (R-3), and (P-D).

Permitted signage for the residential districts shall be as follows:

(a) Type.

(1) Single-Family Residences. Sign (one) shall be a wall sign.

(2) Multiple-Family Residences. Signs may be wall, freestanding, or monument.

(3) Planned Unit Developments. Signs shall be approved in conjunction with the P-D District Plan, or amendment thereto, through a use permit.

(4) Churches, Civic and Community Buildings, Parks, and Schools. Signs may be wall, freestanding, monument, canopy, or under-canopy.

(b) Size.

(1) Single-Family Residences. The sign display area shall not exceed two square feet.

(2) Multiple-Family Residences. The total sign display area shall not exceed one-fourth square foot per lineal foot of frontage; only one freestanding or monument sign per street frontage shall be permitted, with a maximum 24 square feet of display area.

(3) Churches, Civic and Community Buildings, Parks, and Schools. The total wall sign display shall not exceed one-half square foot per lineal foot of frontage or 75 square feet, whichever is less; freestanding or monument signs shall be limited to one with 32 square feet of display area.

(c) Height. For single-family and multiple-family residences, the maximum height of freestanding or monument signs shall be four (4′) feet. All other signs shall be located below the roof line.

(d) Location. All signs shall be located on private property and in accordance with the sign standards contained in this article.

(e) Lighting. Signs may be non-illuminated or indirectly illuminated only.

(f) Animated signs are acceptable provided the length of display is appropriate. Each message shall be displayed for a period of at least eight seconds. The sign shall remain blank (no messages or display) for at least one second between displays. The messages and displays shall not appear in incremental stages or move across the changeable copy sign face. The software manufacturer and the software installer shall certify to the City that the software for the computer which controls the sign has been designed to and can only operate the sign at the approved on and off intervals.

(§ II, Ord. 771, eff. December 4, 1987, as amended by § 6, Ord. 937, eff. February 6, 1998, § 2, Ord. 1089, eff. February 20, 2010, and § 226, Ord. 1095, eff. November 20, 2010)

§ 9-3.2809. Rail Corridor (R-C).

Signage standards shall be those as established per the Rail Trail Corridor Regulating Plan.

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(§ 227, Ord. 1095, eff. November 20, 2010)

§ 9-3.2810. Neighborhood Commercial District (C-N).

Permitted signage for the Neighborhood Commercial District shall be as follows:

(a) Type. Signs may be wall, freestanding, monument, canopy, under-canopy, or marquee.

(b) Size.

(1) Wall, canopy, under-canopy, and marquee signs shall not exceed one-half square foot of aggregate display area per lineal foot of frontage.

(2) One freestanding or monument sign with a maximum of 32 square feet of display area shall be allowed, except when an office building or commercial complex has more than one tenant, individual low-profile freestanding signs for each tenant may be permitted in lieu of a single freestanding sign for the site. Such low-profile signs shall be uniform in construction (except for copy) and shall not exceed four (4′) feet in height, eight (8′) feet in length, and two (2′) feet in width per business. Such low-profile signs shall be limited to copy on one side and placed parallel to the street.

(c) Height.

(1) The maximum height of freestanding and monument signs shall be eight (8′) feet.

(2) All other signs shall be located below the roof ridge line.

(d) Location. All signs shall be located on private property and in accordance with the sign standards contained in this article.

(e) Lighting. Signs may be directly illuminated, indirectly illuminated, or non-illuminated as applies to the type of sign.

(f) Animated signs are acceptable provided the length of display is appropriate. Each message shall be displayed for a period of at least eight seconds. The sign shall remain blank (no messages or display) for at least one second between displays. The messages and displays shall not appear in incremental stages or move across the changeable copy sign face. The software manufacturer and the software installer shall certify to the City that the software for the computer which controls the sign has been designed to and can only operate the sign at the approved on and off intervals.

(§ II, Ord. 771, eff. December 4, 1987 as amended by § 3, Ord. 1089, eff. February 20, 2010, and § 228, Ord. 1095, eff. November 20, 2010)

§ 9-3.2811. Mixed Use (M-X).

Permitted signage for the Mixed Use District shall be as follows:

(a) Type. Signs may be wall, freestanding, monument, canopy, under-canopy, or marquee.

(b) Size.

(1) Wall, canopy, under-canopy, and marquee signs shall not exceed three-fourths square foot of aggregate display area per lineal foot of frontage. Wall, canopy under-canopy, roof, and marquee signs shall not exceed one square foot of aggregate sign display

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area for each lineal foot of building frontage to which the sign is attached.

(2) One freestanding or monument sign with a maximum of 32 square feet of display area shall be allowed on each street frontage of more than fifty (50′) feet. Where two or more freestanding or monument signs are allowed on a single street frontage, one freestanding or monument sign with a maximum of 50 square feet of display area may be used in lieu of several signs on the same frontage.

(c) Height.

(1) The maximum height of freestanding and monument signs shall be fifteen (15′) feet.

(2) All other signs shall be located below the roof ridge line.

(d) Location. All signs shall be located on private property and in accordance with the sign standards contained in this article, except that canopy, under-canopy, and marquee signs may extend over the public sidewalk provided a minimum clearance of eight (8′) feet is maintained, and the sign is no closer than two (2′) feet from the curb face.

(e) Lighting. Signs may be directly illuminated, indirectly illuminated, or non-illuminated as applies to the type of sign.

(f) Animated signs are acceptable provided the length of display is appropriate. Each message shall be displayed for a period of at least eight seconds. The sign shall remain blank (no messages or display) for at least one second between displays. The messages and displays shall not appear in incremental stages or move across the changeable copy sign face. The software manufacturer and the software installer shall certify to the City that the software for the computer which controls the sign has been designed to and can only operate the sign at the approved on and off intervals.

(§ 229, Ord. 1095, eff. November 20, 2010, as amended by § 1, Ord. 1097, eff. May 20, 2011)

§ 9-3.2812. Professional Office (P-O).

Permitted signage for the Professional Office District shall be as follows:

(a) Type. Signs may be wall, freestanding, monument, canopy, under-canopy, or marquee.

(b) Size.

(1) Wall, canopy, under-canopy, and marquee signs shall not exceed one-half square foot of aggregate display area per lineal foot of frontage.

(2) One freestanding or monument sign with a maximum of 32 square feet of display area shall be allowed, except when an office building or commercial complex has more than one tenant, individual low-profile freestanding signs for each tenant may be permitted in lieu of a single freestanding sign for the site. Such low-profile signs shall be uniform in construction (except for copy) and shall not exceed four (4′) feet in height, eight (8′) feet in length, and two (2′) feet in width per business. Such low-profile signs shall be limited to copy on one side and placed parallel to the street.

(c) Height.

(1) The maximum height of freestanding and monument signs shall be eight (8′) feet.

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(2) All other signs shall be located below the roof ridge line.

(d) Location. All signs shall be located on private property and in accordance with the sign standards contained in this article.

(e) Lighting. Signs may be directly illuminated, indirectly illuminated, or non-illuminated as applies to the type of sign.

(f) Animated signs are acceptable provided the length of display is appropriate. Each message shall be displayed for a period of at least eight seconds. The sign shall remain blank (no messages or display) for at least one second between displays. The messages and displays shall not appear in incremental stages or move across the changeable copy sign face. The software manufacturer and the software installer shall certify to the City that the software for the computer which controls the sign has been designed to and can only operate the sign at the approved on and off intervals.

(§ 231, Ord. 1095, eff. November 20, 2010)

§ 9-3.2813. General Commercial District (C-1).

Permitted signage for the General Commercial District shall be as follows:

(a) Type. Signs may be wall, freestanding, monument, canopy, under-canopy, or marquee.

(b) Size.

(1) Wall, canopy, under-canopy, and marquee signs shall not exceed one square foot of aggregate sign display area for each lineal foot of building frontage to which the sign is attached.

(2) One freestanding or monument sign with a maximum of 50 square feet of display area shall be allowed on each street frontage of more than fifty (50′) feet.

(3) Where a street frontage is greater than 200 lineal feet, one freestanding or monument sign with a maximum of 50 square feet of display area shall be allowed for each full 200 lineal feet of street frontage.

(4) Where two or more freestanding or monument signs are allowed on a single street frontage, one freestanding or monument sign with a maximum of 100 square feet of display area may be used in lieu of two signs on the same frontage.

(c) Height.

(1) The maximum height of freestanding and monument signs shall be twenty (20′) feet.

(2) All other signs shall be located below the roof ridge line.

(d) Location. All signs shall be located on private property and in accordance with the sign standards contained in this article.

(e) Lighting. Signs may be directly illuminated, indirectly illuminated, or non-illuminated as applies to the type of sign.

(f) Animated signs are acceptable provided the length of display is appropriate. Each message shall be displayed for a period of at least eight seconds. The sign shall remain blank (no

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messages or display) for at least one second between displays. The messages and displays shall not appear in incremental stages or move across the changeable copy sign face. The software manufacturer and the software installer shall certify to the City that the software for the computer which controls the sign has been designed to and can only operate the sign at the approved on and off intervals.

(§ II, Ord. 771, eff. December 4, 1987, as amended by §§ 8, 9, Ord. 937, eff. February 6, 1998, § 5, Ord. 1089, eff. February 20, 2010, § 232, Ord. 1095, eff. November 20, 2010, and § 2, Ord. 1097, eff. May 20, 2011)

§ 9-3.2814. Highway Commercial District (H-C).

Permitted signage for the Highway Commercial District shall be as follows:

(a) Type.

(1) Signs may be wall, freestanding, monument, canopy, under-canopy, or marquee.

(2) Billboards may be allowed by use permit in undeveloped areas, subject to the standards set forth in subsection (i) of Section 9-3.2819 of this article.

(b) Size.

(1) Wall, canopy, under-canopy and marquee signs shall not exceed one square foot of aggregate sign display area for each lineal foot of building frontage to which the sign is attached.

(2) One freestanding or monument sign with a maximum of 50 square feet of display area shall be allowed on each street frontage of more than fifty (50′) feet.

(3) Where a street frontage is greater than 200 lineal feet, one freestanding or monument sign with a maximum of 50 square feet of display area shall be allowed for each full 200 lineal feet of street frontage.

(4) Where two or more freestanding or monument signs are allowed on a single street frontage, one freestanding or monument sign with a maximum of 100 square feet of display area may be used in lieu of two signs on the same frontage.

(c) Height.

(1) The maximum height of freestanding and monument signs shall be twenty (20′) feet.

(2) All other signs shall be located below the roof ridge line.

(d) Location. All signs shall be located on private property and in accordance with the sign standards contained in this article.

(e) Lighting. Signs may be directly illuminated, indirectly illuminated, or non-illuminated as applies to the type of sign.

(f) Animated signs are acceptable provided the length of display is appropriate. Each message shall be displayed for a period of at least eight seconds. The sign shall remain blank (no messages or display) for at least one second between displays. The messages and displays shall not appear in incremental stages or move across the changeable copy sign face. The software manufacturer and the software installer shall certify to the City that the software

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for the computer which controls the sign has been designed to and can only operate the sign at the approved on and off intervals.

(§ II, Ord. 771, eff. December 4, 1987, as amended by §§ 10, 11, Ord. 937, eff. February 6, 1998, § 6, Ord. 1089, eff. February 20, 2010, § 233, Ord. 1095, eff. November 20, 2010, and § 3, Ord. 1097, eff. May 20, 2011)

§ 9-3.2815. Light Industrial District (L-I).

Permitted signage for the Light Industrial District shall be as follows:

(a) Type.

(1) Signs may be wall, freestanding, monument, canopy, under-canopy, or marquee.

(2) Billboards may be allowed by use permit in undeveloped areas, subject to the standards set forth this article.

(b) Size.

(1) Wall, canopy, under-canopy and marquee signs shall not exceed one square foot of aggregate sign display area for each lineal foot of building frontage to which the sign is attached.

(2) One freestanding or monument style sign with a maximum of 50 square feet of display area shall be allowed on each street frontage of more than fifty (50′) feet.

(3) When an office, research, or industrial complex has more than one tenant, individual low-profile freestanding signs for each tenant may be permitted in lieu of a single freestanding sign for the site as set forth in subsection (2) of this subsection. Such low-profile signs shall be uniform in construction (except for copy) and shall not exceed four (4′) feet in height, eight (8′) feet in length, and two (2′) feet in width per business. Such low-profile signs shall be limited to copy on one side and placed parallel to the street.

(c) Height.

(1) The maximum height of freestanding and monument signs shall be fifteen (15′) feet.

(2) All other signs shall be located below the roof ridge line.

(d) Location. All signs shall be located on private property and in accordance with the sign standards contained in this article.

(e) Lighting. Signs may be directly illuminated, indirectly illuminated, or non-illuminated as permitted for the sign type.

(f) Animated signs are acceptable provided the length of display is appropriate. Each message shall be displayed for a period of at least eight seconds. The sign shall remain blank (no messages or display) for at least one second between displays. The messages and displays shall not appear in incremental stages or move across the changeable copy sign face. The software manufacturer and the software installer shall certify to the City that the software for the computer which controls the sign has been designed to and can only operate the sign at the approved on and off intervals.

(§ II, Ord. 771, eff. December 4, 1987, as amended by § 12, Ord. 397, eff. February 6, 1998,

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§ 7, Ord. 1089, eff. February 20, 2010, § 234, Ord. 1095, eff. November 20, 2010, and § 4, Ord. 1097, eff. May 20, 2011)

§ 9-3.2816. General Industrial District (I).

Permitted signage for the General Industrial District shall be as follows:

(a) Type.

(1) Signs may be wall, freestanding, monument, canopy, under-canopy, or marquee.

(2) Billboards may be allowed by use permit in undeveloped areas, subject to the standards set forth in subsection (i) of Section 9-3.2819 of this article.

(b) Size.

(1) Wall, canopy, under-canopy and marquee signs shall not exceed one square foot of aggregate sign display area for each lineal foot of building frontage to which the sign is attached.

(2) One freestanding or monument sign with a maximum of 50 square feet of display area shall be allowed on each street frontage of more than fifty (50′) feet.

(3) Where a street frontage is greater than 200 lineal feet, one freestanding or monument style sign with a maximum of 50 square feet of display area shall be allowed for each full 200 lineal feet of street frontage.

(4) Where two or more freestanding or monument signs are allowed on a single street frontage, one freestanding or monument sign with a maximum of 100 square feet of display area may be used in lieu of two signs on the same frontage.

(c) Height.

(1) The maximum height of freestanding and monument signs shall be twenty (20′) feet.

(2) All other signs shall be located below the roof ridge line.

(d) Location. All signs shall be located on private property and in accordance with the sign standards contained in this article.

(e) Lighting. Signs may be directly illuminated, indirectly illuminated, or non-illuminated as applies to the type of sign.

(f) Animated signs are acceptable provided the length of display is appropriate. Each message shall be displayed for a period of at least eight seconds. The sign shall remain blank (no messages or display) for at least one second between displays. The messages and displays shall not appear in incremental stages or move across the changeable copy sign face. The software manufacturer and the software installer shall certify to the City that the software for the computer which controls the sign has been designed to and can only operate the sign at the approved on and off intervals.

(§ II, Ord. 771, eff. December 4, 1987, as amended by §§ 13, 14, Ord. 937, eff. February 6, 1998, § 8, Ord. 1089, eff. February 20, 2010, and § 235, Ord. 1095, eff. November 20, 2010, and § 5, Ord. 1097, eff. May 20, 2011)

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§ 9-3.2817. Public Facilities District (P-F).

Permitted signage for the Public Facilities District shall be as follows:

(a) Type.

(1) Signs may be wall, freestanding, monument, canopy, under-canopy, or marquee.

(2) Billboards may be allowed by use permit in undeveloped areas, subject to the standards set forth in this article.

(b) Size.

(1) Wall, canopy, under-canopy, and marquee signs shall not exceed one square foot of aggregate sign display area for each lineal foot of building frontage to which the sign is attached.

(2) One freestanding or monument sign with a maximum of 50 square feet of display area shall be allowed on each street frontage of more than fifty (50′) feet.

(3) Where a street frontage is greater than 200 lineal feet, one freestanding or monument sign with a maximum of 50 square feet of display area shall be allowed for each full 200 lineal feet of street frontage.

(4) Where two or more freestanding or monument signs are allowed on a single street frontage, one freestanding or monument sign with a maximum of 100 square feet of display area may be used in lieu of two signs on the same frontage.

(c) Height.

(1) The maximum height of freestanding and monument signs shall be twenty (20′) feet.

(2) All other signs shall be located below the roof ridge line.

(d) Location. All signs shall be located on private property and in accordance with the sign standards contained in this article.

(e) Lighting. Signs may be directly illuminated, indirectly illuminated, or non-illuminated as applies to the type of sign.

(f) Animated signs are acceptable provided the length of display is appropriate. Each message shall be displayed for a period of at least eight seconds. The sign shall remain blank (no messages or display) for at least one second between displays. The messages and displays shall not appear in incremental stages or move across the changeable copy sign face. The software manufacturer and the software installer shall certify to the City that the software for the computer which controls the sign has been designed to and can only operate the sign at the approved on and off intervals.

(§ 236, Ord. 1095, eff. November 20, 2010)

§ 9-3.2818. Temporary signs (other than window) and windblown devices.

(a) Temporary signs are those signs and/or advertising devices on private property in conjunction with an event or sale, designed to be displayed for a short period of time and not permanently affixed to a building or property, including, but not limited to:

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(1) Windblown devices and signs whose movement is designed to attract attention, such as strings of pennants, clusters of flags, streamers, balloons or other inflated objects, or reflective attachments to sign faces;

(2) Banners; and

(3) Other temporary signs or temporary advertising devices.

(b) Banana flags/banners, feather flags/banners, teardrop flags/banners, and blimps are prohibited.

(c) Signs and/or advertising devices allowed by this section shall be displayed for a maximum of 10 consecutive days four times each calendar year, a minimum of 45 days apart.

(d) Windblown devices, inflated devices, and signs whose movement is designed to attract attention, such as strings of pennants, clusters of flags, streamers, balloons or other inflated objects, must be located entirely on private property and be a minimum of five (5′) feet behind the public right-of-way outside of vision triangles and shall not extend into or be allowed to move into the public right-of-way or exceed twenty-five (25′) feet in height measured from the ground (but in no event extend above the roof line). No more than one of these devices will be allowed for every fifty (50′) feet of street frontage or portion thereof on any property. These devices shall be fastened securely to a wall or ground mounted pole, anchor, or similar structure. These devices shall not be fastened to any landscaping/tree, fence or retaining wall.

(e) Banners shall be located entirely on private property, outside of vision triangles and shall not extend into or be allowed to move into the public right-of-way and be a minimum of five (5′) feet behind the public right-of-way outside of vision triangles and shall not extend into or be allowed to move into the public right-of-way or exceed twenty-five (25′) feet in height measured from the ground (but in no event extend above the roof line). No banner shall be located closer than ten (10′) feet to another banner. No more than one banner will be allowed for every fifty (50′) feet of street frontage or portion thereof on any property. Banners shall be made of durable fabric intended for outside use. Banners shall be a maximum of 30 square feet in size. Banners shall be fastened from the top and bottom to a wall or ground mounted pole, anchor, or similar structure. Banners shall not be fastened to any landscaping/tree, fence or retaining wall.

(f) Other temporary signs or temporary advertising devices must be located entirely on private property and be a minimum of five (5′) feet behind the public right-of-way outside of vision triangles and shall not extend into or be allowed to move into the public right-of-way or exceed twenty-five (25′) feet in height measured from the ground (but in no event extend above the roof line). No more than one of these devices will be allowed for every fifty (50′) feet of street frontage or portion thereof on any property.

(g) The Community and Economic Development Director review and approval is required for all temporary signs and windblown devices, inflated devices, and banners permitted by this section. The Community and Economic Development Director may impose reasonable conditions to mitigate any potential adverse effects on the neighborhood or surrounding area when such restrictions are deemed necessary in the interest of public health and safety.

(h) The decision of the Community and Economic Development Director or designee may be appealed as provided by the appeal procedure provided in Part 6 of Article 23 of this

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chapter.
(§ 237, Ord. 1095, eff. November 20, 2010, as amended by § 3, Ord. 1158, eff. December 1, 2017)

§ 9-3.2819. Special use signs.

The following standards shall be applicable to the following special use signs:

(a) Shopping Center Signs. A master signage plan shall be required for a shopping center pursuant to this article. Such review shall insure that signs located within a shopping center are harmonious and of compatible design with the site and surrounding uses.

(b) Gasoline Price Signs. One permanently mounted freestanding price sign per street frontage shall be allowed which sign lists information for each grade of gasoline, type of service available, and type of payment permitted when there is a difference in price for each separate case. Such signs indicating a single price or a combination of prices shall not exceed a total area of 20 square feet, with a maximum height of five (5′) feet, unless mounted on the freestanding business identification sign or the pump island supports, in which case the height shall not exceed the height allowed for the district.

In addition to the gasoline signs permitted by this subsection, one or a combination of the following gasoline price sign locations, not to exceed 20 square feet per street frontage, may be displayed: on-building or window locations; and pump island support locations.

(c) Seasonal and Temporary Sales Conducted Outdoors. Signs for seasonal and temporary sales conducted outdoors shall have a maximum sign area of 50 square feet total, individual signs shall be limited to 25 square feet each, the maximum height shall be six (6′) feet, shall be non-illuminated, and shall not affect traffic or parking spaces. There shall be one sign per street frontage, and such signs shall be approved by the Planning Director.

(d) Directory Signs. Directory signs may be located on the site, shall not exceed 20 square feet of display area per side, and shall be limited to one sign per major entrance, as approved by the Planning Director.

(e) Subdivision Identification Signs (Permanent). Residential subdivisions may be allowed a permanent identification sign at one or more main entrances to the subdivision. Such signs may be freestanding, monument, wall, or fence-mounted, not over six (6′) feet in height, not over 32 square feet display area per entrance, and not more than two signs per entrance. If located in a center island or public right-of-way, such signs shall be subject to an approved encroachment permit. Such signs shall be approved with the tentative map or by use permit.

(f) Subdivision Sales Signs (Temporary/On-Site). One on-site subdivision sales sign identifying the subdivision shall be allowed under the following conditions:

(1) A tentative map for the development shall have been approved.

(2) The display surface area shall not exceed 128 square feet per side, two side maximum, and the sign shall not be over ten (10′) feet in height.

(3) The sign shall be located on private property, at least five (5′) feet inside the property line, not within any corner vision triangle, and shall not constitute a traffic hazard.

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(4) The sign shall not be illuminated.

(5) The sign shall be removed within two years after erection, except that the Planning Director may grant one-year extensions until 90% of the original sales is reached.

(g) Subdivision and Residential Development Directional Signs (Temporary/Off-Site). Three off-site sales signs advertising the subdivision shall be allowed, for subdivisions/residential developments of five or more lots, under the following conditions:

(1) A final map for the subdivision or a subdivision phase shall have been recorded.

(2) A building permit shall be obtained after submittal and review of all required plans, details and calculations and a Two Hundred and No/100ths ($200.00) Dollars cash performance bond posted for each sign to be returned at the time of removal of the sign.

(3) The display surface area shall not exceed 40 square feet per side, two side maximum, and the sign shall not exceed eight (8′) feet in height.

(4) The sign(s) shall be located on vacant private property, at least five (5′) feet inside the property line, not within the corner vision triangle, and shall not constitute a traffic hazard. There shall be no more than one sign located on each individual legally subdivided parcel.

(5) The sign shall not be illuminated.

(6) The sign shall be removed within two years of construction or until occupancy release of the last unit in the subdivision, whichever is first, except that the Planning Director may grant one-year extensions until 90% of the original sales is reached.

(7) The sign shall be removed within two years after erection, except that the Planning Division may grant one year extensions until 90% of the original sales is reached.

(h) Standards for Under-Canopy Signs.

(1) Permits Required. In addition to a sign review permit, any under-canopy sign over a public right-of-way shall require an encroachment permit.

(2) Size. The maximum size of such signs shall be six square feet.

(3) Copy. The copy shall be limited to the identification of the business only. No advertising or advertising devices shall be permitted.

(4) Materials. Such signs shall be constructed of natural wood.

(5) Color. The color shall be natural or stained wood. The letters may be painted.

(6) Sign Structure. Such signs shall be suspended from the canopy by a chain of sufficient strength to support the weight of the sign.

(7) Illumination. No illumination shall be permitted.

(8) Quantity. The quantity shall be limited to one per business.

(9) Double-Facing. Both faces of such signs may be used to identify the business.

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(10) Minimum Height. Such signs shall have a minimum eight (8′) foot clearance from the sidewalk.

(11) Shape. Such signs shall be rectangular.

(12) Maintenance. All portions of such signs, including the frame, background, supports, and anchorage, shall be maintained in proper repair. All sign surfaces shall be neatly painted.

(13) Mitigation Measures. All under-canopy signs shall be erected and maintained in accordance with the provisions of this article and any conditions attached to the issuance of the permit. Failure to abide by such provisions will result in the revocation of the permit and the removal of the sign.

(i) Standards for billboard signs (nonappurtenant).

(1) Size.

(A) The maximum sign area shall be 300 square feet. The maximum height shall be twelve (12′) feet.

(B) The total maximum height of such signs shall not exceed twenty-five (25′) feet from the grade. The minimum clearance from the grade to the bottom of the sign shall be twelve (12′) feet.

(C) Sign displays shall not be permitted within five hundred (500′) feet of a four corner intersection.

(2) Spacing.

(A) The minimum distance between displays on the same side of the roadway shall be five hundred (500′) feet.

(B) No sign display shall be permitted within one hundred (100′) feet of a property division line or building.

(C) Sign displays shall not be permitted within five hundred (500′) feet of a four corner intersection.

(3) Support Structure. Such signs shall be supported by a single pole structure.

(4) Prohibitions.

(A) V-type, side-by-side, and back-to-back displays shall be prohibited. Advertising shall be permitted on both faces of a permitted display.

(B) Banners, balloons, flags, pennants, pinwheels, and similar attention getting devices shall be prohibited.

(C) Electrical illumination shall be permitted, excluding neon illumination. Reflective paint and reflective material shall be permitted.

(D) No moving parts or animation shall be permitted.

(5) Identity. The identity of the owners of such signs shall be posted on the sign.

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(6) Structural Safety. Such signs shall be constructed according to the Uniform Sign Code.

(7) Maintenance. All portions of such signs, including the copy, frame, background, supports, and anchorage, shall be maintained and neatly painted.

(8) Use Permits. All billboard signs shall require a use permit for erection or modification.

(9) Mitigation Measures. All nonappurtenant signs shall be erected and maintained in accordance with the provisions of this article and any conditions attached to the issuance of the use permit. Failure to abide by such provisions will result in the revocation of the use permit and the removal of the sign.

(j) Subdivision Model Home Directional Blimps (Temporary/On-Site). One helium or air filled blimp may be used on Saturdays and Sundays, for subdivisions/residential developments with open model homes, under the following conditions:

(1) The subdivision shall have three or more model homes open to the public.

(2) The blimp shall not be more than twenty (20′) feet in length.

(3) The blimp shall not be flown higher than one hundred fifty (150′) feet and shall be flown above the model homes.

(4) The blimp may be flown only when the model homes are open to the public and only between the hours of 8:00 a.m. and 7:00 p.m. on Saturdays and Sundays.

(5) No more than one blimp per subdivision.

(6) The blimp shall be made of durable materials designed for outside use.

(7) The blimp must be tethered securely to an anchor on subdivision property.

(8) The blimp shall not be fastened to any landscaping/tree, fence or retaining wall.

(§ II, Ord. 771, eff. December 4, 1987, as amended by § 1, Ord. 852, eff. February 1, 1992, § 15, Ord. 937, eff. February 6, 1998, § 238, Ord. 1095, eff. November 20, 2010, and § 4, Ord. 1158, eff. December 1, 2017)

§ 9-3.2819.1. Automobile dealership signage.

(a) Purpose. Automobile dealerships, due to the nature of their operations which include large outdoor sales areas, the need for site identification to compete on a regional basis, and importance as significant economic resources to the City, warrant and require signs which is unique and separate from other uses within the City. The following regulations shall apply only to automobile dealerships where the principal use is the sale of new and used cars. The purpose of this section is to allow auto dealership signage that will provide flexibility while maintaining project identification that is visible, adequate, safe and noticeable to the motoring public from surface streets and highways.

(b) Definitions. "Auto dealership" means a new or used car sales establishment whose primary use is for the outdoor display and sales of new and used automobiles and trucks, which may engage in secondary activities, including parts sales and repair service on a single parcel/site or multiple adjacent parcels/sites. The term does not include establishments for which

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the sale of vehicles is an incidental or secondary use.

(c) Permitted Signage/Advertising Devices. In addition to signage allowed by this article the following additional types of signs/advertising devices are permitted for auto dealerships:

(1) Pole banners, consisting of vertical fixed panels mounted at the top and bottom with brackets on light standards or poles, according to the following criteria:

(A) No more than one per permanent light standard or pole, or two if directly opposite each other.

(B) May not exceed 60 square feet in total area.

(C) Must have a minimum vertical clearance of eight (8′) feet.

(D) May not extend above the top of the light standard or pole it is attached to.

(E) Shall be located entirely on private property outside of vision triangles and shall not extend into or be allowed to move into the public right-of-way.

(F) Shall not be permitted off site or on public utility poles.

(2) Sno-cones/fan display pole banners, according to the following criteria:

(A) No more than one per permanent light standard or pole.

(B) May not exceed eight (8′) feet in height and four (4′) feet in width.

(C) May not extend above the top of the light standard or pole it is attached to.

(D) Must have a minimum vertical clearance of four (4′) feet.

(E) Shall be located entirely on private property outside of vision triangles and shall not extend into or be allowed to move into the public right-of-way.

(F) Shall not be permitted off site or on public utility poles.

(3) Flags (nongovernmental), according to the following criteria:

(A) No more than 24 square feet in area per flag.

(B) No more than one flag per permanent light standard or pole.

(C) Shall be located entirely on private property outside of vision triangles and shall not extend into or be allowed to move into the public right-of-way.

(D) Shall not be permitted off site or on public utility poles.

(E) Banana flags/banners and/or feather flags/banners and/or teardrop flags/banners are prohibited.

(d) Concentration. Each auto dealership may display a maximum of one pole banner, sno-cones/fan display pole banners, and /or flag, permitted by this section for every 30 lineal feet of street frontage or every 400 square feet of outside auto display area whichever is greater.

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(e) Maintenance. All signs/advertising devices permitted by this section shall be maintained in good condition at all times and shall be of durable fabric intended for outdoor use. Any sign/advertising device that is faded, torn or otherwise determined by the Community and Economic Development Director to not be in good condition shall be removed immediately upon request.

(f) Review and Approval Process. The Community and Economic Development Director review and approval is required for all signage and advertising devices permitted by this section. The Community and Economic Development Director may impose reasonable conditions to mitigate any potential adverse effects on the neighborhood or surrounding area when such restrictions are deemed necessary in the interest of public health and safety.

(g) Appeal. The decision of the Community and Economic Development Director or designee may be appealed as provided by the appeal procedure provided in Part 6 of Article 23 of this chapter.

(§ 5, Ord. 1158, eff. December 1, 2017)

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Part 4
Sign Permits

§ 9-3.2820. Sign review permits required.

Except as otherwise provided in this article, it shall be unlawful for any person to erect, alter, or relocate a sign within the City without first obtaining a sign review permit.
(§ II, Ord. 771, eff. December 4, 1987, as amended by § 239, Ord. 1095, eff. November 20, 2010)

§ 9-3.2821. Procedure.

(a) Applications for sign review permits shall be in the number of copies and on the format designated by the Planning Director. Such applications shall be accompanied by a fee set by the Council and by such profiles, elevations, plot plans, drawings, photographs, color or material samples, and other pertinent information necessary to show what is requested. Such applications shall be filed in the office of the Planning Department.

(b) In processing sign applications, the following criteria shall be used to approve, conditionally approve, or disapprove:

(1) The sign shall be consistent with the purpose and intent of this article.

(2) The sign shall be consistent with the standards, exceptions, and prohibitions set forth in this article.

(3) The sign's location and copy shall be best suited for visibility and safety.

(c) The Planning Department shall review all sign review permit applications and shall either approve, approve with modifications, or deny applications in accordance with the requirements of this article and any other applicable requirements of Federal, State, or local laws. The Planning Director, however, may withhold action on an application until it is reviewed by the Commission if he or she feels there is a potential element of controversy regarding the following factors, which include, but are not limited to, size, color, type, face, shape, or other elements disharmonious, distracting, or incongruous with the site or the surrounding neighborhood.
(§ II, Ord. 771, eff. December 4, 1987, as amended by § 240, Ord. 1095, eff. November 20, 2010)

§ 9-3.2822. Variations of sign standards.

Requests for variations of the sign standards set forth in this article shall be through use permits.
(§ II, Ord. 771, eff. December 4, 1987, as amended by § 241, Ord. 1095, eff. November 20, 2010)

§ 9-3.2822.1. Sign alterations, minor adjustments.

(a) Purpose. The Director may grant minor adjustments in order to prevent unnecessary hardships which would result from a strict and literal interpretation and enforcement of certain regulations required by this chapter. A practical difficulty or unnecessary hardship may result from the size, shape, or dimensions of a site or the location of existing structures on the site, from geographic, topographic, or other physical conditions on the site, or in the

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immediate vicinity, or from street locations or traffic conditions in the immediate vicinity which would affect the placement of signs on the site or structure.

(b) Exception Purposes. The Director may grant a minor adjustment if it can be demonstrated that an exception is necessary to facilitate an improved aesthetic relationship between the signs and the structures upon which they are mounted, or to overcome an unusual site condition.

(c) Procedure. All minor adjustments for signs shall be referred to the Director where the applicant desires one or more adjustments from the requirements of this chapter. The Director may allow adjustments within the limits listed in this section. Appropriate findings, consistent with Section 9-3.2323 of this chapter, shall be made a part of the granting of the adjustment. The Director may in his or her sole discretion require the applicant to process the adjustment as a use permit requiring a public hearing before the Planning Commission.

(1) Sign Area. Total amount of adjustments is limited to 25% of the allowed sign area.

(2) Sign Height. Total amount of adjustments is limited to 25% of the allowed sign height.

(3) Transfer of Sign Area.

(A) To overcome a disadvantage because of an exceptional setback between the street and the sign or orientation of the sign location;

(B) To achieve an effect which is essentially architectural, graphic art, or sculptural and which, in the opinion of the Director, enhances the sign and site's development;

(C) To permit more sign area in a single sign than is allowed, but less than the total allowed for the entire site, where a more orderly and concise pattern of signs will result;

(D) To allow a sign compatible with other conforming signs in the vicinity;

(E) To establish the allowable amount and location of signs when no street frontage exists or when, because of an unusual parcel shape (e.g., a flag lot), the street frontage is excessively narrow in proportion to the average width of the parcel; and

(F) To allow sign area to be transferred to a street building frontage when the main entrance does not face the street.

(4) Alternative Sign Locations.

(A) On Site. To transfer allowed signage from a structure wall to an allowed freestanding sign based upon the finding that the alternative location is necessary to overcome a disadvantage caused by an unfavorable orientation of the front wall to the street or parking lot or an exceptional setback;

(B) Parcels Not Fronting on Any Street. Under sign review, approval may be given for the placement of a sign on an access easement to a parcel not having street frontage, at a point where viewable from the adjoining public street; and

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(C) Other. Alternative locations may be granted in order to further the intent and purpose of this chapter or where normal placement would conflict with the architectural design of a structure, including transfer of sign area on the same building.

(5) Alternative Types of Signs. To facilitate compatibility with the architecture of structures on the site and improve the overall appearance of the site.

(d) Conditions. The Community and Economic Development Director may impose reasonable conditions to mitigate any potential adverse effects on the neighborhood or surrounding area when such restrictions are deemed necessary in the interest of public health and safety.

(e) Appeals. The decision of the Community and Economic Development Director or designee may be appealed as provided by the appeal procedure provided in Part 6 of Article 23 of this chapter.

(§ 6, Ord. 1158, eff. December 1, 2017)

§ 9-3.2823. Expirations and time extensions.

(a) The approval of a sign review permit or sign review application shall expire one year after its effective date, unless the sign has been erected or a different expiration date is stipulated at the time of approval. Prior to the expiration of a sign review permit or sign review approval, the applicant may apply to the Planning Director for an extension of one year from the date of the expiration. The Planning Director may make minor modifications or may deny further extensions of the approved sign at the time of extension if he or she finds there has been a substantial change in circumstances.

(b) A sign review permit shall expire and become void if the circumstances or facts upon which the permit was granted change through some subsequent action by the owner or lessee so that the review permit would not be permitted under the new circumstances.

(§ II, Ord. 771, eff. December 4, 1987, as amended by § 241, Ord. 1095, eff. November 20, 2010)

§ 9-3.2824. Revocation.

Upon due notice to the applicant, any sign review permit heretofore or hereafter granted may be revoked if the Planning Director determines that the sign or sign program for which the permit was granted:

(a) Advertises the availability or sale of goods, property, or services no longer available; or

(b) Is not constructed, installed, or maintained in accordance with the approved application. To be sufficiently maintained, all signs, together with all supports, braces, guys, and anchors, shall be kept in a presentable condition and repair, including periodic repainting and cleaning, as well as the replacement of worn or defective parts.

(§ II, Ord. 771, eff. December 4, 1987, as amended by § 241, Ord. 1095, eff. November 20, 2010)

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Part 5
Nonconforming Signs

§ 9-3.2825. Unlawful signs.

Every sign in existence on December 4, 1987, and which was prohibited or illegal at the time of installation, and which does not conform to the provisions of this article, shall be an illegal sign. Such signs shall be removed immediately upon notification of illegality. Failure to remove such signs shall be in violation of this article. Signs which are not constructed, maintained, or displayed pursuant to the requirements of this article, notwithstanding the other provisions of this article, for the purposes of this section, a change of copy or sign face shall not be deemed a discontinuance of use. However, for the purposes of this section, any structural alteration to any part of the sign shall be deemed a discontinuance of use. A nonconforming sign shall be made to conform immediately to the provisions of this article if:

(a) The owner, outside of a change of copy, requests permission to remodel and remodels a nonconforming sign display, or expands or enlarges the building or land use upon which the advertising display is located, or changes the use of the premises;

(b) The owner relocates a sign;

(c) There is an agreement between the owner and the City for the removal of a sign on a given date;

(d) The sign display is temporary;

(e) The sign display is or may become a danger to the public or is unsafe; or

(f) The sign display constitutes a traffic hazard.

(§ II, Ord. 771, eff. December 4, 1987, as amended by § 242, Ord. 1095, eff. November 20, 2010)

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Part 6
Violations: Enforcement

§ 9-3.2826. Violations.

Any person who violates any provision or fails to comply with any of the requirements of this article shall be guilty of an infraction or a misdemeanor. Each such person shall be guilty of a separate offense for each day during any portion of which any violation of any provision of this article is committed, continued, or permitted by such person and shall be punishable therefor as provided in this Code.
(§ II, Ord. 771, eff. December 4, 1987, as amended by § 243, Ord. 1095, eff. November 20, 2010)

§ 9-3.2827. Enforcement.

It shall be the duty of the Planning Director or designated representative to enforce this article. When a sign is erected upon public property, including the street right-of-way, in violation of the provisions of this article, and it is determined by the City that such sign is hazardous to the general welfare of the public, such sign may be removed without notice. The cost of the removal or alteration of any such sign and any expense incident thereto, which, by the terms of this section, shall be paid by a permittee, sign owner, property owner, or any other person, shall become a debt owing the City for the collection of which the City may maintain a civil action in its own name.
(§ II, Ord. 771, eff. December 4, 1987, as amended by § 243, Ord. 1095, eff. November 20, 2010)

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Part 7
Definitions

§ 9-3.2828. Definitions.

For the purposes of this article, unless otherwise apparent from the context, certain words and phrases used in this article are defined as follows:

"A frame sign" shall mean a portable sign with advertising messages mounted on one or two surfaces with two edges connected with the other two edges spread so that the two faces read from different directions.

"Animated sign" shall mean a sign with a message display for a period of at least eight seconds. The sign shall remain blank (no messages or display) for at least one second between displays. The messages and displays shall not appear in incremental stages or move across the changeable copy sign face. The software manufacturer and the software installer shall certify to the City that the software for the computer which controls the sign has been designed to and can only operate the sign at the approved on and off intervals.

"Apartment/multifamily identification sign" shall mean a sign identifying an apartment or multifamily building or an apartment or multifamily by name and/or address.

"Awning" shall mean a hood or cover which projects from the wall of a building of a type as to be able to be retracted, folded, or collapsed against the face of the supporting building. A fixed awning shall be treated as a marquee.

"Banner" shall mean any cloth, bunting, plastic, paper, or similar non-rigid material attached to, or appended on or from, any structure, staff, pole, line, which there is an advertising message or which is intended for promotion.

"Barber pole" shall mean a rotating or stationary cylindrical pole, of the traditional red, white, and blue spiral striped design, identifying the premises as a barber shop.

"Base of the sign structure" shall mean the structural component of a freestanding sign located below the sign face.

"Billboard" shall mean any sign which directs attention to a business, commodity, service, industry, or other activity which is not sold, offered or conducted on the premises upon which such sign is located, or to which it is affixed.

"Development sign" shall mean any sign erected during the construction and development of industrial or residential subdivisions, office complexes, apartment complexes, or shopping centers.

"Directional or informational sign" shall mean a sign giving only information and direction to the viewer and containing no advertising message.

"Direct illumination" shall mean a light source in which the light rays go through the face of the sign. "Direct illumination" shall include illuminated tubing and strings of lights.

"Directory sign" shall mean any sign which includes only the names and locations of businesses, firms, offices, residential complexes, or establishments but does not otherwise promote or advertise the business or residential complex.

"Display surface" shall mean the area made available by the sign structure for the purpose of displaying the message.

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"Display surface area" shall mean and include the sum of the separate display surfaces of a sign, including the reverse side of any sign when the reverse side actually may be viewed from any City street, expressway, freeway, or other public right-of-way. The area of each display surface shall be computed by calculating the area of the circle, square, triangle, rectangle, or combination of such geometric designs necessary to enclose such surface.

"Flag" shall mean a fabric, textile, or material of any shape or size, with colors, patterns, and the like used as a symbol of a nation, state, government, political subdivision company, or the like.

"Freestanding sign" shall mean a sign which is supported by one or more uprights, poles, or braces that are placed on, or anchored in, the ground and that are independent from any building or other structure.

"Front/frontage" shall mean that portion of a lot or building elevation which faces a street or has a main public entrance.

"Gasoline price sign" shall mean an on-premises sign identifying the grade and/or type and price of gasoline sold.

"Governmental or other sign required by law" shall mean a sign placed in any area of the City by a governmental entity or private individual or business as required by Federal, State, or local laws.

"Graphic" shall mean and include all lettering, logos, pictures, symbols, patterns, and depictions, including color, on a sign.

"Height" shall mean the distance from the sidewalk or roadbed grade nearest the base of the sign to the top of the highest element of the sign. Where there is no sidewalk, the grade of the roadbed nearest the sign shall be used.

"I frame sign" shall mean a portable sign, with advertising messages mounted on one or two surfaces, which has a base making the sign readable from different directions.

"Identification sign" shall mean a sign which serves to tell only the name, address, and lawful use of the occupant or building upon which the sign is located.

"Illuminated sign" shall mean a sign in which an artificial source of light is used in order to make the message readable. "Illuminated sign" shall include internally and externally lighted signs and reflectorized, flowing, or radiating signs.

"Institutional sign" shall mean a sign identifying the premises of, or announcing the activities conducted by, a church, school, hospital, rest home, or similar institutional facility.

"Instructional sign" shall mean any sign which does not contain advertising or promotional matter but relates solely to traffic or pedestrian control, warnings, or hours of operation.

"Logo" shall mean the name, symbol, emblem, insignia, or trademark of a company or organization.

"Marquee sign" shall mean any sign which is on top, attached to the face, or suspended below a marquee, canopy, cantilevered covered walkway, or arcade, whether parallel to or at right angles to the face of the building.

"Monument style sign" shall mean a freestanding sign where the height of the sign is equal to or less than the length of the base of the sign and having a maximum height of ten (10′) feet. The area below the sign copy shall be solid from the ground to the lower edge of the copy area.

"Major tenant" shall mean a tenant in a business center leasing a large portion of the leasable

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space in such center.

"Nonconforming sign" shall mean a sign which was legal at the time it was erected but does not accord or comply with the requirements of this article or an amendment to this article.

"Office complex" shall mean three or more tenants located on one or more contiguous parcels and which utilize common off-street parking and access.

"On-site" or "accessory sign" shall mean a sign which directs attention to a business, commodity, service, industry, or other activity which is sold, offered, or conducted on the premises upon which such sign is located or to which it is affixed.

"Parking lot sign" shall mean a sign placed or displayed on a parking lot to supply information to people using such lot, including with respect to liability, as well as entry, exits, and directional information, as is necessary to facilitate the safe movement of vehicles served by the parking area.

"Pennant" shall mean any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in a series, designed to move in the wind.

"Person" shall mean any natural person, firm, association, organization, partnership, trust, or association of persons, joint venture, corporation or company, and any officer or agent thereof.

"Political sign" shall mean a sign associated with a candidate for elected office, political party, or ballot measure or which makes a political statement.

"Portable sign" shall mean a sign which is capable of being carried or moved by manual or mechanical means from one location to another.

"Privilege sign" shall mean a standardized sign supplied at a nominal cost or fee to a retailer wherein a prominent portion of the sign face, by text and/or style, identifies the product of the regional or national distributor or manufacturer, and the remainder of the sign face is available to identify the local retailer.

"Projecting sign" shall mean a sign characterized by its attachment at an angle or perpendicular to the face of a building as opposed to being mounted flat on the surface of a building. Any sign which extends twelve (12″) inches or more beyond the building surface to which the sign is attached shall be considered a projecting sign.

"Public entrance" shall mean an entrance into a building recognized as a main or principal entrance. A fire exit only doorway shall not be included as a public entrance.

"Reader board sign" shall mean the same as "changeable copy sign" together with "portable sign."

"Real estate sign" shall mean a sign offering developed or undeveloped real property for sale, lease, or rent.

"Roof line" shall mean a horizontal plane projected parallel to the plane of the roof fascia line or top of a parapet wall or an angular plane projected parallel to the verge rafter of a gable roof.

"Roof ridge line" shall mean the peak of the roof, top of a parapet, or the top of the wall of a building.

"Roof sign" shall mean any sign erected upon or above the roof ridge line of a building or placed above the apparent flat roof or eaves of a building.

"Shopping center" shall mean two or more businesses which function(s) as an integral unit on a

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single parcel or on contiguous parcels and which utilizes common off-street parking and access.

"Sign" shall mean any announcement, declaration, demonstration, display, illustration, insignia, surface or space, when erected out-of-doors (or indoors in case of a window sign) and in view of the general public for identification, advertisement or promotion of the interests of any person. "Sign" does not include any of the following:

(1) Official notices issued by any court or public body or officer;

(2) Notices posted by any public officer in performance of a public duty or by any person in giving any legal notice;

(3) Directional warning or information signs or structures required by or authorized by law or by Federal, State, County, or local authority;

(4) A sign erected near a City or County boundary that contains the name of that City or County and the names of, or any other information regarding, civic, fraternal, or religious organizations located within that City or County.

"Sign clearance" shall mean the vertical distance between the bottom of a sign and the sidewalk or roadbed grade nearest the base of a sign.

"Sign structure" shall mean any structure which supports or is capable of supporting any sign. A sign structure may or may not be an integral part of a building. For the purposes of a freestanding sign, the sign structure shall include the aggregate area of the sign, including the sign copy and all structural elements of the sign.

"Subdivision directional sign" shall mean an off-premises sign providing information on the location of a subdivision whose lots, parcels, or units are being offered for sale, lease, or rent.

"Subdivision identification sign" shall mean an on-premises sign advertising developed or undeveloped real property which has been divided into five or more lots, parcels, or units for sale, lease, or rent. (Signs advertising fewer than five such lots shall be treated as "real estate signs.")

"Temporary sign" shall mean and include any sign approved for display for a set length of time.

"Under-canopy sign" shall mean a sign suspended no lower than seven (7′) feet above the public right-of-way under a canopy or awning of a building which sign identifies a business, profession, or industry conducted on the premises by name only.

"Vehicle sign" shall mean a sign on a vehicle used for the purpose of advertising a business location, a special sale, or the like by any means.

"Wall sign" shall mean any sign painted on or attached parallel to the wall facing of a building and projecting not more than twelve (12″) inches from the building face.

"Window sign" shall mean any sign displayed on the inside or outside of a window facing and visible from a public street, walkway, or parking lot, or a parking lot, pedestrian plaza, or walkway accessible to the public.
(§ II, Ord. 771, eff. December 4, 1987, as amended by § 16, Ord. 937, eff. February 6, 1998, § 2, Ord. 1038, eff. August 17, 2005, § 2, Ord. 1039, eff. October 1, 2005, and § 244, Ord. 1095, eff. November 20, 2010)

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Part 8
Uniform Sign Code

§ 9-3.2829. Adoption of the Uniform Sign Code.

For the purpose of providing minimum standards to safeguard life, health, property, and the public welfare by regulating and controlling the design, quality, materials, construction, location, electrification, and maintenance of all signs and sign structures within the City not located within buildings, that certain Code designated as the "Uniform Building Code, Volume V, Signs, 1967 Edition," published by the International Conference of Building Officials, three copies of which are on file in the office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this article as though set forth in this article in full, subject, however, to the amendments, additions, and deletions set forth in this article, and said Code shall be known as the Sign Code for the City.
(§ II, Ord. 771, eff. December 4, 1987, as amended by § 245, Ord. 1095, eff. November 20, 2010)

§ 9-3.2830. Violations: Penalties.

Any person violating any of the provisions of this article or of the Sign Code, or who shall fail to comply with any provision thereof, or who shall violate or fail to comply with any order made thereunder, or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the Council or by a court of competent jurisdiction within the time fixed therein, for each and every separate violation and noncompliance, respectively, shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code. The imposition of one penalty for any violation of the provisions of this article or the Sign Code shall not excuse the violation or permit it to continue, and any such person violating the provisions of this article or the Sign Code shall be required to correct or remedy such violation or defect within a reasonable time, and, when not otherwise specified, each 10 days prohibitive conditions are maintained shall constitute a separate offense. The application of the penalties set forth in this section shall not be held to prevent the enforced removal of prohibitive conditions.
(§ II, Ord. 771, eff. December 4, 1987, as amended by § 247, Ord. 1095, eff. November 20, 2010)

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ARTICLE 29
RECYCLING FACILITIES

§ 9-3.2901. Purpose.

The purposes of this chapter are to establish standards for sifting and operating recycling facilities: (1) to implement the California Beverage Container Recycling and Litter Reduction Act of 1986; and (2) to provide a streamlined review and permit procedure so that facilities will operate in a manner that protects public safety; and (3) to encourage recycling while maintaining the aesthetic character of the City.
(§ 1, Ord. 840 C.S, eff. March 8, 1991)

§ 9-3.2902. Definitions.

For the purpose of this article, certain terms used here are defined as follows:

"Bulk reverse vending machine" means a reverse vending machine that is larger than 50 square feet; is designed to accept more than one container at a time; and will pay by weight instead of the container.

"Collection facility" means a center for the acceptance by donation, redemption or purchase of recyclable materials from the public. Such a facility shall not use power driven processing equipment except as indicated in Section 9-3.2903, Criteria and standards. Collection facilities may include the following:

(1) Reverse vending machines;

(2) Small collection facilities which occupy an area of not more than 500 square feet, and may include:

  (A) A mobile unit;

  (B) Bulk reverse vending machines or a grouping of reverse vending machines occupying more than 50 square feet;

  (C) Kiosk type units which may include permanent structures;

  (D) Unattended containers placed for the donation of recyclable materials.

(3) Large collection facilities which may occupy an area of more than 500 square feet and may include permanent structures.

"Mobile recycling unit" means a vehicle such as a truck, van, or trailer, licensed by the Department of Motor Vehicles, which is used for the collection of recyclable materials. A mobile recycling unit also means the bins, boxes or containers transported by vehicles such as trucks, vans or trailers, and used for the collection of recyclable materials.

"Recycling facility" means a center for the collection and/or processing of recyclable material. A certified recycling facility or certified processor means a recycling facility certified by the California Department of Conservation as meeting the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986. A recycling facility does not include storage containers or processing activity located on the premises of a residential, commercial or manufacturing use and used solely for the recycling of material generated by that residential property, business or manufacturer. Recycling facilities may include the following:

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(1) Collection facilities as defined in this section;

(2) "Recyclable material" means reusable material including, but not limited to, metals, glass, plastic and paper, which are intended for reuse, remanufacture, or reconstitution for the purpose of using the altered form. Recyclable material may include used motor oil collected and transported in accordance with the California Health and Safety Code.

"Reverse vending machines" means an automated mechanical device which accepts at least one or more types of empty beverage containers including, but not limited to, aluminum cans, glass and plastic bottles, and issues a cash refund or a redeemable credit slip with a value not less than the container's redemption values as determined by the state. A reverse vending machine may sort and process containers mechanically; provided, that the entire process is enclosed within the machine.
(§ 1, Ord. 840 C.S., eff. March 8, 1991, as amended by § 248, Ord. 1095, eff. November 20, 2010)

§ 9-3.2903. Criteria and standards.

Recycling facilities permitted pursuant to this article shall meet all of the applicable criteria and standards listed below, in addition to any modifications or conditions of approval that the Planning Commission or City Council may impose as an exercise of discretion upon a finding that such modifications or conditions are reasonably necessary in order to implement the general intent of this section and the purposes of this chapter. The criteria and standards for recycling facilities are as follows:

(a) Reverse Vending Machines. Reverse vending machines located completely inside of a building may be permitted subject to the following standards:

(1) Shall be established in conjunction with a commercial use or community service facility which is in compliance with the zoning, building and fire codes of the City;

(2) Shall be completely within the interior of the host use's building and located as closely as possible to an entrance and shall not obstruct pedestrian circulation;

(3) Property owner's approval shall be required;

(4) A business license and building and zoning compliance application shall be required;

(5) Shall be constructed and maintained with durable waterproof and rustproof material;

(6) Shall be clearly marked to identify the type of material to be deposited, operating instructions and the identity and phone number of the operator or responsible person to call if the machine is inoperative;

(7) Shall be maintained in a clean, litter-free condition on a daily basis;

(8) Operating hours shall be at least the operating hours of the host use;

(9) Shall be certified by the State Department of Conservation.

(b) Small Collection Facilities. Small collection facilities may be permitted in certain commercial and industrial zoning districts through a use permit or site plan review; provided, that small collection facility is in compliance with the following standards:

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(1) Shall have an attendant present during all hours of operation. The facility is to be certified with the State Department of Conservation;

(2) Shall be no larger than 500 square feet and occupy no more than five parking spaces not including space that will be periodically needed for removal of materials or exchange of containers. The facility shall not impair any required landscape area;

(3) Shall be set back at least fifteen (15′) feet from any street line and shall not obstruct pedestrian or vehicular circulation;

(4) Shall be designed to be architecturally compatible with the property and structures located on the subject site and those within close proximity and where possible shall be located near existing service oriented spaces such as at rear of buildings or near loading and trash collection areas;

(5) Shall use containers that are constructed and maintained with durable waterproof and rustproof material, completely enclosed and covered, secured from unauthorized entry or removal of material, and shall be of a capacity sufficient to accommodate materials collected and collection schedule;

(6) Shall accept only glass, metals, plastic containers, papers and reusable items. Used motor oil may be accepted when collected and transported in accordance with the California Health and Safety Code and other applicable regulations;

(7) Shall use no power-driven processing equipment;

(8) Shall store all recyclable material in containers or in a mobile unit vehicle, and shall not leave materials outside of containers when attendant is not present;

(9) Shall be maintained free of litter and any other undesirable materials, and mobile facilities, at which a truck or containers are removed at the end of each collection day, shall be swept at the end of each collection day;

(10) Shall comply with the City Noise Control Ordinance and facilities located within one hundred (100′) feet of a property zoned or occupied for residential use, shall operate only during the hours between 9:00 a.m. and 7:00 p.m. or the hours of the host use, whichever is the more restrictive;

(11) Containers shall be clearly marked to identify the type of material which may be deposited; the facility shall be clearly marked to identify the name and the telephone number of the facility operator and the hours of operation, and display a notice stating that no materials may be left outside the recycling enclosure or containers;

(12) Signs shall be consistent with the City Sign Ordinance for the district in which the facility is located and shall be consistent with architectural character of the location;

(13) Mobile recycling units shall have an area clearly marked to prohibit other vehicular parking during hours when the mobile unit is scheduled to be present.

(§ 1, Ord. 840 C.S, eff. March 8, 1991, as amended by § 250, Ord. 1095, eff. November 20, 2010)

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§ 9-3.2904. Small collection facilities: Application procedure.

The application procedure for small collection facilities shall be as follows:

(a) An application or a site plan, dependent upon the zoning classification shall be submitted to the Planning Department.

(b) The application shall include plans, a statement of use, the latest prescribed fee, plot plan map and three hundred (300′) foot radius of property owners. Requirements on file with the Planning Division. If a site plan is required, submittal requirements shall be those as codified by the City Council.

(c) A decision date shall be set a minimum of 21 calendar days from the date of accepting the completed application.

(d) Not less then 10 calendar days prior to the decision date, notice of the proposed use shall be mailed to all property owners as shown on the last equalized assessment roll within a three hundred (300′) foot radius of the exterior boundaries of the subject property and at least 10 days prior to the date of such hearing, notices shall be published once in a newspaper of general circulation in the City.

(e) A decision on the use permit or site plan shall be made by the Planning Commission at the next available meeting.

(f) All decisions of the Planning Commission may be appealed to the City Council.

(§ 1, Ord. 840 C.S., eff. March 8, 1991, as amended by § 251, Ord. 1095, eff. November 20, 2010)

§ 9-3.2905. Small collection facilities: Location on vacant land.

A small collection facility may be established as a use subject to Planning Commission review and approval of a use permit and/or site plan approval. In considering a proposed small collection facility, the Planning Commission shall consider the following: impacts on adjacent residences and business; operating hours; provisions for adequate off-street parking and safe ingress and egress: impacts on City services, concentrations of similar uses; and, any other items associated with a proposed facility which may impact the community.

(§ 1, Ord. 840 C.S., eff. March 8, 1991, as amended by § 252, Ord. 1095, eff. November 20, 2010)

§ 9-3.2906. Large collection facilities.

Large collection facilities may be permitted in the Light Industrial Zoning District subject to the use permit approval and site development approval, where applicable. Large collection facilities are a permitted use in the General Industrial District but site plan approval is required. A large collection facility may be required to be certified by the State Department of Conservation and shall meet the following standards:

(a) The facility shall not abut or be located within one hundred fifty (150′) feet from property zoned or occupied or residential use.

(b) The facility shall be screened from the public right-of-way by walls, fences and/or screening landscaping and shall operate in a wholly enclosed building except for incidental outdoor storage which shall be in compliance with the other storage provisions of the

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zoning district in which the facility is located and with the requirements of this chapter.

(c) The facility shall operate in compliance with the City Noise Control Ordinance.

(d) Minimum setback and landscape requirements shall be those provided for the zoning district in which the facility is located.

(e) Outdoor storage that is incidental to the collection facility may be permitted and shall be limited to only those materials and containers that are approved for recycling. Materials shall be stored in sturdy containers which are covered, secured and maintained in good condition. Storage containers for combustible material shall be constructed of noncombustible material. Acceptance of used motor oil and method of storage shall be in accordance with the California Health and Safety Code, and shall be in containers approved by Merced County Fire Department and Merced County Health Department.

(f) The site shall be maintained free of litter and any other undesirable materials and shall be cleaned of loose debris on a daily basis.

(g) The following minimum number of off-street parking spaces shall be provided:

(1) Six customer parking spaces (if facility is open to the public);

(2) One parking space for each commercial vehicle operated by the recycling facility;

(3) One parking space for each employee;

(4) Upon review of the proposed facility, the Planning Commission may require additional parking as a condition of use permit or site development approval.

(h) If the facility is located within five hundred (500′) feet of property zoned or occupied for residential use, it shall not be in operation between 7:00 p.m. and 7:00 a.m. weekdays, 7:00 p.m. to 9:00 a.m. weekends.

(i) Any container provided for after-hours donation of recyclable materials shall be of sturdy, rustproof construction, shall have sufficient capacity to accommodate materials collected and shall be secure from unauthorized entry or removal of material. Such containers shall be safely and conveniently located and shall not impede required parking, circulation loading or be located in any landscape area.

(j) Donation areas shall be kept free of litter and any other undesirable material. Containers shall be clearly marked to identify the type of material that may be deposited. The facility shall display a two (2′) foot by three (3′) foot notice stating "DO NOT leave material outside the recycling containers, per Article 30 of Chapter 3 of Title 9, Planning and Zoning of the Los Banos Municipal Code."

(k) The facility shall be clearly marked with the name and phone number of the facility operator and the hours of operation; identification and informational signs shall meet the standards of the zone; additional directional signs bearing no advertising message may be installed with the approval of the Director of Community Development to further facilitate the recycling operation.

(§ 1, Ord. 840 C.S., eff. March 8, 1991, as amended by § 253, Ord. 1095, eff. November 20, 2010)

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ARTICLE 30
ACCESSORY DWELLING UNITS

§ 9-3.3001. Purpose, applicability and where permitted.

(a) Purpose. This article establishes regulations and procedures for reviewing and permitting Accessory Dwelling Units and Junior Accessory Dwelling Units through a ministerial process consistent with Government Code Sections 66314 (accessory dwelling units) and 66333 (junior accessory dwelling units).

(b) Applicability. Any construction, establishment, alteration, enlargement, or modification of an Accessory Dwelling Unit or a Junior Accessory Dwelling Unit shall comply with the requirements of this article and the City's Building and Fire Codes. An Accessory Dwelling Unit or Junior Accessory Dwelling Unit that conforms to the standards of this article shall not be:

(1) Deemed to be inconsistent with the General Plan designation and zone for the parcel on which the Accessory Dwelling Unit or Junior Accessory Dwelling Unit is located.

(2) Deemed to exceed the allowable density for the parcel on which the Accessory Dwelling Unit or Junior Accessory Dwelling Unit is located.

(3) Considered in the application of any City ordinance, policy, or program to limit residential growth.

(4) Required to correct a nonconforming zoning condition. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.12.

(c) Where Permitted. Accessory Dwelling Units are allowed ministerially on all lots zoned for residential use that contain a proposed or existing single-family dwelling or existing multifamily dwelling, consistent with Government Code Section 66314.

(§ 2, Ord. 1035, eff. July 15, 2005, as amended by § 1, Ord. 1170, eff. May 3, 2019, § 1, Ord. 1190, eff. May 21, 2021; Ord. 1216, eff. 7/3/2026)

§ 9-3.3002. Definitions.

For the purposes of this article, unless otherwise apparent from the context, certain words and phrases used in this article are defined as follows:

"Accessory Dwelling Unit." A residential dwelling unit that is either attached to or located within a proposed or existing primary dwelling or is detached from the proposed or existing primary dwelling and located on the same parcel as the proposed or existing primary dwelling. An Accessory Dwelling Unit provides complete independent living facilities for one or more persons and may include a separate exterior entrance in addition to permanent provisions for living, sleeping, eating, cooking (including a sink), and a bathroom. Accessory Dwelling Units include efficiency units, as defined in Health and Safety Code Section 17958.1, and manufactured homes, as defined in Health and Safety Code Section18007.

"Accessory Structure." A structure that is accessory and incidental to a dwelling located on the same parcel.

"Car Share." A program that allows customers hourly access to shared vehicles from a dedicated

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home location, with the vehicles required to be returned to that same location at the end of the trip.

"Efficiency Kitchen." Defined for purposes of establishing a Junior Accessory Dwelling Unit as a cooking facility that includes all of the following:

(1) A sink with a drain.

(2) A cooking facility with appliances.

(3) A food preparation counter.

(4) Food storage cabinets.

"Independent Living Facilities." A residential dwelling unit having permanent provisions for living, sleeping, eating, cooking, and sanitation.

"Junior Accessory Dwelling Unit." A room or rooms contained entirely within a single-family dwelling that comprise no more than 500 square feet gross floor area and that provide independent facilities for one or more persons for living, sleeping, and eating, that include an efficiency kitchen, and that include separate independent sanitation facilities or have access to shared sanitation facilities with the single-family dwelling.

"Living Area." The interior habitable area of a dwelling unit, including habitable basements and attics, but does not include a garage or any accessory structure.

"Passageway." A pathway that extends from a street or alley to one entrance of the accessory dwelling unit.

"Public Transit." A location, including but not limited to a bus stop or train station, where the public may access buses, trains, subway, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

"Tandem Parking." Two or more automobiles parked on a driveway or in any other location on a parcel, lined up behind one another.
(§ 2, Ord. 1035, eff. July 15, 2005, as amended by § 1, Ord. 1170, eff. May 3, 2019, § 1, Ord. 1190, eff. May 21, 2021; Ord. 1216, eff. 7/3/2026)

§ 9-3.3003. Accessory dwelling units allowed.

(a) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(1) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(2) The unit has exterior access from the proposed or existing single-family dwelling.

(3) The side and rear setbacks are sufficient for fire and safety.

(4) The junior accessory dwelling unit complies with the requirements of Government Code Section 66333.

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(b) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subsection (a) above.

(c) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(1) At least one accessory dwelling unit within an existing multifamily dwelling shall be allowed but the number of multiple accessory dwelling units shall not exceed 25% of the existing multifamily dwelling units.

(d) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(§ 2, Ord. 1035, eff. July 15, 2005, as amended by § 1, Ord. 1170, eff. May 3, 2019, § 1, Ord. 1190, eff. May 21, 2021; Ord. 1216, eff. 7/3/2026)

§ 9-3.3004. Application review process—Building permit.

Accessory dwelling units and junior accessory dwelling units shall require a building permit, subject to all standard application and processing fees and procedures that apply to building permits generally.

(a) Application. A complete building permit application for the accessory dwelling unit or junior accessory dwelling unit shall be submitted along with a checklist that demonstrates compliance with accessory dwelling unit and junior accessory dwelling unit requirements. The application shall include plans showing the details of the proposed accessory dwelling unit or junior accessory dwelling unit under submittal guidelines established by the Community Development Director.

(b) Compliance Determination. The Community Development Director or his or her designee shall make a determination of compliance with this article prior to issuance of the building permit for the accessory dwelling unit or junior accessory dwelling unit.

(c) Ministerial Review. All applications for accessory dwelling units or junior accessory dwelling units that comply with the requirements under this article shall be approved without discretionary review or a hearing within sixty (60) days after receipt of a complete application unless either:

(1) The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or

(2) In the case of an accessory dwelling unit and/or junior accessory dwelling unit is submitted with a permit application to create a new single-unit dwelling on the lot, the City may delay acting on the accessory dwelling unit and/or junior accessory dwelling until the City renders a decision on the new single-family dwelling application.

(d) Denial. The application shall be denied if the proposed accessory dwelling unit or junior

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accessory dwelling unit does not comply with all applicable requirements of this article or it may be conditionally approved subject to conditions that will bring the proposed accessory dwelling unit or junior accessory dwelling unit into compliance with this article.

(e) Existing Accessory Dwelling Units. The city shall not require, as a condition for ministerial approval of an accessory dwelling unit or junior accessory dwelling unit, the correction of non-conforming zoning conditions. Nothing in this article shall be construed to automatically legalize an existing unpermitted accessory dwelling unit. Existing accessory dwelling units may be legalized through the building permit process if they are brought into compliance with applicable building standards. An application for an accessory dwelling unit zoning clearance certificate may be made pursuant to the provisions of this article to convert an illegal accessory dwelling unit into a lawful accessory dwelling unit, or to allow for the replacement, alteration or expansion of an existing nonconforming accessory dwelling unit. The conversion of an illegal accessory dwelling unit into a lawful accessory dwelling unit, or the replacement, alteration or expansion of an existing nonconforming accessory dwelling unit shall be subject to the requirements of this article.

(§ 1, Ord. 1170, eff. May 3, 2019, as amended by § 1, Ord. 1190, eff. May 21, 2021; Ord. 1216, eff. 7/3/2026)

§ 9-3.3005. Development standards.

Except as modified by this section, an accessory dwelling unit and/or junior accessory dwelling unit shall conform to all requirements of the underlying residential zoning district, any applicable overlay district, and all other applicable provisions of Title 9 (Planning and Zoning) of this Code, including but not limited to height, setback, site coverage, floor area limit, and residential development standards and design criteria. Where a conflict exists between this section and State ADU law, State law shall control.

(a) Minimum Lot Area. There shall be no minimum lot area required in order to establish an accessory dwelling unit and/or junior accessory dwelling unit.

(b) Setback Requirements. Accessory dwelling units and junior accessory dwelling units shall comply with the setback requirements applicable to the zoning district, including front yard setbacks, except as noted below:

(1) For conversion of existing enclosed floor area, garage, or carport, no additional setback is required, beyond the existing provided setback.

(2) For replacement of an existing enclosed structure, garage, or carport, no additional setback shall be required, beyond the existing structure's setback, provided the replacement structure occupies substantially the same footprint and does not exceed the existing structure's size or height.

(3) Newly constructed detached accessory dwelling units may provide a minimum setback of four (4) feet from all side and rear property lines.

(c) Building Height. Detached accessory dwelling units shall not exceed sixteen (16) feet in height, except that a detached accessory dwelling unit shall be permitted to be at least eighteen (18) feet in height if the unit is located within one-half mile walking distance of a major transit stop or high-quality transit corridor or is located on a lot with an existing or proposed multi-family dwelling. An accessory dwelling unit that is attached to or located above a primary dwelling or garage shall be permitted a height of at least twenty-five (25)

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feet or the height limit of the underlying zoning district, whichever is lower.

(d) Unit Size.

(1) The maximum size of a detached or attached accessory dwelling unit is 850 square feet for a studio or one (1) bedroom unit and 1,000 square feet for a unit with two (2) bedrooms. No more than two bedrooms are allowed. Nothing in this subsection shall prevent the development of an accessory dwelling unit of at least eight hundred (800) square feet with four-foot side and rear setbacks in accordance with Government Code Section 66314.

(2) An attached accessory dwelling unit that is created on a lot with an existing or proposed single-unit dwelling is further limited to 50 percent of the floor area of the existing or proposed dwelling.

(3) Application of subsection (b) above or other development standards, such as floor area limit or site coverage, might further limit the size of the accessory dwelling unit, but in no case shall the floor area limit, open space, site coverage requirement, or any other development standard reduce the accessory dwelling unit to less than 800 square feet.

(4) The maximum size of a junior accessory dwelling unit is 500 square feet.

(5) The minimum size of an accessory dwelling unit or junior accessory dwelling unit shall be at least that of an efficiency unit.

(e) Architectural and Design. An accessory dwelling unit and/or junior accessory dwelling unit shall comply with the objective residential design standards contained in the City's adopted Community Design Standards, as may be amended from time to time. Design standards shall apply only to the extent permitted by State law.

(f) Foundation. A permanent foundation shall be required for all accessory dwelling units.

(g) Manufactured Homes. A manufactured home may be used as an accessory dwelling unit provided it meets the standards for new detached accessory dwelling units in this section, including the yard, setback, height, and architectural and design requirements. The manufactured home shall be constructed on a permanent foundation. Other types of portable or temporary housing, such as mobile homes, recreational vehicles, or tents may not be used as accessory dwelling units.

(h) Fire Sprinklers. Accessory dwelling units and/or junior accessory dwelling unit shall not be required to provide fire sprinklers if they are not required for the principal residence.

(i) Passageway. No passageway shall be required in conjunction with the construction of an accessory dwelling unit and/or junior accessory dwelling unit.

(j) Access. Every accessory dwelling unit shall have direct exterior access independent of the exterior access of the primary dwelling. The entrance to the accessory dwelling unit shall not directly face the entrance to the primary dwelling unit. There shall not be an exterior stairway serving an accessory dwelling unit located within the front half of the primary unit (i.e., stairways, if applicable, shall be located on the back half of the primary dwelling unit).

(§ 2, Ord. 1035, eff. July 15, 2005, as amended by § 1, Ord. 1170, eff. May 3, 2019, § 1, Ord. 1190, eff. May 21, 2021; Ord. 1216, eff. 7/3/2026)

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§ 9-3.3006. Other requirements.

(a) No Separate Conveyance. An accessory dwelling unit or junior accessory dwelling unit may be rented, but no accessory dwelling unit or junior accessory dwelling unit may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single unit dwelling) or from the lot and all of the dwellings (in the case of a multi-unit dwelling).

(b) Short-Term Lodging. The accessory dwelling unit and/or junior accessory dwelling unit shall not be rented for periods of less than thirty (30) days.

(c) Owner-Occupancy.

(1) No owner-occupancy requirement shall be imposed for accessory dwelling units.

(2) Junior Accessory Dwelling Unit. A natural person with legal or equitable title to the lot must reside in either the principal dwelling unit or the junior accessory dwelling unit as the person's legal domicile and permanent residence. However, this owner-occupancy requirement shall not apply to any junior accessory dwelling unit owned by a governmental agency, land trust, or housing organization.

(d) Deed Restriction and Recordation Required on JADUs. Prior to the issuance of a building permit for a junior accessory dwelling unit, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney. The deed restriction document shall notify future owners of the owner occupancy requirements and prohibition on the separate sale and conveyance from the primary dwelling unit and lot. This deed restriction shall remain in effect so long as the junior accessory dwelling unit exists on the lot.

(§ 1, Ord. 1170, eff. May 3, 2019, as amended by § 1, Ord. 1190, eff. May 21, 2021; Ord. 1216, eff. 7/3/2026)

§ 9-3.3007. Accessory dwelling unit parking.

Parking shall comply with requirements of the applicable provisions of the Los Banos Municipal Code, except as modified below:

(a) No additional parking shall be required for junior accessory dwelling units.

(b) No more than one (1) parking space may be required for each accessory dwelling unit.

(c) When additional parking is required, the parking may be provided as tandem parking and/or may be located on an existing driveway or within setback areas.

(d) No additional parking shall be required for:

(1) Accessory dwelling units converted as part of a proposed or existing space of a principal residence or existing accessory structure;

(2) Accessory dwelling units located within one-half mile walking distance of a public transit. For the purposes of this section "public transit" shall include a bus stop where the public may access buses that charge set fares, run on fixed routes, and are available to the public;

(3) Accessory dwelling units located within an architecturally and historically significant

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historic district;

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or

(5) When there is a car-share vehicle located within one (1) block of the accessory dwelling unit. For the purposes of this section, "car-share vehicle" shall mean part of an established program intended to stay in a fixed location for at least ten (10) years and available to the public.

(e) No Replacement Parking Necessary. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit at the same location or converted to an accessory dwelling unit, those off-street parking spaces are not required to be replaced.

(§ 1, Ord. 1170, eff. May 3, 2019, as amended by § 1, Ord. 1190, eff. May 21, 2021; Ord. 1216, eff. 7/3/2026)

§ 9-3.3008. Utilities and connection fees.

(a) Utility Connection Required. All accessory dwelling units and junior accessory dwelling units must be connected to public utilities (or their equivalent), including water, electric, and sewer services.

(1) Except as set forth in subsection (a)(2) herein, the City requires a new and separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Government Code Section66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(2) No separate connection between the accessory dwelling unit and the utility shall be required for units created within the existing space of a single-family dwelling, multifamily dwelling, or an accessory structure, unless the accessory dwelling unit being constructed in connection with a new single-family dwelling. Junior accessory dwelling units shall not be required to install a separate utility connection.

(3) All utility installations on the lot shall be underground.

(4) No accessory dwelling unit shall be allowed if the Building Official determines that adequate water or sewer service capacity is not available to serve the unit consistent with applicable utility standards.

(§ 1, Ord. 1170, eff. May 3, 2019, as amended by § 1, Ord. 1190, eff. May 21, 2021; Ord. 1216, eff. 7/3/2026)

§ 9-3.3009. Impact fees.

(a) Impact Fees. No impact fee shall be imposed upon the development of an accessory dwelling unit that is less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the

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square footage of the primary dwelling unit (e.g., the floor area of the accessory dwelling unit, divided by the floor area of the primary dwelling unit, multiplied by the typical fee amount charged for a new dwelling). For purposes of this section, "impact fee" has the same meaning as the term "fee" is defined in Government Code Section66000(b), except that it also includes fees specified in Government Code Section 66477. "Impact fee" does not include any connection fee or capacity charge.

(§ 1, Ord. 1190, eff. May 21, 2021; Ord. 1216, eff. 7/3/2026)

§ 9-3.3010. Appeal.

A determination by the Community and Economic Development Director or designee that a proposed accessory dwelling unit or junior accessory dwelling unit does not comply with the requirements of this article may be appealed by the applicant in accordance with the appeal procedures provided in Part 6 of Article 23 of this chapter. Approval of an accessory dwelling unit or junior accessory dwelling unit that complies with the requirements of this article shall be ministerial and shall not be subject to appeal.

(§ 1, Ord. 1170, eff. May 3, 2019, as amended by § 1, Ord. 1190, eff. May 21, 2021; Ord. 1216, eff. 7/3/2026)

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ARTICLE 31
UNCLASSIFIED DISTRICT (U)

§ 9-3.3101. Purpose (U).

The purpose of the Unclassified District is to provide a district for any area within the City which is not designated as being included in any other district and for any newly annexed area until such time as the Commission and Council apply a specific district.
(§ 4.30, Ord. 342, as amended by § 120, Ord. 1095, eff. November 20, 2010, and § 6, Ord. 1097, eff. May 20, 2011)

§ 9-3.3102. Uses permitted (U).

All uses which conform generally to the adopted land use element of the General Plan, as it applies to the specific area, shall be permitted in the Unclassified District; provided, however, a use permit shall first be secured for any use established in the district.
(§ 4.30, Ord. 342, as amended by § 120, Ord. 1095, eff. November 20, 2010, and § 6, Ord. 1097, eff. May 20, 2011)

§ 9-3.3103. Building sites, lot widths, and yards (U).

Minimum building sites, lot widths, and yards required in the Unclassified District shall be as provided in the use permit.
(§ 4.30, Ord. 342, as amended by § 120, Ord. 1095, eff. November 20, 2010, and § 6, Ord. 1097, eff. May 20, 2011)

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ARTICLE 32
(RESERVED)

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ARTICLE 33
OUTDOOR LIGHTING

§ 9-3.3301. Purpose and intent.

This article is intended to ensure the adequate installation and maintenance of outdoor lighting to safeguard safety, security and aesthetics and to:

(a) Reduce the issues created by improperly designed and installed outdoor lighting;

(b) Reduce light pollution, light trespass, glare, sky glow impacts, and offensive light sources;

(c) Prevent inappropriate, poorly designed or installed outdoor lighting;

(d) Encourage quality lighting design, light fixture shielding, uniform light intensities, maximum lighting levels within and on property lines, and lighting controls;

(e) Promote efficient and cost effective lighting and to conserve energy; and

(f) Provide an environmentally sensitive nighttime.
(§ 1, Ord. 1027, eff. May 6, 2005, as amended by § 266, Ord. 1095, eff. November 20, 2010)

§ 9-3.3302. Applicability.

This article shall apply to exterior lighting, including illumination from any interior building or structure lighting that affects the outdoor environment, unless otherwise excepted or exempted herein. All uses that require discretionary approval from City of Los Banos, such as a site plan, administrative site plan, conditional use permit, general development plan or final development plan, as well as, uses requiring Planning Division approval of a ministerial permit, such as a building permit, shall conform to this article.
(§ 1, Ord. 1027, eff. May 6, 2005, as amended by § 266, Ord. 1095, eff. November 20, 2010)

§ 9-3.3303. General provisions.

(a) Conformance at the Time of Building Permit Application. These requirements shall be met prior to a final inspection for any building permit for new development or redevelopment in accordance with the appropriate process requirements for the application.

(b) Replacement of Fixtures. If an existing non-standard light fixture is removed, it shall only be replaced with a conforming light fixture or fully shielded and mounted and in compliance with Illuminating Engineers Society of North America (IESNA) standards for full cut-off.

(c) Replacement of Lamps. To the extent that compliance with this section can be achieved by replacement of a lamp within a light fixture, such lamp shall be replaced after failure of the lamp.

(d) Public Streets, Sidewalks, and Other Common Areas or Facilities. All public streets, sidewalks, and parking lots and other common areas or facilities shall be illuminated according to the standards herein at all times to ensure that persons and property are safeguarded against crime.

(e) Outdoor Lighting. Outdoor lighting provided for security and safety shall be in working

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order at all times and maintained in a manner consistent with this article.

(f) Landscaping and Vegetation Maintenance Required. All landscaping and vegetation shall be maintained such that it does not obstruct security and safety lighting.

(g) Uniform Lighting Level Required. All outdoor lighting shall be designed and maintained to provide uniform lighting levels.

(h) Lighting Control Mechanisms. Where practicable, exterior lighting shall be equipped with timers, sensors or photocell controllers or a combination thereof to turn off non-essential lights and ensure adequate safety and security lighting.

(i) Non-Essential Lighting. Non-essential lighting shall be turned off one hour after the close of business.

(j) Essential Lighting. Essential safety and security lighting shall be kept on from dusk until dawn.

(k) Recreational Facilities. Outdoor lighting for recreational facilities, such as ball fields, shall comply with the standards established by the Illuminating Engineering Society of North America (IESNA).

(§ 1, Ord. 1027, eff. May 6, 2005, as amended by § 266, Ord. 1095, eff. November 20, 2010)

§ 9-3.3304. Exemptions.

(a) Single-Family Dwelling on Infill Sites. The lighting standards contained herein shall not apply to single-family dwellings constructed on infill sites, except that existing unshielded mercury vapor light fixtures shall be removed, replaced or shielded after failure of the lamp with light fixtures or shields that meet the requirements of this section.

(b) Ornamental Lighting. Ornamental landscape lighting where the maximum wattage of any single lights fixture does not exceed the equivalent of 15 watts incandescent or 100 lumens and is not used from 12:00 a.m. to dusk.

(c) Strings of light. Strings of light on residential properties shall be exempt from the requirements of this chapter.

(d) Aviation Lighting. Lighting used exclusively for aviation purposes is exempt from the requirements of this article. All heliport lighting shall be turned off when the heliport is not in use.

(e) Right-of-Way Lighting. Public lighting located within the right-of-way is exempt from these lighting regulations except for requiring full cut-off fixtures.

(f) Hazard Warnings. All hazard warning luminaries required by Federal regulatory agencies are exempt from the requirements of this article.

(§ 1, Ord. 1027, eff. May 6, 2005, as amended by § 266, Ord. 1095, eff. November 20, 2010)

§ 9-3.3305. Provision conflicts.

Where any provision of Federal, State, County, or City statutes, Codes, or laws conflicts with any provision of this Code, the most restrictive shall govern unless otherwise regulated by law.

(§ 1, Ord. 1027, eff. May 6, 2005, as amended by § 266, Ord. 1095, eff. November 20, 2010)

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§ 9-3.3306. Definitions.

For the purposes of this article, terms used shall be defined as follows:

Direct light. Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

Essential lighting. Outdoor lighting which is designed to illuminate entrances, exits and common areas and discourage undesirable activity, by providing the minimum illumination necessary to provide security for buildings and property, and safe passage for persons utilizing parking areas, streets, sidewalks, trails and other common areas.

Fixture. The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

Flood or spotlight. Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction provided it does not create a nuisance for adjacent properties.

Fully shielded lights. Outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report.

Glare. Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

Grandfathered luminaires. Luminaires not conforming to this Code that were in place at the time this Code was voted into effect. When an ordinance "grandfathers" a luminaire, it means that such already-existing outdoor lighting does not need to be changed unless a specified period is specified for adherence to the Code.

Height of luminaire. The height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.

Indirect light. Direct light that has been reflected or has scattered off of other surfaces.

Infill site. The development of new housing or other buildings on scattered vacant sites within the City limits.

Lamp. The component of a luminaire that produces the actual light.

Light trespass. The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Lumen. A unit of luminous flux. One foot-candle is one lumen per square foot. For the purposes of this article, the lumen-output values shall be the initial lumen output ratings of a lamp.

Luminaire. This is a complete lighting system, and includes a lamp or lamps and a fixture.

Non-essential lighting. Outdoor lighting for landscaping, architectural features, display areas, tennis courts, ball fields and the like.

Outdoor lighting. The nighttime illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

Temporary outdoor lighting. The specific illumination of an outside area of object by any man-made device located outdoors that produces light by any means for a period of less than seven

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days, with at least 180 days passing before being used again.
(§ 1, Ord. 1027, eff. May 6, 2005, as amended by § 266, Ord. 1095, eff. November 20, 2010)

§ 9-3.3307. Recreational facilities.

(a) Any light source permitted by this Code may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, or show areas, provided all of the following conditions are met:

(1) All fixtures used for event lighting shall be fully shielded, or be designed or provided with sharp cut-off capability, so as to minimize up light, spill-light, and glare;

(2) All events shall be scheduled so as to complete all activity before or as near to 10:30 p.m. as practical, but under no circumstances shall any illumination of the playing field, court, or track be permitted after 11:00 p.m. except to conclude a scheduled event that was in progress before 11:00 p.m. and circumstances prevented concluding before 11:00 p.m.

(§ 1, Ord. 1027, eff. May 6, 2005, as amended by § 266, Ord. 1095, eff. November 20, 2010)

§ 9-3.3308. Design standards.

All public and private outdoor lighting installed in the City of Los Banos shall be in conformance with the requirements established by the ordinance codified in this chapter. All previous language in City bylaws and ordinances regarding outdoor lighting is superseded by this section.

(a) Maximum Height. The maximum height of ground-mounted luminaires for pedestrian walkways may not exceed twenty (20′) feet, unless exempted.

(b) Lamp Illumination. The illumination from a lamp shall be fully shielded from view from adjacent properties and public right-of-ways, except as otherwise permitted herein.

(c) Light from Buildings. Luminance levels shall not exceed 10 foot-candles measured as initial horizontal luminance, except as otherwise permitted herein. The initial luminance level is measured following 100 hours of operation.

(d) Photometric Plan. Staff may request a photometric plan analysis on a case-by-case basis dependent on site conditions.

(e) Light Source Requirements. All outdoor light fixtures should utilize one of the following bulb types: metal halide, induction lamp, compact fluorescent, incandescent (including tungsten-halogen), high-pressure sodium and LED. Alternatives are permitted provided the approving body authorizes them.

(f) Lighting Adjacent to Residentially Zone Property. Standards for lights adjacent to or within fifteen (15′) feet from a residential zoned property, or public right-of-way shall be:

(1) Aimed away from the property line or right-of-way;

(2) Shielded on the side facing the residential property or public right-of-way.

(g) Maximum Light Fixtures on Poles. There shall be no more than two light fixtures per pole except for sports lighting and lighting for public recreational facilities, unless exempted by

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the approving body.

(h) Canopy Lighting. Lighting fixtures mounted on canopies shall be installed such that the bottom of the light fixture or its lens, whichever is lower, is recessed or mounted flush with the bottom surface of the canopy and parallel to the ground. A full cut-off light fixture may project below the underside of a canopy. All light emitted by an under canopy fixture shall be substantially confined to the ground surface directly beneath the perimeter of the canopy. No lighting except that permitted by the sign ordinance, shall be permitted on the top or sides of a canopy.

(i) Flag Poles. A flagpole may be illuminated by one upward aimed fully shielded spotlight light fixture which shall not exceed 3,500 lumens (50 watts metal halide). The light fixture shall be placed as close to the base of the flagpole as reasonably possible.

(j) Strings of Lights. No person shall use a string of lights on property with non-residential uses except if they are: (1) approved by the Planning Commission. The use of such lighting shall be for the purpose of creating ambiance and pleasing pedestrian spaces in an energy efficient manner, and low wattage or low voltage fixtures and luminaries are required; or (2) lighting displays from the last Thursday in November through the last Thursday in January.

(k) Fixture Style, Design and Color. The style, color and design of the fixtures shall be compatible with the overall design concept and use of materials for the building, site and area of the lighting plan.

(l) Safety and Security Lighting Required.

(1) All roads, driveways, sidewalks, parking lots, and other common areas and facilities in shopping centers, commercially zoned property, residential developments, and multi-family developments containing more than four dwelling units shall be sufficiently illuminated to ensure the security of property and the safety of persons using such roads, driveways, sidewalks, parking lots, and other common areas and facilities, at all times.

(2) All entrances and exits in nonresidential buildings and in two family or multi-family developments containing more than four dwelling units shall be adequately lighted to ensure the safety of persons and the security of the buildings at all times.

(§ 1, Ord. 1027, eff. May 6, 2005, as amended by § 266, Ord. 1095, eff. November 20, 2010)

§ 9-3.3309. Exceptions.

The Planning Commission shall be the approval authority for exception requests that are made for lighting plans which are part of a discretionary permit process (site plan, conditional use permit, general development plan or final development plan). Exceptions requested as part of an administrative discretionary permit or ministerial permit shall be made by the Planning Director. Exceptions may only be granted when it is found that all of the following conditions exist:

(a) There are special circumstances or conditions applying to the land, buildings, or outdoor light fixtures for which the exception is sought, which circumstances or conditions are unique to such land, buildings or outdoor light fixtures and do not apply generally to the land, buildings or outdoor light fixtures in the subdivision;

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(b) The granting of the exception will generally be consistent with the purpose of this section and will not be injurious to the subdivision or otherwise detrimental to the public welfare; and

(c) The exception is a minimum change that provides the relief requested.

(§ 1, Ord. 1027, eff. May 6, 2005, as amended by § 267, Ord. 1095, eff. November 20, 2010)

§ 9-3.3310. Temporary outdoor lighting.

(a) Any temporary outdoor lighting that conforms to the requirements of this article may be allowed through the administrative site plan review process. Nonconforming temporary outdoor lighting, such as search lights and laser source lights, may be permitted through the administrative site plan review process by the Planning Director after considering:

(1) The public and/or private benefits that will result from the temporary lighting;

(2) Any annoyance or safety problems that may result from the use of the temporary lighting; and

(3) The duration of the temporary nonconforming lighting.

(§ 1, Ord. 1027, eff. May 6, 2005, as amended by § 268, Ord. 1095, eff. November 20, 2010)

§ 9-3.3311. Effective date.

The ordinance codified in this article shall take effect 30 days after approval by the City Council and shall supersede and replace all previous ordinances pertaining to outdoor lighting.

(§ 1, Ord. 1027, eff. May 6, 2005, as amended by § 269, Ord. 1095, eff. November 20, 2010)

§ 9-3.3312. Grandfathering.

All luminaires lawfully in place prior to the date of the ordinance codified in this article shall be grandfathered. However, any luminaire that replaces a grandfathered luminaire, or any grandfathered luminaire that is moved, must meet the standards of this article. Further luminaires that direct light toward streets or parking lots that cause disability glare to motorists or cyclists should be either shielded or redirected within 90 days of notification, so that the luminaires do not cause a potential hazard to motorists or cyclists.

(§ 1, Ord. 1027, eff. May 6, 2005, as amended by § 269, Ord. 1095, eff. November 20, 2010)

§ 9-3.3313. Submittal requirements.

(a) Ministerial Permits. At times, certain types of infill development or redevelopment will trigger the need for review and approval of the outdoor lighting plan on a site. When deemed necessary by the Planning Director, the following information shall be submitted to the Planning Division for review as part of the building permit process, in addition to required building permit application requirements:

(1) A site plan showing the location of all buildings and building heights, parking, and pedestrian areas on the lot or parcel;

(2) The location and height above grade of all light fixtures including building mounted fixtures;

(3) The type and lumen rating and wattage of each lamp source;

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(4) The general style of the light fixture such as cut-off, lantern, coach light, globe, and a copy of the manufacturers catalog information sheet;

(5) If deemed necessary by the Planning Division, a photometric plan, which shows the horizontal luminance across the entire site and a minimum of ten (10′) feet beyond the lot or parcel property line; and

(6) If deemed necessary by the Planning Division a description of the lighting control mechanism including type of controls (timer, motion sensor, time clock, etc.), and indicating how lights shall be controlled during post-curfew hours.

(b) Discretionary Permits. Applications for all new development proposals, including general development plans, final development plans, site plan reviews, administrative site plan reviews, conditional use permits, and vesting tentative maps shall submit a lighting plan showing the following information:

(1) A detailed lighting plan indicating the location and the type of all ground mounted and building mounted illuminating devices, fixtures, lamps, supports, reflectors, and other devices;

(2) A description of the illuminating devices, fixtures, lamps, supports, reflectors, and other devices and the description may include, but is not limited to, catalog cuts by manufacturers and drawings (including sections where required);

(3) A photometric plan which shows foot candle readings at ten (10′) foot intervals across the entire site and a minimum of ten (10′) feet beyond the lot or parcel property line;

(4) The above required plans; descriptions and data shall be sufficiently complete to enable the Planning Division to readily determine whether compliance with the requirements of this article will be met. If such plans, descriptions and data cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures, or lamps proposed, the applicant shall additionally submit as evidence of compliance to enable such determination such certified reports of tests as will do so provided that these tests shall have been performed and certified by a recognized testing laboratory.

(§ 1, Ord. 1027, eff. May 6, 2005, as amended by § 270, Ord. 1095, eff. November 20, 2010)

§ 9-3.3314. Subdivision map certification.

If any subdivision proposes to have installed street or other common or public area outdoor lighting, the final map shall contain a statement certifying that the applicable provisions of the City of Los Banos Lighting Ordinance shall be adhered to.

(§ 1, Ord. 1027, eff. May 6, 2005, as amended by § 271, Ord. 1095, eff. November 20, 2010)

§ 9-3.3315. Lamp or fixture substitution.

Should any outdoor light fixture, or the type of light source therein, be changed after the permit has been issued, a change request must be submitted to the Planning Director for his or her approval, together with adequate information to assure compliance with this Code, which must be received prior to substitution.

(§ 1, Ord. 1027, eff. May 6, 2005, as amended by § 272, Ord. 1095, eff. November 20, 2010)

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§ 9-3.3316. Operation and maintenance.

The installation, operation and on-going maintenance costs of lighting fixtures are the responsibility of the property owner.
(§ 1, Ord. 1027, eff. May 6, 2005, as amended by § 273, Ord. 1095, eff. November 20, 2010)

§ 9-3.3317. Violations, legal actions, and penalties.

(a) Violation. It shall be a civil infraction for any person to violate any of the provisions of this article. Each and every day during which the violation continues shall constitute a separate offense.

(b) Legal Actions. If, after investigation, the Code Enforcement Officer finds that any provision of this article is being violated, shall be given notice by hand delivery or by certified mail, return-receipt requested, of such violation to the owner and/or to the occupant of such premises, demanding that violation be abated within 30 days of the date of hand delivery or of the date of mailing of the notice. If the violation is not abated within the 30 day period, the Code Enforcement Officer may institute actions and proceedings, either legal or equitable, to enjoin, restrain, or abate any violations of this article and to collect the penalties for such violations.

(c) Penalties. A violation of this article, or any provision thereof, shall be punishable by a civil penalty of not less than Fifty and No/100ths ($50.00) Dollars nor more than One Thousand and No/100ths ($1,000.00) Dollars for any individual (and not more than Ten Thousand and No/100ths ($10,000.00) Dollars for any corporation, association, or other legal entity) for each violation. The imposition of a fine under this article shall not be suspended. Each day of violation after the expiration of the 30 day period provided in subsection (b) of this section shall constitute a separate offense for the purpose of calculating the civil penalty.
(§ 1, Ord. 1027, eff. May 6, 2005, as amended by § 273, Ord. 1095, eff. November 20, 2010)

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ARTICLE 34
DENSITY BONUSES AND OTHER AFFORDABLE HOUSING INCENTIVES

§ 9-3.3401. Purpose and intent.

This article is intended to provide density bonuses and incentives or concessions for the production of housing that is affordable to the types of households and qualifying residents identified in this article in accordance with Sections 65915 through 65918 of the California Government Code, as amended or superseded. In enacting these provisions, it is the intent of the City of Los Banos to facilitate the development of affordable housing and to implement the requirements of Government Code Section 65915 et. seq., and the goals, objectives, and policies of the Housing Element of the City's General Plan. Where regulations are not specifically addressed in this article or where there are conflicts between these provisions and the provisions of California Government Code Sections 65915 through 65918, the provisions of California Government Code, as they may be amended over time, shall apply.
(§ 2, Ord. 1028, eff. May 6, 2005, as amended by § 275, Ord. 1095, eff. November 20, 2010; § 1, Ord. 1175, eff. December 6, 2019)

§ 9-3.3402. Definitions.

For the purpose of this article, the following meanings and definitions shall apply:

"Affordable rent" has the definition and meaning set forth in California Health and Safety Code Section 50053.

"Affordable housing cost" has the definition and meaning set forth in California Health and Safety Code Section 50052.5.

"Child care facility" means a facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and school age child care centers as defined by California Government Code Section 65915(h).

"Commercial development bonus" means a modification of development standards mutually agreed upon by the City and a commercial developer that is provided to a commercial development eligible for such a bonus pursuant to Section 9-3.3414.

"Concession" or "incentive" has the definition and meaning set forth in California Government Code Section 65915(k) and means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Government Code Section 65915(c).

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing

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project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the City, that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Government Code Section 65915(c).

This definition does not limit or require the provision of direct financial incentives for a housing development, including the provision of publicly owned land, by the City or the waiver of fees or dedication requirements.

"Common interest development" has the definition and meaning set forth in California Civil Code Section 1351.

"Density bonus," means a density increase over the otherwise maximum allowable gross residential density under the applicable zoning code provisions and the land use element of the general plan as of the date of application by the applicant to the City.

"Density bonus housing agreement" means a legally binding agreement between a developer and the City to ensure that the requirements of this article are satisfied. The agreement, among other things, shall establish: the number of target units, their size, location, terms and conditions of affordability, and production schedule.

"Density bonus units" means those residential units granted pursuant to the provisions of this article, which exceed the otherwise maximum residential density of the underlying land use designation and zoning district for the development site.

"Development standard" means the site or construction conditions that apply to a residential development pursuant to any ordinance, general plan element, specific plan, or other city condition, law, policy, resolution or regulation including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio as defined by California Government Code Section65915(o).

"Disabled veteran" has the definition and meaning set forth in California Government Code Section 18541.

"Equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced as defined by California Government Code Section 65915(c)(3)(D).

"Homeless person" has the definition and meaning set forth in 42 U.S.C. Section11301 et. seq.

"Housing cost" means the sum of actual or projected monthly payments for all of the following associated with for-sale target units: principal and interest on a mortgage loan, including any loan insurance fees, property taxes and assessments, fire and casualty insurance, property maintenance and repairs, homeowner association fees, and a reasonable allowance for utilities.

"Housing development" means any construction projects consisting of five or more residential units, including single-family, multifamily, and mobile homes for sale or rent, pursuant to this article.

"Lower income households" has the definition and meaning set and meaning forth in Section50079.5 of the California Health and Safety Code.

"Major transit stop" has the definition set forth in California Public Resources Code Section 21155.

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"Maximum residential density" means the maximum number of residential units permitted by the City's General Plan Land Use Element and Zoning Ordinance at the time of application, excluding the provisions of this article. If the housing development is within a planned development overlay zone, the maximum residential density shall be determined on the basis of the general plan and the maximum density of the underlying zone.

"Moderate income households" has the definition and meaning set forth in Section 50093 of the California Health and Safety Code.

"Non-restricted unit" means all units within a housing development excluding the target units.

"Qualifying resident" means senior citizens or other persons eligible to reside in senior citizen housing.

"Senior citizen housing development" has the definition and meaning set forth in California Civil Code Section 51.3.

"Specific adverse impact", as defined in the California Government Code Section 65589.5(d)(2), means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact on public health or safety.

"Target unit" means a dwelling unit within a housing development which will be reserved for sale or rent, and is made available at an affordable rent or affordable ownership cost, to very low, lower, or moderate income households, or is a unit in a senior citizen housing development, or is intended to serve transitional foster youth, disabled veterans, or homeless persons, and which qualifies the housing development for a density bonus and incentives pursuant to Section 9-3.3403 or qualifies a commercial development for a commercial development bonus pursuant to Section 9-3.3413.

"Transitional foster youth" has the definition and meaning set forth in California Education Code Section 66025.9.

"Very low-income households" has the definition and meaning set forth in Section 50105 of the California Health and Safety Code.
(§ 2, Ord. 1028, eff. May 6, 2005, as amended by §§ 275, 277, Ord. 1095, eff. November 20, 2010; § 1, Ord. 1175, eff. December 6, 2019)

§ 9-3.3403. Eligibility for density bonus, incentives, or concessions.

(a) The City shall grant a density bonus, in the amount specified in Section 9-3.3405, to an applicant who proposes a housing development consisting of five or more residential units and meeting at least one of the following criteria:

(1) At least 10% of the total units of the housing development as target units affordable to lower income households, as defined in California Health and Safety Code Section 50079.5; or

(2) At least 5% of the total units of the housing development as target units affordable to very low-income households, as defined in California Health and Safety Code Section 50105; or

(3) The project is a senior citizen housing development as defined in California Civil Code Sections 51.3 and 51.12, or is a mobile home park that limits residency based

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on age requirements for housing older persons in compliance with California Civil Code Sections 798.76 and799.5; or

(4) At least 10% of the total dwelling units in a common interest development are for persons and families of moderate income, as defined in California Health and Safety Code Section 50093; provided, that all units in the development are offered to the public for purchase; or

(5) At least 10% of the total number of proposed units of housing for transitional foster youth, as defined in Section 66025.9 of the California Education Code, disabled veterans, as defined in Section 18541 of the California Government Code, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act; or

(6) At least 20% of the total number of proposed units for lower income students in a student housing development that meets the requirements, as defined by California Government Code Section 65915.

(b) An applicant is not eligible for a density bonus, or any other incentives or concessions under this article, for a proposed housing development involving a property containing existing affordable housing, unless:

(1) The proposed housing development replacement units of equivalent size for the existing affordable housing units; and

(2) Either:

(A) The proposed housing development, inclusive of the replacement units at the percentages set forth in this section; or

(B) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low-income household.

(§ 2, Ord. 1028, eff. May 6, 2005, as amended by §§ 275, 278, Ord. 1095, eff. November 20, 2010; § 1, Ord. 1175, eff. December 6, 2019)

§ 9-3.3404. Requirements—Continued affordability.

In addition to any other applicable requirements set forth in this article the following requirements shall apply to all developments receiving a density bonus pursuant to this article.

(a) A target unit shall be restricted and affordable to the designated income group qualifying the development for a density bonus pursuant to Section 9-3.3403.

(b) The affordable units must be proportional to the overall project in terms of unit mix, floor plan, square footage, and exterior design. For the purposes of this section, the project's income restricted units would be considered proportional to square footage if they are at least 80% of the average square footage of all market rate units in the development with the same bedroom count. Further, the range of affordable units must be reasonably dispersed throughout the development.

(c) Target units shall be constructed concurrently with market-rate units or pursuant to a schedule included in the density bonus housing agreement. No temporary or permanent certificate of occupancy for any new market-rate unit in a housing development or for

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commercial space in a commercial development shall be issued until permanent certificates of occupancy have been issued for the required target units unless explicitly permitted by the density bonus housing agreement or partnered housing agreement. If a development project is to be phased, the target units shall be phased in the same proportion as the market rate units, or as set forth in a schedule included in the density bonus housing agreement or partnered housing agreement.

(d) The time period of availability to the intended population shall be for at least 55 years. A longer period of availability may be required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(e) The maximum allowable rents shall be determined by a formula designated by the State Department of Housing and Community Development based on the area median income. This formula is indicated in Section 65915(c) of the California Government Code.

(f) Owner occupied units shall be available at affordable housing costs, as defined in Section 50052.5 of the California Health and Safety Code.

(g) For sale affordable units may be subject to an equity sharing agreement, in the event that public subsidies are involved in the construction and/or purchase of said units.

(h) The owner of the affordable units for which a density bonus was granted must provide to the City a yearly accounting of the total units occupied, the total units vacant, the total units occupied by lower or very low-income households, the total number of units occupied by Senior Citizens and the total units required to be set aside under all applicable affordability covenants.

(§ 2, Ord. 1028, eff. May 6, 2005, as amended by §§ 275, 280, Ord. 1095, eff. November 20, 2010; § 1, Ord. 1175, eff. December 6, 2019)

§ 9-3.3405. Calculation of density bonus.

(a) A housing development that complies with the eligibility requirements in Section 9-3.3403 shall be entitled to a density bonus as follows, unless a lesser percentage is proposed by the applicant:

(1) Bonus for units for lower income households. A housing development that is eligible for a bonus in compliance with the criteria in Section 9-3.3403(a)(1) (10% of units for lower income households) shall be entitled to a density bonus calculated as follows:

BONUS FOR LOWER INCOME HOUSEHOLDS	
Percentage Lower Income Units Proposed	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5

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BONUS FOR LOWER INCOME HOUSEHOLDS	
Percentage Lower Income Units Proposed	Percentage Density Bonus
17	30.5
18	32
19	33.5
20	35

(2) Bonus for units for very low-income households. A housing development that is eligible for a bonus in compliance with the criteria in Section 9-3.3403(a)(2) (5% of units for very low-income households) shall be entitled to a density bonus calculated as follows:

BONUS FOR VERY LOW-INCOME HOUSEHOLDS	
Percentage Very Low-Income Units Proposed	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

(3) Bonus for senior citizen development. A housing development that is eligible for a bonus in compliance with the criteria in Section 9-3.3403(a)(3) (senior citizen development or mobile home park) shall be entitled to a density bonus of 20%.

(4) Bonus for moderate-income units in common interest development. A housing development that is eligible for a bonus in compliance with the criteria in Section 9-3.3403(a)(4) (10% of units in a common interest development for persons and families of moderate income) shall be entitled to a density bonus calculated as follows:

BONUS FOR MODERATE-INCOME HOUSEHOLDS	
Percentage Moderate-Income Units Proposed	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9

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BONUS FOR MODERATE-INCOME HOUSEHOLDS	
Percentage Moderate-Income Units Proposed	Percentage Density Bonus
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

(5) Bonus for transitional foster youth, disabled veterans, or homeless persons development. A housing development that is eligible for a bonus in compliance with the criteria in Section 9-3.3403(a)(5) (transitional foster youth, disabled veterans, or homeless persons) shall be entitled to a density bonus of 20%.

(6) Bonus for lower income students in a student housing development. A housing development that is eligible for a bonus in compliance with the criteria in Section 9-3.3403(a)(6) (lower income students in student housing) shall be entitled to a

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density bonus of 35%.

(b) All density calculations resulting in fractional units shall be rounded up to the next whole number, unless otherwise indicated.

(c) The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval.

(d) An applicant may elect to accept a lesser percentage of density bonus.

(e) The calculations herein are in accordance with Government Code Section65915 and are subject to any subsequent amendments or revisions thereto.

(f) Each housing development is entitled to only one density bonus mandated by this section. If a housing development qualifies for a density bonus under more than one income category or additionally as senior housing or as housing intended to serve transitional foster youth, disabled veterans, or homeless persons, the applicant shall select the category under which the density bonus is granted. Density bonuses from more than one category may not be combined.

(§ 1, Ord. 1175, eff. December 6, 2019)

§ 9-3.3406. Additional density bonus for land donation.

(a) When an applicant for a tentative subdivision map, parcel map, or other residential zoning entitlement development donates land to the City for the purpose of constructing affordable housing, the applicant shall be entitled to a 15% increase above the maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan for the entire development as follows:

BONUS FOR LAND DONATION	
Percentage Very Low-Income Units Proposed	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27

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BONUS FOR LAND DONATION	
Percentage Very Low-Income Units Proposed	Percentage Density Bonus
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

(b) The increase in density set forth in this section for land donation shall be in addition to any increase in density mandated by Section 9-3.3403 up to a maximum combined mandated density increase of 35%, if an applicant seeks both density increases.

(c) Nothing in this section shall be construed to enlarge or diminish the authority of the City to require a developer to donate land as a condition of development.

(d) An applicant shall be eligible for the increased density bonus described in this section if all of the following conditions are met:

(1) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(2) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low-income households in an amount not less than 10% of the number of residential units of the proposed development.

(3) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units and required amenities, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible.

(4) No later than the date of approval of the final subdivision map, parcel map, or of the residential development, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low-income housing units on the transferred land, except that the City may subject the proposed development to subsequent design review to the extent authorized by California Government Code Section 65583.2(i) if the design is not reviewed by the City prior to the time of transfer.

(5) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with Section 9-3.3404, which shall be recorded on the property at the time of dedication.

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(6) The land is transferred to the City or to a housing developer approved by the City. The City may require the applicant to identify and transfer the land to the developer.

(7) The transferred land shall be within the boundary of the proposed development or, if the City agrees, within one-quarter mile of the boundary of the proposed development.

(§ 2, Ord. 1028, eff. May 6, 2005, as amended by §§ 275, 279, Ord. 1095, eff. November 20, 2010; § 1, Ord. 1175, eff. December 6, 2019)

§ 9-3.3407. Additional density bonus and incentives for developments with childcare facilities.

(a) When an applicant proposes to construct a housing development that conforms to the density bonus requirements of Section 9-3403, and includes a child care facility other than a large or small family day care home that will be located on the premises of, as part of, or adjacent to the project, the development shall be eligible for the following additional bonus and incentives.

(b) City shall grant to eligible housing developments either of the following:

(1) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility; or

(2) An additional incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(c) The City shall require, as a condition of approving the housing development that the following occur:

(1) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable.

(2) Of the children who attend the child care facility, the children of very low-income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low-income households, lower income households, or families of moderate income pursuant to the density bonus requirements of Section 9-3.3403.

(d) Notwithstanding the above requirements, the City shall not be required to provide a density bonus or concession for a child care facility in compliance with this section if it finds, based upon substantial evidence, that the community has adequate child care facilities.

(§ 2, Ord. 1028, eff. May 6, 2005, as amended by §§ 275, 279, Ord. 1095, eff. November 20, 2010; § 1, Ord. 1175, eff. December 6, 2019)

§ 9-3.3408. Condominium conversions.

(a) The City shall grant either a density bonus or other incentives of equivalent financial value if the applicant for a condominium conversion agrees to provide 33% of the total units of the proposed condominium project as target units affordable to lower or moderate income households, or to provide 15% of the total units in the condominium conversion project as target units affordable to lower income households, and to provide any replacement

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affordable units required by Section 9-3.3403. All such target units shall remain affordable for the period specified in Section 9-3.3404.

(b) For purposes of this section, a "density bonus" means an increase in units of 25% over the number of apartments to be provided within the existing structure or structures proposed for conversion. "Other incentives of equivalent financial value" shall not be construed to require the City to provide a cash transfer payment or other monetary compensation of any type but may include, at the City's discretion, modification of requirements that the City might otherwise apply as conditions of approval.

(c) No condominium conversion shall be eligible for a density bonus if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were previously provided pursuant to this article or California Government Code Section 65915.

(d) Nothing in this section shall be construed to require the City to approve a condominium conversion.

(§ 1, Ord. 1175, eff. December 6, 2019)

§ 9-3.3409. City discretion.

(a) Nothing in this article shall be construed to prohibit the City from granting a density bonus greater than what is described in this article for a development that meets the requirements of this article, or from granting a proportionately lower density bonus than what is required by this article for developments that do not meet the requirements of this article.

(b) Circumstances may arise in which the public interest would be served by allowing some or all of the target units associated with one housing development to be produced and operated at an alternative development site. Where the developer and the City form such an agreement, the resulting linked developments shall be considered a single housing development for purposes of this article. Under these circumstances, the developer shall be subject to the same requirements of this article for the target units to be provided on the alternative site.

(§ 1, Ord. 1175, eff. December 6, 2019)

§ 9-3.3410. Incentives and concessions.

(a) An applicant for a density bonus in compliance with this article may submit to the City a proposal for the specific incentives or concessions listed in subsection (c) of this section that the applicant requests in compliance with this section, and may request a meeting with the Community and Economic Director or his or her designee. The applicant may file a request either before filing an application for City approval of a proposed project or concurrently with an application for project approval.

(b) The applicant shall receive the following number of incentives or concessions:

(1) One incentive or concession. One incentive or concession for a project that includes at least 10% of the total units for lower income households, at least 5% for very low-income households, or at least 10% for persons and families of moderate income in a common interest development.

(2) Two incentives or concessions. Two incentives or concessions for a project that

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includes at least 20% of the total units for lower income households, at least 10% for very low-income households, or at least 20% for persons and families of moderate income in a common interest development.

(3) Three incentives or concessions. Three incentives or concessions for a project that includes at least 30% of the total units for lower income households, at least 15% for very low-income households, or at least 30% for persons and families of moderate income in a common interest development.

(c) The City shall grant an incentive or concession request that complies with this section unless the City makes either of the following findings in writing, based upon substantial evidence:

(1) The concession or incentive does not result in identifiable and actual cost reductions, consistent with Government Code 65915(k), to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Government Code 65915(c) and this article.

(2) The incentive or concession would have a specific adverse impact, as defined in Government Code Section 65589.5(d)(2), upon public health and safety or the physical environment, or on any real property listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

(3) The concession or incentive would be contrary to State or Federal law.

(d) This section does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the City, or the waiver of fees or dedication requirements.

(e) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a General Plan amendment, Zoning Map amendment, or other discretionary approval.

(§ 2, Ord. 1028, eff. May 6, 2005, as amended by §§ 275, 281, Ord. 1095, eff. November 20, 2010; § 1, Ord. 1175, eff. December 6, 2019)

§ 9-3.3411. Waiver or reductions of development standards.

(a) An applicant may submit to the City a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of 9-3.3403 at the densities or with the concessions or incentives permitted under this article, and may request a meeting with the City.

(b) Nothing in this section shall be interpreted to require the City to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in California Government Code Section 65589.5(d)(2), upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

(c) Nothing in this section shall be interpreted to require the City to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that

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would be contrary to State or Federal law.

(d) A proposal for the waiver or reduction of development standards pursuant to this section shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to this article.

(§ 1, Ord. 1175, eff. December 6, 2019)

§ 9-3.3412. Parking adjustment/modification in density bonus projects.

(a) Upon the request of the applicant, the City will not require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of Section 9-3.3403 that exceeds the following ratios:

(1) Zero to one bedrooms: one onsite parking space.

(2) Two to three bedrooms: two onsite parking spaces.

(3) Four and more bedrooms: two and one-half (2½) parking spaces.

(b) The applicant may apply for a vehicular parking ratio, inclusive of handicapped and guest parking, that does not exceed .5 onsite parking spaces per bedroom, for a development meeting the criteria of Section 9-3.3403, that is located within .5 miles of a major transit stop, and has unobstructed access to the major transit stop.

(c) The applicant may apply for a vehicular parking ratio, inclusive of handicapped and guest parking, that does not exceed.5 onsite parking spaces per unit for a development that consists solely of rental units (exclusive of a manager's unit) with an affordable housing cost to lower income households, and is either:

(1) Located within .5 miles of a major transit stop, and has unobstructed access to the major transit stop; or

(2) A for rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the California Civil Code, and has either paratransit service, or unobstructed access to a fixed bus route service that is within .5 miles and operates at least eight times per day.

(d) The applicant may apply for a vehicular parking ratio, inclusive of handicapped and guest parking, that does not exceed .3 onsite parking spaces per unit, for a development that consists solely of rental units (exclusive of a manager's unit) with an affordable housing cost to lower income households, and is a special needs housing development, and has either paratransit service, or unobstructed access to a fixed bus route service that is within .5 miles and operates at least eight times per day.

(e) If the total number of parking spaces required for a development is other than a whole number, the number will be rounded up to the next whole number. For purposes of this section, a development may provide "onsite parking" through tandem parking or uncovered parking, but not through on-street parking.

(f) This section applies to a development that meets the requirements of Section 9-3.3403, but only at the request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this section, subject to Section 9-3.3410.

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(g) Notwithstanding subsections (b), (c) and (d), if the City or an independent consultant has conducted an area-wide or jurisdiction-wide parking study in the last seven years, then the City may impose a higher vehicular parking ratio, not to exceed the ratio described in subsection (a), based upon substantial evidence found in the parking study that includes an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low and very low income individuals, including seniors and special needs individuals. The City will pay the costs of any new study. The City may make findings, based on a parking study completed in conformity with this section, supporting the need for the higher parking ratio.

(§ 1, Ord. 1175, eff. December 6, 2019)

§ 9-3.3413. Application and review.

(a) An application for a density bonus, incentive, concession, waiver, modification, modified parking standard, or commercial development bonus pursuant to this article shall be submitted with the first application for approval of a housing development or commercial development and processed concurrently with all other applications required for the housing development or commercial development. An applicant shall be informed whether the application is complete consistent with Government Code Section 65943.

(b) The application shall be submitted on a form prescribed by the City including all applicable fees for processing the application, and shall include at least the following information:

(1) Site plan drawn to scale showing total number of units, number and location of target units, and number and location of proposed density bonus units.

(2) Summary table showing the maximum number of units permitted by the zoning and general plan excluding any density bonus units, proposed target units by income level, proposed bonus percentage, number of bonus units proposed, and total number of dwelling units proposed on the site.

(3) Tenure (rental versus for-sale) of target units and proposals for ensuring affordability.

(4) A description of all dwelling units existing on the site in the five-year period preceding the date of submittal of the application and identification of any units rented in the five-year period. If any dwelling units on the site are currently rented, the income and household size, if known, of all residents of currently occupied units. If any dwelling units on the site were rented in the five-year period but are not currently rented, the income and household size, if known, of residents occupying dwelling units when the site contained the maximum number of dwelling units.

(5) Description of any recorded covenant, ordinance, or law applicable to the site that restricted rents to levels affordable to very low or lower income households in the five-year period preceding the date of submittal of the application.

(6) Description of any requested incentives, concessions, waivers or modifications of development standards, or modified parking standards.

(7) For all incentives and concessions except mixed-use development, to establish eligibility for the requested incentives and concessions, the application shall include

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evidence that the requested incentives and concessions result in identifiable and actual cost reductions, including the actual cost reduction achieved through the incentive, and evidence that the cost reduction allows the applicant to provide affordable rents or affordable ownership costs.

(8) If a mixed-use building or project is proposed as an incentive, the applicant shall provide evidence that nonresidential land uses will reduce the cost of the residential project, and that the nonresidential land uses are compatible with the residential project and the existing or planned surrounding development.

(9) For waivers or modifications of development standards, the application shall provide evidence that the development standard for which the waiver is requested will have the effect of physically precluding the construction of the housing development with the density bonus and incentives requested.

(10) If a parking reduction is requested, a table showing parking required by the zoning ordinance and proposed parking. If a parking reduction provided by Section 9-3.3412(b), (c) or (d) is requested, evidence that the project is eligible for the requested parking reduction.

(11) If a density bonus or concession is requested for a land donation, the application shall show the location of the land to be dedicated and provide evidence that each of the findings included in Section 9-3.3406(d) can be made.

(12) If a commercial development bonus is requested for a commercial development, the application shall include the proposed partnered housing agreement, the proposed commercial development bonus, and evidence that each of the standards included in subsections (a) through (d) of this section has been met.

(13) If a density bonus or concession is requested for a child care facility, the application shall show the location and square footage of the child care facilities and provide evidence that each of the findings included in Section 9-3.3407(c) can be made.

(14) If a density bonus or incentive is requested for a condominium conversion, the application shall provide evidence that all of the requirements found in Section 9-3.3408 can be met.

(c) In accordance with State law, neither the granting of a concession or incentive, nor the granting of a density bonus, shall be interpreted, in and of itself, to require a general plan amendment, zoning change, variance, or other discretionary approval.

(d) The review process for a density bonus project shall be the same as that required for associated discretionary permits. Discretionary actions on density bonus projects shall be subject to the same appeal process applied to associated discretionary permits.

(e) The application and approval of a density bonus and any associated incentives or concessions shall not require a separate permit or approval process from that otherwise required for the same project without a density bonus request.

(f) The granting of a density bonus shall not, in and of itself, require a general plan amendment, local coastal plan amendment, zone change, or other discretionary action, including the otherwise required conditional use permit necessary to exceed the base density of a given General Plan Land Use designation category or zoning district.

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(§ 2, Ord. 1028, eff. May 6, 2005, as amended by §§ 275, 282, Ord. 1095, eff. November 20, 2010; § 1, Ord. 1175, eff. December 6, 2019)

§ 9-3.3414. Density bonus housing agreement required.

(a) Applicants requesting a density bonus shall enter into a density bonus housing agreement with the City in a form approved by the City Attorney.

(b) Following execution of the agreement by all parties, the completed density bonus housing agreement, or memorandum thereof, shall be recorded and the conditions therefrom filed and recorded on the parcel or parcels designated for the construction of target units. The approval and recordation shall take place prior to final map approval, or, where a map is not being processed, prior to issuance of building permits for such parcels or units. The density bonus housing agreement shall be binding to all future owners and successors in interest.

(§ 2, Ord. 1028, eff. May 6, 2005, as amended by §§ 275, 283, Ord. 1095, eff. November 20, 2010; § 1, Ord. 1175, eff. December 6, 2019)

§ 9-3.3415. Commercial development density bonus.

(a) When an applicant for approval of a commercial development has entered into an agreement for partnered housing to contribute affordable housing through a joint project or two separate projects encompassing affordable housing, the City will grant the commercial developer a development bonus as described in this section.

(b) The commercial developer must enter into an agreement for partnered housing between a commercial developer and a housing developer that is approved by the City, and identifies how the commercial developer will contribute affordable housing within the City. The commercial developer must partner with a housing developer partner that provides no less than either 30% of the total units for low-income households or 15% of the total units for very low-income households.

(c) The commercial developer may contribute affordable housing by directly building the affordable housing units, donating property to the affordable housing developer as a site for affordable housing, making a cash payment to the affordable housing developer for use towards the cost of constructing the affordable housing project.

(d) Housing must be constructed on the site of the commercial development or on a site that meets all of the following:

(1) Within the boundaries of the City;

(2) Within close proximity to public amenities, including schools and employment centers; and

(3) Within one-half (½) mile of a major transit stop.

(e) The development bonus granted to the commercial developer means incentives, mutually agreed upon by the developer and the City, including any of the following:

(1) Up to a 20% increase in maximum allowable intensity in the General Plan.

(2) Up to a 20% increase in maximum allowable floor area ratio.

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(3) Up to a 20% increase in maximum height requirements.

(4) Up to a 20% reduction in minimum parking requirements.

(5) Use of a limited-use/limited-application elevator for upper floor accessibility.

(6) An exception to a zoning ordinance or other land use regulation.

(f) If construction of the affordable units do not commence within the timelines specified by the agreement for partnered housing, then the City may withhold certificates of occupancy for the commercial development until the construction of the affordable housing units are complete.

(§ 1, Ord. 1175, eff. December 6, 2019)

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ARTICLE 35
MARIJUANA REGULATION

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Part 1
General

§ 9-3.3501. Legislative findings and statement of purpose.

(a) The City Council finds that the regulation of medical and non-medical marijuana activities, specifically prohibitions on all commercial marijuana activity, marijuana dispensaries, marijuana processing, marijuana delivery, outdoor marijuana cultivation, and the regulation of indoor cultivation for personal use are necessary for the preservation and protection of the public health, safety, and welfare for the City and its residents. The City Council's prohibition and regulation of such activities is within the authority conferred upon the City Council by state law.

(b) The City Council finds that this article exercises its police power to enact and enforce regulations for the public benefit, safety, and welfare of the City and its residents by (1) prohibiting all commercial non-medical marijuana land uses in all zoning districts within the City; (2) prohibiting medical marijuana dispensary and related land uses in all zoning districts within the City; (3) prohibiting the outdoor cultivation of marijuana for personal use in all zoning districts within the City; and (4) reasonably regulating the indoor cultivation of marijuana for personal use in all zoning districts within the City.

(§ 2, Ord. 1152, eff. February 4, 2017)

§ 9-3.3502. Definitions.

For purposes of this article, the following definitions shall apply:

"Commercial marijuana activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, dispensing, distribution, delivery or sale of marijuana and marijuana products as provided for in Division 10 of the Business and Professions Code.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

"Delivery" means the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under Division 10 of the Business and Professions Code that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.

"Distribution" means the procurement, sale, and transport of marijuana and marijuana products between entities licensed pursuant to Division10 of the Business and Professions Code.

"Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.

"Marijuana" means any or all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin or separated resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, including marijuana infused in foodstuff or any other ingestible or consumable product containing marijuana. The term "marijuana" shall also include "medical marijuana" as such phrase is used in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for

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Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the state of California or subject to the provisions of California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code Sections 11362.7 to 11362. 83 (Medical Marijuana Program Act).

"Marijuana accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.

"Marijuana dispensary" or "marijuana dispensaries" means any business, office, store, facility, location, retail store-front or wholesale component of any establishment, cooperative or collective that delivers (as defined in Business and Professions Code Section 19300.5(m) or any successor statute thereto) whether mobile or otherwise, dispenses, distributes, exchanges, transmits, transports, sells or provides marijuana to any person for any reason, including members of any medical marijuana cooperative or collective consistent with the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the state of California, or for the purposes set forth in California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act).

"Marijuana processing" means any method used to prepare marijuana or its byproducts for commercial retail and/or wholesale, including, but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create marijuana related products and concentrates.

"Marijuana products" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

"Medical marijuana collective" or " cooperative or collective" means any group that is collectively or cooperatively cultivating and distributing marijuana for medical purposes that is organized in the manner set forth in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the state of California or subject to the provisions of California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act).

"Person" includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

"Private residence" means a house, an apartment unit, a mobile home, or other similar dwelling. (§ 2, Ord. 1152, eff. February 4, 2017)

§ 9-3.3503. Prohibited use and activities.

(a) All Commercial Marijuana Uses and Activities Prohibited. The establishment or operation of any business of commercial marijuana activity is expressly prohibited in all zoning districts of the City. No use permit, variance, building permit, or any other entitlement,

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license, or permit, whether administrative or discretionary, shall be approved or issued for the establishment or operation of any such business or operation in any zoning district of the City, and no person or entity shall otherwise establish such businesses or operations in any zoning district of the City. Such businesses or operations may include, but are not limited to:

(1) The transportation, delivery, storage, distribution, dispensing or sale of marijuana, marijuana products, or marijuana accessories;

(2) The cultivation of marijuana;

(3) The manufacturing, processing, or testing of marijuana, marijuana products, or marijuana accessories; or

(4) Any other business licensed by the state or other government entity under Division 10 of the California Business and Professions Code, as it may be amended from time to time.

(b) Medical Marijuana Dispensaries Prohibited. The establishment or operation of any medical marijuana collective, cooperative, dispensary, delivery service, operator, establishment, processing operation, or provider is expressly prohibited in all zoning districts of the City. No use permit, variance, building permit, or any other entitlement, license, or permit, whether administrative or discretionary, shall be approved or issued for the establishment of any collective, cooperative, dispensary, delivery service, operator, establishment, processing operation, or provider in any zoning district of the City, and no person or entity including primary caregivers and qualified patients, collectives, cooperatives or dispensaries shall otherwise establish or conduct such activities in any zoning district of the City.

(1) Cultivation of medical marijuana pursuant to Section 11362.77 of the California Health and Safety Code is subject to the cultivation requirements set forth in Section 9-3.3504 of this article.

(c) Outdoor Cultivation of Marijuana Prohibited. Outdoor cultivation of marijuana is expressly prohibited in all zoning districts of the City. No use permit, variance, building permit, or any other entitlement, license, or permit, whether administrative or discretionary, shall be approved or issued for the outdoor cultivation of marijuana in the City, and no person or entity including primary caregivers and qualified patients, collectives, cooperatives or dispensaries, shall otherwise conduct such activity in the City.

(d) Indoor Cultivation of Marijuana for Non-personal Use Prohibited. Indoor cultivation of marijuana for nonpersonal uses is expressly prohibited in all zoning districts of the City. No use permit, variance, building permit, or any other entitlement, license, or permit, whether administrative or discretionary, shall be approved or issued for the indoor cultivation of marijuana for non-personal uses in the City, and no person or entity including primary caregivers and qualified patients, collectives, cooperatives or dispensaries, shall otherwise conduct such activity in the City.

(1) Cultivation of medical marijuana pursuant to Section 11362.77 of the California Health and Safety Code is subject to the cultivation requirements set forth in Section 9-3.3504 of this article.

(§ 2, Ord. 1152, eff. February 4, 2017)

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§ 9-3.3504. Regulation of indoor cultivation of marijuana for personal use.

(a) When authorized by state law, an authorized grower (a person twenty-one [21] years of age or older) shall be allowed to cultivate marijuana only in a private residence in a residential zone, only indoors, and only for personal use, subject to the restrictions set forth in Section11362.2 of the Health and Safety Code and the local following regulations:

(1) No authorized grower shall cultivate marijuana until and unless they first register with the City and provide written permission of the property owner or an authorized property management company to cultivate marijuana on the premises.

(2) The marijuana cultivation area shall be located indoors within a residential structure and shall not exceed 50 square feet and not exceed 10 feet in height, nor shall it come within 12 inches of the ceiling or any cultivation lighting. Cultivation in a greenhouse on the property of the residence but not physically part of the home is permitted, as long as it is fully enclosed, secure, not visible from a public right-of-way, a public place, or adjacent residence and meeting all requirements in this article.

(3) Marijuana cultivation lighting shall not exceed 1,200 watts in total for the total cultivation area within the residence.

(4) The use of gas products, such as, but not limited to, CO2, butane, methane, or any other flammable or non-flammable gas for marijuana cultivation or processing is prohibited.

(5) There shall be no exterior visibility or evidence of marijuana cultivation outside the private residence from the public right-of-way, a public place, or adjacent residence, including, but not limited to, any marijuana plants, equipment used in the growing and cultivation operation, and any light emanating from cultivation lighting.

(6) The authorized grower shall reside full-time in the residence where the marijuana cultivation occurs.

(7) The authorized grower shall not participate in marijuana cultivation in any other location within the City.

(8) The residence shall include fully functional and usable kitchen, bathroom, and bedroom areas for their intended use by the resident authorized grower, and the premises shall not be used primarily or exclusively for marijuana cultivation.

(9) The marijuana cultivation area shall be in compliance with the current adopted edition of the California Building Code Section 1203.4 Natural Ventilation or Section 402.3 Mechanical Ventilation (or equivalent), as amended from time to time.

(10) The building official may require additional specific standards to meet the California Building Code and Fire Code, including, but not limited to, installation of fire suppression sprinklers.

(11) The marijuana cultivation area shall not result in a nuisance or adversely affect the health, welfare, or safety of the resident or nearby residents by creating dust, glare, heat, noise, noxious gasses, odors, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

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(12) No more than six marijuana plants, mature or immature, are permitted for indoor personal cultivation under this article.

(13) Marijuana in excess of 28.5 grams produced by plants kept for indoor personal cultivation under this article must be kept in a locked space on the grounds of the private residence not visible from the public right-of-way.

(b) It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within the City to create a public nuisance in the course of cultivating marijuana plants or any part thereof in any location, indoor or outdoor. A public nuisance may be deemed to exist, if such activity produces:

(1) Odors which are disturbing to people of reasonable sensitivity residing or present on adjacent or nearby property or areas open to the public.

(2) Repeated responses to the parcel by law enforcement personnel.

(3) A repeated disruption to the free passage of persons or vehicles in the neighborhood, excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public.

(4) Any other impacts on the neighborhood which are disruptive of normal activity in the area including, but not limited to, grow lighting visible outside the dwelling, excessive vehicular traffic or parking occurring at or near the dwelling, and excessive noise emanating from the dwelling.

(5) Outdoor growing and cultivation of marijuana.

(§ 2, Ord. 1152, eff. February 4, 2017)

§ 9-3.3505. Personal use and consumption of marijuana.

(a) For purposes of this article, personal recreational use, possession, purchase, transport, or dissemination of marijuana shall be considered unlawful in all areas of the City to the extent it is unlawful under State law. No person shall smoke, ingest, or otherwise consume marijuana or marijuana products, whether recreational or medical, in the City of Los Banos to the extent it is unlawful under State law. No person shall smoke, ingest, or otherwise consume marijuana or marijuana products, whether recreational or medical, on any property owned, leased, used, rented or controlled by the City, including, but not limited to, public streets and sidewalks, parks, City facilities, open space, bike and walking trails, plazas, recreation and sports facilities.

(b) All smoking, ingesting, and consumption of marijuana or marijuana products to the extent that it is allowed under State law shall be done in a manner so as to not cause a nuisance to nearby residents or persons with noxious odors which are disturbing to people of reasonable sensitivity residing or present on adjacent or nearby property or areas open to the public.

(§ 2, Ord. 1152, eff. February 4, 2017)

§ 9-3.3506. Public nuisance.

Any violation of this article is hereby declared to be a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure 731 or any other remedy available to the

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City.
(§ 2, Ord. 1152, eff. February 4, 2017)

§ 9-3.3507. Administrative penalties.

In addition to any other remedy or penalty set forth in this article or this Code, administrative penalties may be imposed pursuant to applicable provisions of Chapter 11 Title 4 of this Code against any responsible party, in violation of any of the provisions of this article. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 11 Title 4 of this Code.
(§ 2, Ord. 1152, eff. February 4, 2017)

§ 9-3.3508. Remedies.

The remedies and penalties provided herein are cumulative, alternative and nonexclusive. The use of one does not prevent the use of any other criminal, civil, or administrative remedy or penalty authorized by, or set forth in, the Los Banos Municipal Code. None of the penalties or remedies authorized by, or set forth in, the Los Banos Municipal Code shall prevent the City from using any other penalty or remedy under state statute which may be available to enforce this section or to abate a public nuisance. Violation of this article shall constitute a crime punishable as a misdemeanor or infraction in the discretion of the City Attorney.
(§ 2, Ord. 1152, eff. February 4, 2017)

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ARTICLE 36
MOBILE FOOD VENDING

§ 9-3.3601. Purpose.

The general purpose of this article is to promote the health, safety, comfort, convenience, prosperity and general welfare of the citizens, businesses and visitors of the City of Los Banos by requiring that new and existing mobile food vendors provide the community and customers with a minimum level of cleanliness, quality, safety and security. It is the purpose and intent of the City Council in enacting this article, to provide mobile food vendors with clear and concise regulations to prevent safety, traffic and health hazards, as well as to preserve the peace, safety and welfare of the community.
(§ 1, Ord. 779, eff. July 1, 1988, as amended by § 3, Ord. 797, eff. May 5, 1989, § 1, Ord. 935, eff. October 17, 1997, § 1, Ord. 1071, eff. June 6, 2008, § 151, Ord. 1095, eff. November 20, 2010, and § 3, Ord. 1130, eff. September 5, 2015)

§ 9-3.3602. Definitions.

"All-weather surface" shall mean a hard, durable surface capable of supporting vehicular and pedestrian traffic in all weather conditions. Acceptable materials include asphalt, concrete, pavers, or other engineered materials approved by the City Engineer or Community and Economic Development Director that provide equivalent durability, drainage, and dust control. Decomposed granite, bare soil, or similar untreated surfaces do not qualify as all-weather surfaces. Gravel may be permitted as an all-weather surface only if it is treated, compacted, and maintained in a manner that prevents dust, displacement, and rutting, and is subject to review and approval by the City Engineer or Community and Economic Development Director.

"Mobile food vending unit" shall mean any vehicle, trailer, pushcart, motorized food wagon, stand, tent; or structure; not affixed to a permanent foundation, with or without wheels, which may be moved from one place to another under its own power or by other means.

"Mobile food vendor" shall mean any person who owns, controls, manages or is otherwise engaged in the business of selling prepared, pre-packaged or unprepared, unpackaged food or foodstuffs of any kind, from a mobile vending unit on private or public property.

"Persons" shall mean any person, firm, partnership, association, corporation, or business entity, and includes, but is not limited to, owners, operators, drivers, employees, agents, lessors and lessees of a mobile vending unit.

"Vend" or "vending" shall mean the sale, offer for sale, soliciting, preparation, display, barter, or exchange, of prepared, pre-packaged or unprepared, unpackaged food or foodstuffs of any kind, from a mobile food vending unit on private or public property.
(§ 1, Ord. 779, eff. July 1, 1988, as amended by § 3, Ord. 797, eff. May 5, 1989, § 1, Ord. 935, eff. October 17, 1997, § 1, Ord. 1071, eff. June 6, 2008, § 151, Ord. 1095, eff. November 20, 2010, and § 4, Ord. 1130, eff. September 5, 2015; Ord. 1209, eff. 10/17/2026)

§ 9-3.3603. Permit required.

No person may vend from a mobile food vending unit in the City without first obtaining and having in his or her possession a mobile food vendor permit issued by the City in accordance with this article. No permit granted herein shall confer any vested right to any person or business for more than the permit period. All mobile food vendors subject to this article shall comply with the provisions of this article as they may be amended hereafter.

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(§ 1, Ord. 779, eff. July 1, 1988, as amended by § 3, Ord. 797, eff. May 5, 1989, § 1, Ord. 935, eff. October 17, 1997, § 1, Ord. 1071, eff. June 6, 2008, § 151, Ord. 1095, eff. November 20, 2010, and § 5, Ord. 1130, eff. September 5, 2015)

§ 9-3.3604. Permit period.

Except as otherwise provided herein, all mobile food vendor permits issued by the City shall expire one year from the date of issuance.
(§ 1, Ord. 779, eff. July 1, 1988, as amended by § 3, Ord. 797, eff. May 5, 1989, § 1, Ord. 935, eff. October 17, 1997, § 1, Ord. 1071, eff. June 6, 2008, § 153, Ord. 1095, eff. November 20, 2010, and § 6, Ord. 1130, eff. September 5, 2015)

§ 9-3.3605. Application for permit to operate.

A person desiring to engage in a mobile food vendor operation shall submit a written application for a permit to operate in a form acceptable to and with all supporting information required by the Community and Economic Development Department. Such application shall be accompanied by a nonrefundable, nontransferable application fee in an amount as established by resolution of the City Council. Any such permit shall be required to be renewed annually and a separate non-refundable, nontransferable application fee shall be paid yearly for such renewal application. Mobile food vendors must have the permit in their possession when vending. Permits to operate are nontransferable and shall be specific to an identified vending unit(s).

(a) A background check through the Los Banos Police Department must be obtained for the mobile food vendor and each person operating or vending out of the mobile food vending unit.

(b) Every mobile food vendor operator shall obtain a City of Los Banos business license.

(c) As part of the permit to operate application, the mobile food vendor shall provide the following:

(1) Mailing address for notification purposes. If during the term of the permit, the permit holder has any change in the mailing address submitted on the original or renewal application, the permit holder shall notify the Community and Economic Development Department of such change in writing within 10 business days thereafter. Failure to provide updated contact information shall be grounds for permit suspension;

(2) Legal names of the mobile food vendor and all persons operating or vending out of the mobile food vending unit;

(3) Proof of current vehicle registration (for mobile food vending unit if applicable);

(4) Four photographs (showing different exterior views) of each mobile food vending unit;

(5) Dimensioned sample or rendering of proposed signage;

(6) A copy of a current Merced County Environmental Health permit;

(7) Proof of automobile insurance as required by the Vehicle Code (for mobile vending unit if applicable);

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(8) No person shall engage in, conduct or carry on the business of a mobile food vendor in the public right-of-way or on public property unless there is on file with the Community and Economic Development Department, in full force and effect at all times, documents issued by an insurance company authorized to do business in the State of California evidencing that the operator is insured (and naming the City as an additional insured) under a liability insurance policy providing minimum coverage of One Million and No/100ths ($1,000,000.00) Dollars for injury or death arising out of the operation of the mobile food vending unit;

(9) If the mobile food vendor is operating in the public right-of-way or on public property the mobile food vendor shall be required to execute a hold harmless agreement in a form approved by the City;

(10) If the mobile food vendor is operating on private property, the mobile food vendor shall provide the following:

(A) An affidavit in a form approved by the City from the property owner (if other than self) permitting the mobile food vendor to locate on the site;

(B) A site plan, including sufficient parking for the primary use and the mobile food vendor, for all proposed stationary location(s). Parking spaces shall be marked as required by zoning regulations;

(C) An affidavit from the business or location providing the required restroom facilities for food service workers, stating the hours that those facilities are being made available.

(d) The following may constitute grounds for denial of a permit to operate or renewal application:

(1) The proposed mobile food vending activity does not comply with all applicable laws including, but not limited to, the applicable building, zoning, housing, fire, safety and health regulations;

(2) The applicant is unable to obtain a business license due to a criminal background check or Fire Department approval;

(3) The applicant has, within three years immediately preceding the application filing date, had a permit to operate, vending license or similar permit suspended or revoked in another California jurisdiction;

(4) The applicant has knowingly made a material misstatement in the application for a permit to operate;

(5) Failure to obtain clearance from Merced County Environmental Health.

(e) The Planning Commission shall be the decision-making authority for any initial application of a permit to operate. The Community and Economic Development Director or designee shall be the decision making authority for any renewal application of a permit to operate and/or temporary administrative mobile food vendor permit.

(§ 1, Ord. 779, eff. July 1, 1988, as amended by § 3, Ord. 797, eff. May 5, 1989, § 1, Ord. 935, eff. October 17, 1997, § 1, Ord. 1071, eff. June 6, 2008, § 154, Ord. 1095, eff. November 20, 2010, and § 7, Ord. 1130, eff. September 5, 2015)

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§ 9-3.3606. Location.

(a) Public right-of-way. A mobile food vendor may locate in the public right-of-way subject to the following conditions:

(1) A mobile food vendor shall not operate within three hundred (300′) feet of any church, school grounds, park (except as set forth in Section 9-3.3609(b)), playground or City-operated recreation center;

(2) A mobile food vendor shall not operate within one hundred (100′) feet of any street intersection;

(3) In addition to the above, a mobile food vendor must comply with the following regulations, depending upon the type of use in which it is located:

(A) Residential zones.

(i) In a residential zone, a mobile food vendor shall move not less than four hundred (400′) feet at least every 10 minutes and may not return more than three times to a previous location or within four hundred (400′) feet of a previous location on the same calendar day.

(ii) Permitted hours of operation are from 9:00 a.m. to 7:00 p.m.

(iii) A mobile food vendor may not be located within four hundred (400′) feet of another mobile food vendor.

(B) Commercial zones.

(i) In a commercial zone, a mobile food vendor shall move not less than four hundred (400′) feet at least every two hours and may not return more than three times to a previous location or within four hundred (400′) feet of a previous location on the same calendar day.

(ii) Permitted hours of operation are from 8:00 a.m. to 9:00 p.m.

(iii) If a mobile food vendor is located in a commercial zone and is within one hundred (100′) feet of a residence, it shall comply with the requirements listed above for residential zones.

(C) Industrial zones.

(i) In an industrial zone, a mobile food vendor may operate 18 hours a day or as long as businesses within three hundred (300′) feet of the mobile food vendor location are open, whichever is shorter.

(ii) If a mobile food vendor is located in an industrial zone and is also within one hundred (100′) feet of a residence, it shall comply with the requirements listed above for residential zones.

(D) Construction zones and business parks. Permitted days and hours of operation are Monday through Saturday from 8:00 a.m. to 5:00 p.m.

(4) Except as set forth in Section 9-3.3609(b) no mobile food vendor shall be located or maintained on public property, including a public sidewalk or other pedestrian path,

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bicycle pathways, walking trails, public parks or inconsistent with any other City regulations;

(5) Shall not interfere with access, driveways, aisles, circulation or fire lanes and hydrants and shall not operate in a place where the operation will create an unsafe condition; and

(6) Shall comply with the requirements of the Merced County Environmental Health Department.

(b) Private property. A mobile food vendor may locate on private property subject to the conditions as follows and shall:

(1) Be incidental to a primary use with a valid business license, if required; a mobile vending unit shall not be the primary use of a parcel. Mobile food vending units shall not be permitted as an accessory use to a standalone parking lot;

(2) Be located in a commercial or industrial zoning district. Mobile food vendors shall not be located on private property in a residential zoning district, except as set forth in Section 9-3.3610(c);

(3) Not be located on a vacant parcel;

(4) Be located on pavement per City standards;

(5) Not utilize, or be located on, parking spaces required for the primary use. At least two on-site parking spaces, in addition to those required for the primary use, shall be provided for the mobile food vending unit operation;

(6) Not interfere with access, driveways, aisles, circulation or fire lanes and hydrants and shall not operate in a place where the operation will create an unsafe condition;

(7) Comply with the requirements of the Merced County Environmental Health Department;

(8) Not interfere with pedestrian movement or create a hazard for pedestrians; and

(9) One mobile food unit shall be allowed for each 1,000 square feet of paved level area not to exceed three mobile food vending units operating on the same parcel at the same time unless in connection with a special event permit.

(§ 1, Ord. 779, eff. July 1, 1988, as amended by § 3, Ord. 797, eff. May 5, 1989, § 1, Ord. 935, eff. October 17, 1997, § 1, Ord. 1071, eff. June 6, 2008, § 154, Ord. 1095, eff. November 20, 2010, § 8, Ord. 1130, eff. September 5, 2015, and § 2, Ord. 1171, eff. June 14, 2019)

§ 9-3.3607. Mobile food truck park.

(a) The establishment of multiple food truck parking areas shall be permitted in any zoning district where mobile food vendors are allowed, subject to approval of a Conditional Use Permit by the Planning Commission.

(b) The use shall be conducted entirely on a paved or all-weather surface, and not within any public right-of-way.

(c) The use shall not create any demand for additional parking that cannot be safely and

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efficiently accommodated by existing parking areas.

(d) The applicant shall demonstrate there is sufficient parking for the mobile food truck park that will not create an undue burden on surrounding properties.

(e) The use shall not interfere with pedestrian and vehicle traffic and circulation on the site and public sidewalk.

(f) The food truck park must be accessible in accordance with the Americans with Disabilities Act (ADA), including accessible paths of travel, parking, seating, and amenities as applicable.

(g) The use shall conform to all applicable building, electrical, fire, plumbing, engineering, solid waste, wastewater, and water quality requirements.

(h) The operator of the food truck park shall be required to obtain and maintain a valid City of Los Banos business license.

(i) Each mobile food vendor operating within the park shall obtain and maintain a valid Mobile Food Vendor Permit issued by the City of Los Banos; a valid City of Los Banos business license; and a current Merced County Environmental Health Permit.

(j) As part of the Conditional Use Permit process, the City may require the installation of permanent features including, but not limited to, ADA compliant restrooms, seating areas, shelters, refuse/recycling containers and enclosures, lighting, and other amenities deemed necessary to support the health, safety, and convenience of patrons and the surrounding community.

(k) The City reserves the right to inspect and require modifications for safety or compliance.
(Ord. 1209, eff. 10/17/2026)

§ 9-3.3608. Operational requirements.

(a) Mobile Food Vending Unit.

(1) The mobile food vendor shall display, in plain view and at all times, current permits and licenses and the vendor's permit shall be affixed to the mobile vending unit.

(2) While vending, drive wheels of the mobile food vending unit shall be chocked in such a manner as to prevent movement.

(3) The mobile food vending unit shall be entirely self-sufficient in regards to gas, water and telecommunications. All mobile food vending units that use a generator, propane, compressed natural gas, open flame, heat source, or appliance to operate the mobile food vending unit shall obtain Fire Department approval and shall be subject to inspection by the Los Banos Fire Department prior to issuance or renewal of a business license involving use of the mobile food vending unit. All mobile food vending units shall comply with California Fire Code,California Code of Regulations, and California Mechanical Code. Should any utility hook-ups or connections to on-site utilities be used or required, the mobile food vendor shall be required to apply for appropriate permits or receive approval by the appropriate City department to ensure building and public safety and consistency with applicable building and zoning regulations.

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(4) The mobile food vendor shall not discharge items onto the sidewalk, gutter, storm drainage inlets or streets.

(5) Any person engaged in mobile food vending shall wear, on their person, identification with a picture and name while vending. Such identification is to be obtained from the Los Banos Police Department.

(b) Appearance of Site.

(1) The site shall be maintained in a safe and clean manner at all times.

(2) A-frame signs in accordance with Section 9-3.2805(v) of this Code shall be permitted in conjunction with the mobile food vendor unit.

(3) Any site improvements required for mobile food vendor operations shall require application for the appropriate permits to ensure building and public safety and consistency with applicable building and zoning regulations.

(4) Exterior storage of refuse, equipment or materials associated with the mobile food vendor is prohibited.

(c) Amplification. While moving, a mobile food vending unit may utilize amplified music, provided that such music shall not exceed eighty (80) decibels at ten (10') feet from the source as measured by a sound level meter. Any amplified music shall cease while the mobile food vending unit is stopped for vending purposes.

(d) Sanitation.

(1) All mobile food vendors operating a mobile food facility as defined by the Health and Safety Code shall operate out of a commissary pursuant to Health and Safety Code Section 114295.

(2) All mobile food vending units shall be equipped with refuse containers large enough to contain all refuse generated by the operation of such a unit, and the vendor of the mobile unit shall pick up all refuse generated by such operation within a twenty-five (25') foot radius of the vehicle before such unit is moved. No mobile food vendor shall dispose of any trash or refuse in any such public or private trash receptacle other than a trash receptacle owned, operated or otherwise provided by and under the control of such vendor.

(3) All mobile food vendors operating a mobile food facility as defined by the Health and Safety Code shall comply with Health and Safety Code Section 114315, as may be amended, regarding the availability of adequate toilet facilities for use by food service personnel.

(e) Safety and Security.

(1) No vending shall be permitted except after the mobile food vending unit has been brought to a complete stop and parked in a lawful manner.

(2) The mobile food vendor shall install signage in a visible location on the mobile vending unit indicating that loitering is not permitted.

(3) The mobile food vendor shall enforce the no loitering rule.

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(f) Temporary Structures and Seating.

(1) A maximum of two (2) temporary canopies or shade sails, each not exceeding 120 square feet in size, may be erected in conjunction with a mobile food vending operation but must be removed at the end of each business day.

(2) A maximum of three (3) tables, providing seating for up to a total of twelve (12) people, may be permitted. All tables and chairs must also be removed at the end of each business day.

(3) No permanent structures may be constructed on-site to support the operation of a mobile food vending facility.

(4) All canopies and shade sails shall be properly secured with stakes or weights to ensure safety and stability.

(5) The location of the temporary structures and seating shall be shown on a Site Plan, subject to approval by the Community and Economic Development Director.

(6) All temporary canopies, shade sails, tables, and chairs shall be in good condition and free from weather damage, tears, or disrepair.

(7) Minor variations from these requirements may be permitted, subject to approval by the Community and Economic Development Director.

(§ 1, Ord. 779, eff. July 1, 1988, as amended by § 3, Ord. 797, eff. May 5, 1989, § 1, Ord. 935, eff. October 17, 1997, § 1, Ord. 1071, eff. June 6, 2008, § 155, Ord. 1095, eff. November 20, 2010, and § 9, Ord. 1130, eff. September 5, 2015; Ord. 1209, eff. 10/17/2026)

§ 9-3.3609. Temporary administrative mobile food vendor permit.

(a) A mobile food vendor that otherwise meets all the requirements of this article shall be eligible to obtain temporary administrative mobile food vendor permit issued over the counter by the Community and Economic Development Department for the temporary operation of a mobile food vending unit not to exceed one day per any one week period. A mobile food vendor shall be eligible for a maximum of six temporary administrative mobile food vendor permits per 12 month period.

(b) Notwithstanding the provisions of this article, a temporary administrative mobile food vending permit may allow the mobile food vending unit, not to exceed two units at the same time, to be located in the drive lane adjacent to the northern boundary of Pacheco Park except immediately before and after and during the time of a special event at the park subject to such other reasonable conditions as deemed appropriate by the Community and Economic Development Director.

(§ 14, Ord. 1130, eff. September 5, 2015; Ord. 1209, eff. 10/17/2026)

§ 9-3.3610. Exemptions.

The following shall be exempt from the requirements of this article:

(a) Any person engaged in vending where such person has been authorized by the City of Los Banos to engage in such activity by a special event permit, in connection with a certified farmer's market, or other permit or entitlements issued by the City of Los Banos.

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(b) Any person delivering any goods by vehicle where such goods have been ordered in advance for such delivery from any business located at a permanent location and which goods are being delivered from such location to the customer by vehicle, regardless of the point of sale.

(c) Any person on private property in a residential zone operating solely for private catering purposes when: (1) the mobile food vending unit is parked entirely on private property; (2) service is limited to the guests of the catered event; (3) no admission is charged for attending the event; and (4) no payment is required from the guests for individual orders from the mobile food vending unit.

(§ 1, Ord. 779, eff. July 1, 1988, as amended by § 3, Ord. 797, eff. May 5, 1989, § 1, Ord. 935, eff. October 17, 1997, § 1, Ord. 1071, eff. June 6, 2008, § 156, Ord. 1095, eff. November 20, 2010, and § 10, Ord. 1130, eff. September 5, 2015; Ord. 1209, eff. 10/17/2026)

§ 9-3.3611. Application of other laws and regulations.

(a) The provisions of this article prohibiting the stopping or parking of a vehicle shall apply at all times or at those times specified by this article, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

(b) The provisions of this article imposing a time limit on stopping or parking shall not relieve any person from the duty to observe other more restrictive provisions of the Vehicle Code, this Code or any other ordinances of the City, prohibiting or limiting the stopping or parking of vehicles in specified places or at specified times.

(c) The provisions of this article shall not relieve any person from the provisions of the Health and Safety Code pertaining to the regulation of mobile food facilities.

(§ 1, Ord. 779, eff. July 1, 1988, as amended by § 3, Ord. 797, eff. May 5, 1989, § 1, Ord. 935, eff. October 17, 1997, § 1, Ord. 1071, eff. June 6, 2008, § 156, Ord. 1095, eff. November 20, 2010, and § 11, Ord. 1130, eff. September 5, 2015; Ord. 1209, eff. 10/17/2026)

§ 9-3.3612. Suspension/revocation of permit to operate.

(a) Violation and noncompliance. The Community and Economic Development Director or designee may refuse to renew a permit or may revoke or suspend an existing permit on the grounds that the permit holder has failed to comply with the permit conditions or other requirements of this article. If a suspended permit lapses during the suspension period, a new application must be filed at the end of the suspension period. In any such case, the permit holder shall have the right to appeal in the time and manner set forth in this section.

(b) Revocation and suspension of permit to operate. When the City concludes that grounds for denial, suspension, revocation or refusal to renew a permit to operate exist, he or she shall serve the applicant or permit holder, either personally or by certified mail addressed to the business or residential address of applicant or permit holder, with a notice of denial or notice of intent to suspend, revoke or refuse to renew permit.

This notice shall state:

(1) The reasons for the proposed action;

(2) The effective date of the decision;

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(3) The right of the applicant or permit holder to a hearing; and

(4) That the decision will be final if no hearing request is filed within five business days.

(c) Hearings and appeals. Hearings and appeals of the decision of the Community and Economic Development Director or designee or the Planning Commission shall be conducted in the same manner provided by Sections 9-3.2330 through 9-3.2334.

(§ 1, Ord. 779, eff. July 1, 1988, as amended by § 3, Ord. 797, eff. May 5, 1989; § 1, Ord. 935, eff. October 17, 1997; § 1, Ord. 1071, eff. June 6, 2008; § 157, Ord. 1095, eff. November 20, 2010, §§ 11, 12, Ord. 1137, eff. October 2, 2015, and § 12, Ord. 1130, eff. September 5, 2015; Ord. 1209, eff. 10/17/2026)

§ 9-3.3613. Applicability of ordinance to existing businesses.

(a) The provisions of the ordinance codified in this article shall be applicable to all mobile food vendors established after the effective date of the ordinance codified in this article.

(b) All existing mobile food vendors operating within the City shall be required to obtain a permit to operate and otherwise comply with this article upon the expiration of a current business license and/or application of a renewal of a current business license.

(§ 1, Ord. 779, eff. July 1, 1988, as amended by § 3, Ord. 797, eff. May 5, 1989; § 1, Ord. 935, eff. October 17, 1997; § 1, Ord. 1071, eff. June 6, 2008; § 158, Ord. 1095, eff. November 20, 2010, and § 13, Ord. 1130, eff. September 5, 2015; Ord. 1209, eff. 10/17/2026)

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ARTICLE 37
CHILD DAY CARE FACILITIES

§ 9-3.3701. Purpose and intent.

The State of California has enacted laws and regulations with the intent to provide for the care of children in an appropriate environment. The purpose of this article is to implement said laws and regulations and to establish standards for child day care facilities as defined in Section 9-3.201. (§ 22, Ord. 917, eff. June 6, 1997, as amended by § 161, Ord. 1095, eff. November 20, 2010, and § 3, Ord. 1174, eff. September 20, 2019)

§ 9-3.3702. Small family day care home.

(a) Small family day care homes as defined in Section 9-3.201 shall be a permitted use in all residential zones (R-1, R-2, R-3, M-X), provided said uses are housed within structures which comply with the development standards required of all structures within the zoning district. Notwithstanding any other provisions of this chapter, and pursuant to Section 1597.45 of the Health and Safety Code, small family day care homes which are properly licensed pursuant to the provision of the Child Day Care Act shall be considered a residential use of property and shall be allowed as a matter of right in all residential zones.

(b) Small family day care homes shall also be allowed as a matter of right in a detached single-family dwelling, a townhouse, a dwelling unit within a dwelling, or a dwelling unit within a covered multifamily dwelling in nonresidential zones, so long as they are a legal nonconforming use.

(c) Proper state licensing shall be obtained prior to operation of a small family day care home. A small family day care home shall not require a business license or zoning permit.

(§ 3, Ord. 1174, eff. September 20, 2019, as amended by § 16, Ord. 1189, eff. December 2, 2020)

§ 9-3.3703. Large family day care home.

(a) Large family day care homes as defined in Section 9-3.201 shall be a permitted use in all residential zones (R-1, R-2, R-3, M-X), provided said uses are housed within structures which comply with the development standards required of all structures within the zoning district. Notwithstanding any other provisions of this chapter, and pursuant to Section 1597.45 of the Health and Safety Code, large family day care homes which are properly licensed pursuant to the provision of the Child Day Care Act shall be considered a residential use of property and shall be allowed as a matter of right in all residential zones.

(b) Large family day care homes shall also be allowed as a matter of right in a detached single-family dwelling, a townhouse, a dwelling unit within a dwelling, or a dwelling unit within a covered multifamily dwelling in nonresidential zones, so long as they are a legal nonconforming use.

(c) Proper state licensing shall be obtained prior to operation of a large family day care home. A large family day care home shall not require a business license or zoning permit.

(§ 22, Ord. 917, eff. June 6, 1997, as amended by § 162, Ord. 1095, eff. November 20, 2010; § 3, Ord. 1174, eff. September 20, 2019, and § 17, Ord. 1189, eff. December 2, 2020)

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§ 9-3.3704. Day care centers.

(a) Operation of a child care center as defined in Section 9-3.201 shall be permitted in all zoning districts subject to the review and approval of a conditional use permit, in accordance with the following:

(b) In accordance with the purpose of this article, all day care centers shall comply with the development standards for the zoning district in which they are located, including, but not limited to, the following:

(1) Play area shall be enclosed with a solid minimum fence height of six feet. Wall and/or fencing shall be block wall, wrought iron, or wood fencing.

(2) Play areas shall be located at a minimum of ten (10′) feet from any public right-of-way.

(3) One off-street parking stall shall be provided for every four children, and one for every employee on the largest shift.

(4) Loading and unloading area for children shall be provided to accommodate no less than two vehicles, and shall be located within proximity to the main entrance and shall not interfere with traffic and circulation of the area and on-site.

(5) Site design shall minimize to the degree possible, excessive noise impacts to adjoining properties.

(c) In addition to the development standards set forth in subsection (b) the following development standards shall apply in all residential zones:

(1) No outdoor play equipment shall be located in required front or street-side yards.

(2) Outdoor play areas shall be enclosed with a solid, six-foot high fence along property lines abutting residential uses.

(3) No structural or decorative alterations are permitted that change the residential appearance of the building exterior.

(4) Nighttime security lighting shall not be directed at neighboring properties and the light source shall be shielded from view off-site.

(5) Days and hours of operation shall be limited to weekdays, between the 6:30 a.m. and 7:30 p.m.

(6) No signage shall be permitted for day care centers in residential districts.

(7) The site shall not be located within 1,200 feet of another child care facility on the same street as measured from the exterior boundaries of the property.

(d) The applicant shall be required to:

(1) Comply with the applicable provisions of the Uniform Building Code, as adopted by the City of Los Banos.

(2) Comply with any standards promulgated by the State Fire Marshall and the City of Los Banos Fire Department relating to the subject of fire and life safety in child care

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centers, and the applicable provisions of the Uniform Fire Code.

(3) Operator/applicant shall be licensed or deemed exempt from licensing by the State of California as a child care center.

(4) Comply with any conditions imposed by the Planning Commission, deemed necessary to satisfy the requirements of this article.

(e) Proper State licensing shall be obtained prior to operation of a child care center.
(§ 22, Ord. 917, eff. June 6, 1997, as amended by § 163, Ord. 1095, eff. November 20, 2010, and § 3, Ord. 1174, eff. September 20, 2019)

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ARTICLE 38
TEMPORARY USES

§ 9-3.3801. Purpose and intent.

The purpose of this article is to establish procedures, standards, and requirements for the approval of temporary activities, events, and uses on private property which are ancillary to the principal use permitted under the zoning code, and is intended to operate on a short-term basis for a limited period. Such activities, events, and uses may not meet the typical use or development standards for a particular zoning district, but may be acceptable due to their temporary nature. Temporary activities, events, and uses include special events provided for the enjoyment of the public, sales and promotional activities intended to serve commercial interests, seasonal activities, temporary construction related activities, temporary storage, and similar temporary activities, events, and uses on private property. The intent of this article is to ensure that temporary uses shall be compatible with surrounding land uses, protect the rights of adjacent residences, businesses and landowners and minimize any adverse effects on surrounding properties, rights-of-way, and the environment. It is not the intent of this article to replace the need for a conditional use permit where required for permanent uses.
(§ 1, Ord. 1144, eff. May 6, 2016)

§ 9-3.3802. Applicability.

The temporary use permit provisions of this article shall apply to temporary uses of private property which are limited in duration and frequency that do not involve any significant alterations of the land, improvements or construction of permanent structures and that are not otherwise regulated or require a permit by the provisions of the Los Banos Municipal Code.
(§ 1, Ord. 1144, eff. May 6, 2016)

§ 9-3.3803. Temporary use permit required—Exceptions.

(a) Except as otherwise provided in this article, it is unlawful in the City for any person (property owner, tenant, or otherwise) to establish, conduct, or operate a temporary use without first obtaining a temporary use permit.

(b) Temporary uses not requiring a temporary use permit. The following temporary uses are allowed without a temporary use permit subject to meeting any applicable standards, requirements, and limitations; subject to any applicable permit or licensing requirements established in the Los Banos Municipal Code; and subject to the standards, requirements and limitations specified by this article:

(1) Charitable or non-profit fundraising events. Events in conjunction with a fundraising activity of a civic organization, church, lodge, public or private school, or other such charitable or non-profit group or organization. Such activities without a temporary use permit shall only occur in nonresidential districts unless located on the property owned or leased by the organization or group.

(2) Other events. Events or activities such as arts and crafts exhibits, auctions, festivals, food events, conferences, receptions, celebrations, dinner dances, indoor concerts, live entertainment, or similar events on property designed to accommodate such events, such as fairgrounds, auditoriums, halls, theatres, stadiums, schools, churches, and lodges.

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(3) Construction yards and offices. On-site contractors' construction yards and offices, including manufactured or mobile units, in conjunction with an approved construction project. Yards and offices shall be removed within 10 days of receiving an occupancy permit for the project.

(4) Emergency shelters and activities. During a declared emergency, temporary emergency shelters or activities shall be permitted in any zoning district provided that the facilities are approved by the Building Department and Fire Department prior to use.

(5) Garage and yard sales in residential zones. All garage or yard sales shall be registered with the City through the Community and Economic Development Department prior to the time of the sale, on a form provided by the City.

(A) Four garage or yard sales in any 12 month period, not exceeding two consecutive days each, shall be deemed a use incidental to the residential use of a property. Garage or yard sales in excess of this limit shall be prohibited in all residential zones.

(B) Garage sales are limited to the hours of 7:00 a.m. to 5:00 p.m.

(C) No outdoor storage shall be allowed. All sale items shall be removed from public view at the end of each sale date.

(D) All merchandise to be sold shall be displayed on a private lot and not within the public right-of-way.

(E) All signs used in connection with advertising a garage sale shall comply with the following standards. The City is authorized to remove garage sale signs that are not in compliance with the following standards:

(i) No more than one sign shall be posted on the premises of the garage sale.

(ii) No more than two freestanding signs may be posted off-site, subject to the written permission of the property owner on whose property the sign may be placed. Each off-site sign shall not exceed six square feet in area. No sign shall be placed in the public right-of-way or affixed to utility poles, street sign poles or any public facilities.

(iii) All signs shall be removed within 24 hours of the conclusion of the garage sale.

(6) Temporary portable moving containers and household storage containers in residential zones. All portable moving containers and household storage containers shall be registered with the City through the Community and Economic Development Department prior to the time of the placement of the container, on a form provided by the City.

(A) Temporary portable moving containers or household storage containers for residential moving purposes or household storage, not exceeding 14 calendar days in one twelve (12) month period, shall be deemed a use incidental to the residential use of a property. Use in excess of 14 calendar days shall require a temporary use permit.

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(B) Permitted only on the driveway of the individual residential unit, not permitted in the side yard, back yard, in the public street or right-of-way. Containers shall not be placed in the public right-of-way or overhang the sidewalk. Containers shall be placed a minimum of two feet from the front property line.

(C) Limited to one unit per residential unit.

(7) Temporary commercial storage containers in nonresidential zones. All portable storage containers shall be registered with the City through the Community and Economic Development Department prior to the time of the placement of the container, on a form provided by the City.

(A) Temporary commercial storage containers not exceeding 14 calendar days in one twelve (12) month period shall be deemed a use incidental to the use of a property in a nonresidential zone. Use in excess of 14 calendar days shall require a temporary use permit.

(B) Permitted only on an improved surface, not permitted in the public street or right-of-way. Containers shall be placed a minimum of two feet from any property line.

(C) Limited to one storage container per parcel.

(8) Temporary construction storage or construction waste containers.

(A) Temporary construction storage containers or waste containers in conjunction with an approved building permit and active construction activities shall be deemed a use incidental to the primary use of a property. The container(s) shall be removed within 10 days of receiving a final notice or ceasing construction activity.

(B) In residential zones temporary construction storage containers are permitted only on the driveway of the individual residential unit, not permitted in the side yard, back yard, in the public street or right-of-way.

(C) In all zones temporary construction storage containers shall not be placed in the public right-of-way or overhang the sidewalk. Containers shall be placed a minimum of two feet from the property line.

(D) In residential zones temporary construction waste containers are permitted only on the driveway of the individual residential unit, not permitted in the side yard, back yard, in the public street or right-of-way.

(E) In all zones temporary construction waste containers shall not be placed in the public right-of-way or overhang the sidewalk. Containers shall be placed a minimum of two feet from the property line. Exception: temporary construction waste containers are permitted curbside in the street directly in front of the construction site with the prior written approval of the Community and Economic Director.

(F) In residential zones: limited to one storage unit for the storage of equipment and tools and one waste container unit for construction waste per construction site. Any use not in compliance with the foregoing requirements shall require a

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temporary use permit.

(G) All construction storage containers or waste containers shall be registered with the City through the Community and Economic Development Department prior to the time of the placement of the container, on a form provided by the City.

(9) Fireworks stands. Subject to the provisions of the Los Banos Municipal Code Title 4 Chapter 3.

(10) Mobile vendors. Subject to the provisions of Los Banos Municipal Code Title 9, Chapter 3, Article 36.

(11) Farmers' markets. Subject to the provisions of Los Banos Municipal Code Title 9, Chapter 3, Article 42.

(12) Special events on public property. Events which are to be conducted on public property pursuant to the provisions of Los Banos Municipal Code Title 9, Chapter 3, Article 38.

(13) Temporary real estate sales offices. An office, including a manufactured or mobile unit, within an approved project, for the marketing, sales, or rental of residential, commercial, or industrial properties.

(14) Similar temporary uses. Similar temporary uses to the uses set forth in this subsection or minor promotional events which, in the opinion of the Community and Economic Development Director, do not require a temporary use permit or a use permit and are compatible with the zoning district and surrounding land uses.

(c) Allowed temporary uses requiring a temporary use permit. The following temporary uses may be allowed on private property, subject to the issuance of a Temporary Use Permit by the Community and Economic Development Director. Uses that do not fall within the categories defined below shall comply with the use and development regulations and land use permit review provisions that otherwise apply to the property.

(1) Major events. Events or activities such as amusement rides, auctions, carnivals, circuses, outdoor concerts, fairs, festivals, food events, outdoor entertainment or sporting events, or similar events on property not designed to accommodate such event not to exceed three consecutive days four times in a calendar year.

(2) Parking lot sales and promotional activities. Parking lot sales or any other event or promotional activity occupying more than 20% of an improved parking lot not to exceed three consecutive days four times in a calendar year.

(3) Seasonal sales lots. Seasonal sales of Christmas trees and pumpkins in nonresidential districts, including temporary security trailers for a period not exceeding 45 days.

(4) Outdoor sales of flowers, produce, and holiday merchandise. The temporary outdoor sales of items (e.g., flowers, produce, holiday merchandise) not to exceed three consecutive days four times in a calendar year.

(5) Temporary parking. Temporary parking lots in association with an event or other permitted use.

(6) Temporary portable moving containers and household storage containers. Temporary

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portable moving containers for residential moving purposes and household storage containers for an excess of 14 days.

(7) Temporary commercial storage containers in nonresidential zones. Temporary commercial storage containers in excess of 14 days or otherwise not in compliance with the requirements of subsection (b)(7). Permanent commercial storage containers in nonresidential districts shall require a conditional use permit.

(8) Temporary construction waste containers. Temporary construction waste containers not in compliance with the requirements of subsection (b)(8).

(9) Construction yards—Off-site. A construction yard located off-site from an approved construction project. The permit shall expire and the construction yard shall be removed immediately upon completion of the construction project, or the expiration of the companion building permit, authorizing the construction project.

(10) Similar temporary uses. Similar temporary uses to the uses set forth in this subsection which, in the opinion of the Community and Economic Development Director, requires a temporary use permit.

(§ 1, Ord. 1144, eff. May 6, 2016)

§ 9-3.3804. Application for temporary use permit.

A written application for a temporary use permit shall be submitted in a form prescribed by and with all supporting information required by the Community and Economic Development Department before the intended use is scheduled to take place. The application shall include the written consent of the owner of the property or authorized agent. Such application shall be accompanied by a nonrefundable, nontransferable application fee in an amount as established by resolution of the City Council. The permit application shall not be deemed complete until the permit fee has been paid.

(§ 1, Ord. 1144, eff. May 6, 2016)

§ 9-3.3805. Temporary use permit process.

Within three business days of receipt of a complete temporary use permit application, the Community and Economic Development Director shall circulate the application to affected City departments for comments. Within 10 business days of receiving the complete temporary use permit application, the Community and Economic Development Director shall render a decision to approve, conditionally approve or deny the permit and shall notify the applicant of the decision. If the application is denied, the notice shall state the grounds for the denial in writing. Notice may be given either by personal delivery to the applicant, or by depositing it in the U.S. mail in a sealed envelope, postage prepaid, addressed to the person to be notified at his or her address as it appears in the special event application.

(§ 1, Ord. 1144, eff. May 6, 2016)

§ 9-3.3806. Required findings.

The Community and Economic Development Director may approve an application for a temporary use permit only upon making the following findings:

(a) The proposed use would not impair the integrity and character of the subject zoning district and complies with all applicable provisions of the Uniform Building and Fire Codes.

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(b) The subject site is physically suitable for the type and density/intensity of the proposed use.

(c) The location, size, design, and operating characteristics of the proposed temporary use will not adversely impact surrounding properties.

(d) The proposed temporary use will not adversely impact the public health, safety, and welfare.

(e) There will be no potentially significant negative impacts upon environmental quality and natural resources that could not be properly mitigated and monitored.

(f) There are adequate provisions for public access, water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to the public health and safety.

(§ 1, Ord. 1144, eff. May 6, 2016)

§ 9-3.3807. Conditions of approval.

In approving a temporary use permit, the reasonable conditions may be imposed when deemed necessary to ensure that the approval will be in accordance with the required findings. These conditions may include, but are not limited to, the following: hours of operation, provisions for parking areas, lighting, traffic circulation and access, performance guarantees, property maintenance, and other additional conditions or limitations reasonably necessary to ensure that the temporary use will not adversely impact surrounding properties or public health, safety and general welfare of the community. Approval of a temporary use permit shall not be an entitlement that runs with the land and shall not be assignable or transferable to any other person.
(§ 1, Ord. 1144, eff. May 6, 2016)

§ 9-3.3808. Revocation.

A temporary use permit may be revoked or modified by the Community and Economic Development Director if any one of the following findings can be made:

(a) That circumstances have changed so that one or more of the required findings can no longer be made;

(b) That the temporary use permit was obtained by fraud or misrepresentation;

(c) That one or more of the conditions of the temporary use permit have not been met;

(d) That the use is in violation of any statute, ordinance, law, or regulation.

(§ 1, Ord. 1144, eff. May 6, 2016)

§ 9-3.3809. Appeals.

The decision of the Community and Economic Development Director or designee may be appealed as provided by the appeal procedure provided in Part 6 of Article 23 of this chapter.
(§ 1, Ord. 1144, eff. May 6, 2016)

§ 9-3.3810. Violation—Penalties.

(a) It is unlawful and a public nuisance to intentionally violate any of the provisions of this article. Violation of this article may be charged as either an infraction or a misdemeanor.

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Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code Section 36901.

(b) In addition to any other remedy or penalty set forth in this article or this Code, administrative penalties may be imposed pursuant to applicable provisions of Chapter 11 Title 4 of this Code against any responsible party, in violation of any of the provisions of this article. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 11 Title 4 of this Code.

(c) Remedies under this article are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

(§ 1, Ord. 1144, eff. May 6, 2016)

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ARTICLE 39
COTTAGE FOOD OPERATION

§ 9-3.3901. Definition and purpose.

The definition and purpose of cottage food operation shall be as described in Section 9-3.201 of this chapter.
(§§ 2, 3, Ord. 1108, eff. July 5, 2013)

§ 9-3.3902. Permit required.

No person may operate within the City without first having in his or her possession a cottage food operation permit issued by the City in accordance with this chapter. No permit granted herein shall confer any vested right to any person or business for more than the permit period. All cottage food operations shall comply with the provisions of this chapter as they may be amended hereafter.

The operation of a cottage food operation shall be permitted in all private homes subject to the criteria and conditions as established.
(§§ 2, 4, Ord. 1108, eff. July 5, 2013)

§ 9-3.3903. Permit period.

All cottage food operation permits issued by the City to operate in private homes pursuant to Section 9-3.3902 shall be limited to a permit period of one calendar year.
(§§ 2, 5, Ord. 1108, eff. July 5, 2013)

§ 9-3.3904. Application for permit to operate.

A person desiring to run a cottage food operation shall submit a written application for a permit to operate in a form acceptable to and with all supporting information required by the Community Development Department. Such application shall be accompanied by a nonrefundable, nontransferable application fee in an amount as established by resolution of the City Council. Any such permit shall be required to be renewed annually and a separate nonrefundable, nontransferable application fee shall be paid yearly for such renewal applications. The permit is to be on the premises at all times. Permits to operate are nontransferable.

(a) Every cottage food operation shall obtain a City of Los Banos business license.

(b) As part of the permit to operate application, the applicant shall provide the following:

  (1) All items as required on the Los Banos Uniform Application.

  (2) Two pictures of the front exterior of the home, showing the driveway and off street parking locations.

  (3) Two pictures of the home kitchen, preparation and storage area for the cottage food operation.

  (4) A site plan, including sufficient parking for the employee and customers.

(c) The following may constitute grounds for denial of a permit to operate or a renewal

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application:

(1) The proposed cottage food operation does not comply with all applicable laws including, but not limited to, the applicable building, zoning, housing, fire, safety and health regulations;

(2) The applicant has knowingly made a material misstatement in the application for a permit to operate;

(3) Failure to obtain registration from Merced County Environmental Health;

(4) Failure to complete California Department of Public Health (CDPH) approved food processing course;

(5) Failure to submit copy of Merced County Environmental Health permit registration to the Community Development Department;

(6) Violation of criteria or conditions from previous cottage food operation permit.

(d) The Planning Commission shall be the decision making authority for any initial application of a permit to operate. The Community Development Director or designee shall be the decision making authority for any renewal application of a permit to operate.

(§§ 2, 6, Ord. 1108, eff. July 5, 2013)

§ 9-3.3905. Criteria.

The following criteria shall apply to cottage food operations in addition to other conditions of approval as may be added through the permit process:

(a) Each cottage food operation shall conform to all State and County laws, regulations and requirements.

(b) Foods allowed for the cottage food operation must be in accordance with those listed as "approved" foods by the California Department of Public Health (CDPH).

(c) The operator of a cottage food operation shall reside within the residential unit used for such activity as their primary residence.

(d) No more than 25% of the private dwelling may be utilized for the cottage food operation.

(e) Only the home kitchen, meaning that which is primarily intended for use by the residents of a home may be utilized for preparation of cottage food operations.

(f) No physical conversions or alterations to the residential nature and character of the residential unit where a cottage food operation is being conducted shall be allowed in conjunction with the cottage food operation.

(g) No portion of any building other than the primary residence may be utilized for any aspect of the cottage food operation.

(h) No cottage food operation shall be located within three hundred (300′) feet of another such operation.

(i) All cottage food operations shall conform to the requirements and restrictions of the Los Banos Municipal Code Noise Control.

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(j) Only those individuals residing within the residential unit, as their primary residence, shall participate in a cottage food operation, except for a full-time equivalent employee.

(k) Customers of any cottage food operation shall be prohibited from consuming any products purchased from the cottage food operation on the property where such product was produced.

(l) Where a cottage food operation is conducted from a residential unit within a multi-family residential complex, the operator of the cottage food operation shall police, clean and maintain the property with regard to discarded items that may result from the cottage food operation.

(m) Violations of criteria and conditions of a cottage food operation shall result in the revocation of the business license and permit issued by the City of Los Banos.

(n) No signage or advertising on the site is allowed.

(o) Gross sales cannot exceed those limits as established by the State of California.

(p) All persons who prepare or package cottage food products shall complete a food processor course instructed by the California Department of Public Health within the next three months.

Copies of each certificate issued are to be submitted to the Community Development Department within three months of permit issuance.

(§§ 2, 7, Ord. 1108, eff. July 5, 2013)

§ 9-3.3906. Conditions.

In addition to the criteria established in Section 9-3.3905, the Planning Commission may add conditions of approval related to spacing/concentration, parking, traffic control and noise control with the initial permit to operate. The conditions of approval established by the Planning Commission will be a requirement on all subsequent renewals and can only be modified by the Planning Commission after a public hearing.

(§§ 2, 8, Ord. 1108, eff. July 5, 2013)

§ 9-3.3907. Suspension/revocation of permit to operate.

(a) Violation and noncompliance. The Community Development Director or designee may refuse to renew a permit or may revoke or suspend an existing permit on the grounds that the permit holder has failed to comply with the permit conditions or other requirements of this chapter. If a suspended permit lapses during the suspension period, a new application must be filed at the end of the suspension period. In any such case, the permit holder shall have the right to appeal in the time and manner set forth in this section.

(b) Revocation and suspension of permit to operate. When the City concludes that grounds for denial, suspension, revocation or refusal to renew a permit to operate exist, he or she shall serve the applicant or permit holder, personally or by certified mail, with a notice of denial or notice of intent to suspend, revoke or refuse to renew permit.

This notice shall state:

(1) The reasons for the proposed action;

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(2) The effective date of the decision;

(3) The right of the applicant or permit holder to a hearing; and

(4) That the decision will be final if no hearing request is filed within 10 business days.

(c) Appeals. The decision of the Community and Economic Development Director or designee or the Planning Commission may be appealed as provided by the appeal procedure provided in Part 6 of Article 23 of this chapter.

(§§ 2, 9, Ord. 1108, eff. July 5, 2013, as amended by §§ 14, 15, Ord. 1137, eff. October 2, 2015)

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ARTICLE 40
REGULATION OF UNATTENDED DONATION/COLLECTION BOXES

§ 9-3.4001. Purpose and intent.

The purpose of this article is to regulate the placement of unattended donation/collection boxes within the City. The procedures and requirements of this article are enacted to:

(a) Promote the community's health, safety, and welfare by regulating unattended donation/ collection boxes for clothing or other salvageable personal property within the City;

(b) Ensure that unattended donation/collection boxes do not pose a hazard to pedestrian and vehicular traffic;

(c) Ensure that material is not allowed to accumulate outside of the unattended donation/ collection boxes where it can be scattered by adverse weather conditions, animal contacts or human activities; and

(d) Establish criteria that avoid attracting vermin, unsightliness, and public health hazard.

(§ 1, Ord. 1126, eff. February 21, 2015)

§ 9-3.4002. Definitions.

A "commercial fundraiser" is a person or corporation paid by a charity to raise money on the charity's behalf as defined in Government Code Section 12599(a).

"Director" means Director of the Community Development Department or designee.

"Nonprofit organization" means an organization that is exempt from taxation pursuant to Section 501(c)(3) or 501(c)(4) of the United States Internal Revenue Code.

"Operator" means a person, entity, association or organization who places, maintains or operates unattended donation/collection box(es) to solicit the donation or collection of salvageable personal property.

"Permittee" means the property owner or operator who is issued a permit authorizing the placement of unattended donation/collection box(es).

"Property owner" means the person, entity, association or organization who owns the real property where the unattended donation/collection boxes are or are proposed to be located.

"Residential district" includes residential zoning districts as established pursuant to Title 9 Chapter 3 of this Code.

"Unattended donation/collection box" means any unattended container, receptacle, or similar device that is located on any property within the City used for soliciting and collecting donations of clothing or other salvageable personal property. This term does not include recycle bins for the collection of recyclable materials governed or regulated by this Code.

(§ 1, Ord. 1126, eff. February 21, 2015)

§ 9-3.4003. Permits.

(a) Unless otherwise exempt, it is unlawful and a public nuisance for any property owner or operator to place, operate, maintain or allow unattended donation/collection box(es) on real property unless the property owner or operator first obtains a permit pursuant to this article

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and the unattended donation/collection box is placed, operated and maintained in accordance with all provisions in this article.

(b) One permit application per parcel shall be completed and filed, listing all unattended donation/collection box locations on the parcel. The permit application shall be made on a form provided by the Director and shall include the following information:

(1) The name, address, email, website (if available) and telephone number of the applicant;

(2) The name, address, email, website (if available) and telephone number of the operator of the unattended donation/collection box;

(3) The name, address, email, website (if available) and telephone number of the property owner of the parcel on which each unattended donation/collection box is located;

(4) The name, address, email, website (if available) and telephone number of the person who is responsible for maintaining each unattended donation/collection box;

(5) A signed notarized statement from the property owner or the property owner's agent of the parcel consenting to the placement of the unattended donation/collection box on the property;

(6) The manner in which the donated items will be used, sold, disposed of; whether the donated items will be used for charitable purposes and if so, a description of those charitable purposes;

(7) If the operator will be soliciting donations for charitable purposes written proof sufficient to establish that the operator who will utilize the unattended donation/ collection box is qualified to solicit donations of salvageable personal property pursuant to California Welfare and Institutions Code Section 148.3, as amended;

(8) The outside dimensions of the unattended donation/collection box not to exceed four (4′) feet by four (4′) feet by six (6′) feet;

(9) The text of the disclosures that will be made on the unattended donation/collection box as required by Section 9-3.4005(a)(4) and (5); and

(10) The physical address of the real property and a drawing sufficient to indicate the proposed location of the unattended donation/collection box on the real property, as well as the size of the proposed unattended donation/collection box(es).

(c) Each application shall be accompanied by a nonrefundable fee in the amount established by resolution of the City Council. This fee shall be in addition to any fee or tax imposed by the City pursuant to any other provision of this Code.

(d) Applications shall be filed with the Director.

(e) Within 30 days of receiving a completed application, the Director shall issue a permit or deny the issuance of a permit.

(f) The Director shall not issue a permit unless:

(1) The property owner has submitted a complete and accurate application accompanied

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by the applicable fee;

(2) The proposed unattended donation/collection box is in compliance with all the requirements of this article; and

(3) The proposed location and placement of the unattended donation/collection box on the real property is in compliance with all applicable zoning and building regulations; this Code; State laws; and will not impede pedestrian, bicycle, site distances on to adjacent streets or vehicular traffic.

(g) If the Director denies an application the Director shall provide the applicant, in writing, the specific reasons for denial.

(h) A permit issued hereunder shall be valid for a maximum of three unattended donation/collection boxes per parcel of property. Each parcel of property where an unattended donation/collection box is located shall have its own individual permit.

(i) The term of the permit shall expire one year from the date of issuance.

(j) No person or operator to whom a permit has been issued shall transfer, assign, or convey such permit to another person or operator.

(k) Prior to expiration of the permit, the permittee may voluntarily cancel the permit by notifying the Director in writing of the intent to cancel the permit. The permit shall become void upon the Director's receipt of a written notice of intent to cancel the permit.

(§ 1, Ord. 1126, eff. February 21, 2015)

§ 9-3.4004. Renewal of permits.

(a) A permittee may apply for permit renewal by submitting to the Director, before the expiration of the permit, a renewal application and a non-refundable renewal fee in an amount set by resolution of the City Council.

(b) The Director shall either approve or deny the renewal of a permit within 30 days of receipt of the complete renewal application and payment of the renewal fee.

(c) The Director shall approve the renewal of a permit if he or she finds that no circumstances existed during the term of the permit, existed at the time of submission of an application for renewal, or existed at any time during the review of the application for renewal, that are inconsistent with any finding required for approval of a new permit as specified in Section 9-3.4003, or that would justify the revocation of the permit as specified in Section 9-3.4006.

(§ 1, Ord. 1126, eff. February 21, 2015)

§ 9-3.4005. Requirements and maintenance.

(a) The permittee and operator shall be individually and severally responsible for operating and maintaining, or causing to be operated and maintained, all unattended donation/collection boxes located in the City as follows:

(1) Unattended donation/collection boxes shall be maintained in good condition and appearance with no structural damage, holes, or visible rust, and shall be free of graffiti;

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(2) Unattended donation/collection boxes shall be no more than four (4′) feet by four (4′) feet by six (6′) feet;

(3) Unattended donation/collection boxes shall be locked or otherwise secured;

(4) Unattended donation/collection boxes shall contain the following contact information in two (2″) inch type visible from the front of each unattended donation/collection box: the name, address, email, and phone number of both the permittee and operator;

(5) The front of every unattended donation/collection box shall display conspicuously a statement in at least two (2″) inch font that either reads: "This collection box is owned and operated by a for-profit organization," or "This collection box is owned and operated by a nonprofit organization." For purposes of this article, a commercial fundraiser shall be classified as a for-profit organization. The unattended donation/collection box shall be marked clearly to identify the type of salvageable materials to be deposited.

(A) If the unattended donation/collection box is owned by a nonprofit organization, the front of the unattended donation/collection box shall also conspicuously display a statement describing the charitable cause that will benefit from the items donated.

(B) If the unattended donation/collection box is owned by a for-profit entity, the front of the unattended donation/collection box shall also conspicuously display a statement that reads "This collection is not tax deductible." If the unattended collection box is owned and operated by a commercial fundraiser, the commercial fundraiser may post notice of collections to a charitable cause only on the sides of the box. This notice shall always be smaller in size than the for-profit entity's name and address and shall constitute only 25% of the notice space of the box.

(6) The permittee and operator shall place a copy of the permit in a prominent and visible location in the front of the box in plain view for inspection by the public and City officials.

(7) Unattended donation/collection boxes shall be serviced and emptied as needed, but at least once per month, or within five business days of a request by the Director.

(b) The permittee and operator shall be individually and severally responsible for maintaining, or causing to be maintained, the area surrounding the unattended donation/collection boxes free of any junk, garbage, trash, debris or other refuse material.

(c) The permittee and operator shall be individually and severally responsible for abating and removing all junk, garbage, trash, debris and other refuse material in the area surrounding the unattended donation/collection boxes within 24 hours of written or verbal notice from the City.

(d) The permittee and operator shall be individually and severally responsible for all costs for abating and removing any junk, garbage, trash, debris and other refuse material from the area surrounding the unattended donation/collection boxes.

(e) It is unlawful for any property owner or operator to place an unattended donation/collection box in any residential district.

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(f) No unattended donation/collection box location shall be placed within four hundred (400′) feet from another unattended donation/collection box location.

(g) No unattended donation/collection box shall be placed on required parking spaces, or within five (5′) feet of the public right-of-way, or within any corner vision triangle, and shall not constitute a traffic hazard.

(h) No more than three unattended donation/collection boxes shall be placed on each parcel of real property.

(i) Failure to maintain an unattended donation/collection box in accordance with this section is a public nuisance.

(§ 1, Ord. 1126, eff. February 21, 2015)

§ 9-3.4006. Revocation of permit, removal of unattended donation/collection boxes and liability.

The Director shall have the right to revoke any permit issued hereunder if any of the grounds to refuse issuance of the initial permit exists. In addition, the failure of the permittee to comply with the provisions of this article, or other provisions of this Code or other law, shall also constitute grounds for revocation of the permit. The Director shall provide a written notification to the permittee stating the specific grounds for revocation. Upon revocation, the unattended donation/collection box shall be removed from the permittee's real property within 30 calendar days and, if not removed within this time period, the City may remove, store and dispose of the unattended donation/collection box at the permittee's sole cost and expense. Upon revocation, a permittee shall be prohibited from applying for a permit for a period of one year. Any violation of the provisions of this article is a public nuisance subject to abatement pursuant to this Code or as otherwise permitted by law.

(§ 1, Ord. 1126, eff. February 21, 2015)

§ 9-3.4007. Violation—Penalty.

In addition to any other remedy or penalty set forth in this article or this Code, administrative penalties may be imposed pursuant to applicable provisions of Chapter 11 Title 4 of this Code against any responsible party, in violation of any of the provisions of this article. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 11 Title 4 of this Code. Nothing in this article shall limit the City from using any remedy legally available for violations of this article.

(§ 1, Ord. 1126, eff. February 21, 2015)

§ 9-3.4008. Appeals.

The decision of the Community and Economic Development Director or designee may be appealed as provided by the appeal procedure provided in Part 6 of Article 23 of this chapter.

(§ 1, Ord. 1126, eff. February 21, 2015, as amended by § 17, Ord. 1137, eff. October 2, 2015)

§ 9-3.4009. Administrative fees.

The City Council may by resolution establish reasonable fees and deposits to defray the cost of processing applications, proposals and for the administration of this article.

(§ 1, Ord. 1126, eff. February 21, 2015)

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§ 9-3.4010. Exemption.

Unattended donation/collection boxes located entirely within the interior of a building are exempt from the requirements of this article.
(§ 1, Ord. 1126, eff. February 21, 2015)

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ARTICLE 41
SPECIAL EVENTS ON PUBLIC PROPERTY

§ 9-3.4101. Purpose and intent.

The purpose of this article is to establish clear time, place and manner regulations for the issuance of a permit for special events for the use of City streets, parks, facilities, or other property owned or controlled by the City. The City intends for its regulations to provide a coordinated process for managing activities on property owned or controlled by the City, including, but not limited to, the traffic, noise and aesthetic impacts of the activities and to ensure the health and safety of event patrons, residents, workers, and other visitors and to prohibit illegal activities from occurring at events. It is further intended to create mechanisms for cost recovery, to the extent authorized by law, while not unduly impacting the viability of the events. It is also the purpose of this article to protect the rights of people to engage in communicative and expressive activities as well as to regulate the time, place, and manner of these activities in a reasonable and minimally restrictive fashion.
(§ 1, Ord. 1134, eff. October 16, 2015)

§ 9-3.4102. Definitions.

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

"Applicant" means any person or organization who seeks a special event permit to conduct or sponsor an event governed by this article.

"Departmental service charges" means the actual costs which a department of the City incurs in connection with activities for which a special event permit is required under this article, including, but not limited to, costs associated with fire safety, traffic and/or pedestrian control, the closure of streets or intersections, the diverting of traffic, the salaries of City personnel involved in administration or coordination of City services for the event, the cost to the City to provide support personnel, equipment, materials and supplies, cleanup and restoration, and related City costs, such as fringe benefits or employee overtime. Departmental service charges shall not include costs incurred by the City to provide ordinary levels of police protective services to those engaged in activities or conduct for which a special event permit is required pursuant to this article.

"Expressive activity" means conduct protected by the First Amendment of the United States Constitution or Article 1, Section 2 of the California Constitution, which is the principal purpose of the event.

"Parade" means a march or procession consisting of persons, animals or vehicles, or combination thereof, on any City street, sidewalk or other City-owned land and improvements which obstructs, delays or interferes with the normal flow of pedestrian or vehicular traffic, or does not comply with traffic laws or controls.

"Permit application fee" means the non-refundable fee to be paid by the special event permit applicant to cover the full costs (or a portion thereof) of processing and investigating special event applications, and administering the special event permit program.

"Permittee" means any person or organization that has been issued a special events permit.

"Public assembly" means the gathering of more than 75 persons participating in an organized activity having a common purpose on or within a City street, park, or other public right-of-way,

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or other property owned or controlled by the City.

"Sidewalk" means that portion of a highway, other than the roadway, set apart by curbs, barriers, markings, or other delineation for pedestrian travel.

"Special event" means a street fair, art and craft show, carnival, rally and any other event regardless of the number of persons involved, which occurs on a City street, sidewalk or other City-owned land and improvements which is likely to obstruct, delay or interfere with the normal flow of pedestrian or vehicular traffic, or does not comply with traffic laws and controls. Examples of special events include, but are not limited to, concerts, parades, public assemblies, circuses, carnivals, fairs, festivals, street fairs, community events, mass participation sports (such as marathons and other running events), and community celebrations and observances conducted on public property or public rights-of-way.

"Street" means a way or place, of whatever nature, publicly maintained and open to use of the public for purposes of vehicular travel. Streets include highways and alleys.
(§ 1, Ord. 1134, eff. October 16, 2015)

§ 9-3.4103. Special event permit required—Exceptions.

Any person desiring to sponsor a parade, public assembly or other special event on a City street, sidewalk or other City-owned land and improvements in the City shall first obtain a special event permit. A special event permit is not required for the following:

(a) Funeral processions conducted by a licensed mortuary or funeral home.

(b) Parades involving only pedestrians marching along a parade route which is restricted to marching on sidewalks, and crossing streets only at pedestrian crosswalks in accordance with traffic regulations and controls.

(c) Spontaneous events involving expressive activity which are occasioned by news or affairs coming into public knowledge less than 30 days prior to such event may be conducted without the organizers first having to obtain a special event permit, provided that participants comply with applicable traffic regulations, laws and controls.

(d) Any activities or events held or conducted by or on behalf of governmental entity otherwise exempt from the provisions of this article under separate provision of law.

(e) Events involving expressive activity, including, but not limited to, lawful picketing, that takes place on public sidewalks owned or controlled by the City, provided that participants comply with applicable traffic regulations, laws or controls.

(f) Block parties that conform to the other provisions of the Municipal Code.

(g) Farmers' markets that conform to the other provisions of the Municipal Code.
(§ 1, Ord. 1134, eff. October 16, 2015)

§ 9-3.4104. Application for special event permit.

Any person desiring to sponsor a parade, public assembly or other special event not otherwise exempted shall submit a written application for a special event permit in a form acceptable to and with all supporting information required by the Community and Economic Development Department, not less than 30 days or more than one year and two months before the event date. Such application shall be accompanied by a nonrefundable, nontransferable application fee in

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an amount as established by resolution of the City Council. The permit application shall not be deemed complete until the permit fee has been paid. The application shall include all of the following information:

(a) Information for all events:

(1) The name, address and telephone number of the applicant and an alternative contact person;

(2) If the event is proposed to be sponsored by an organization, the name, address and telephone number of the organization, the authorized head of the organization, and written authorization to apply for the special event permit by an officer of the organization;

(3) The name, address and telephone number of the person who will be present and in charge of the event on the day of the event;

(4) The nature/purpose of the event;

(5) Date and time (starting and ending) of the event;

(6) Location of the event, including its boundaries;

(7) Estimated number of participants in the event;

(8) The type and number of vehicles, animals and structures which will be used at the event. Whether there will be water aid stations at the event;

(9) Description of any sound amplification equipment which will be used at the event;

(10) Whether any food or beverages will be sold at the event;

(11) Whether monitors will be employed at the event;

(12) Parking requirements for the event;

(13) The attachment of a certificate of insurance complying with the provisions of this article.

(b) Additional information required for parades, and other events occurring along a route:

(1) The assembly point for the event, the time at which units of the parade or other event will begin to assemble;

(2) The route to be traveled;

(3) Whether the parade or other event will occupy all or only a portion of the streets proposed to be transversed;

(4) The number, type, size and material of any floats or banners.

(c) Supplemental information. Such supplemental information as the Community and Economic Development Director shall find necessary, under the particular circumstances of a special event application, to allow for sufficient information to determine whether to approve, conditionally approve, or deny an application.

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(§ 1, Ord. 1134, eff. October 16, 2015)

§ 9-3.4105. Special event permit—Process.

(a) Within three business days of receipt of a complete special events permit application, the Community and Economic Development Director shall circulate the application to affected City departments for comments. Within 30 calendar days of receiving the complete special event permit application, the Community and Economic Development Director shall render a decision to approve, conditionally approve or deny the permit and shall notify the applicant of the decision. If the application is denied, the notice shall state the grounds for the denial in writing. Notice may be given either by personal delivery to the applicant, or by depositing it in the U.S. mail in a sealed envelope, postage prepaid, addressed to the person to be notified at his or her address as it appears in the special event application.

(b) In determining whether to approve an application, no consideration may be given to the message of the event, the content of speech, the identity or associational relationships of the applicant, or to any assumptions or predictions as to the level or nature of emotion which may be aroused in the public by the content of speech or message conveyed by the event.

(§ 1, Ord. 1134, eff. October 16, 2015)

§ 9-3.4106. Special event permit—Requirements and conditions of approval.

The Community and Economic Development Director may condition the issuance of a special events permit by imposing reasonable requirements concerning the time, place and manner of the event, and such requirements as are necessary to protect the safety of persons and property, and the control of traffic; provided, that such conditions shall not unreasonably restrict the right of free speech. Such conditions may include but are not limited to the following:

(1) Alteration of the route, time or location of the event proposed on the event application;

(2) Conditions concerning the area of assembly and disbanding of parades or other events occurring along a route;

(3) Conditions concerning accommodation of pedestrian or vehicular traffic, including restricting the event to only a portion of a street traversed;

(4) Requirements for the use of traffic cones or barricades;

(5) Requirements for provision of first aid or sanitary facilities;

(6) Requirements for use of event monitors, and providing notice of permit conditions to event participants;

(7) Restrictions on the number and type of vehicles, animals or structures at the event, and inspection and approval of floats and other decorated vehicles for fire safety by the Los Banos Fire Department;

(8) Requirements for use of garbage containers, cleanup and restoration of City property;

(9) Restrictions on use of amplified sound;

(10) Conditions designed to avoid or lessen interference with public safety functions and/or

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emergency service access;

(11) The obtaining of all applicable permits and licenses;

(12) The manner by which alcohol sales and service, if any, shall be conducted at the event;

(13) Requirement for proof of permission to use private property for a portion of the event.
(§ 1, Ord. 1134, eff. October 16, 2015)

§ 9-3.4107. Special event permit—Grounds for denial.

(a) The Community and Economic Development Director shall deny an application for a special event permit if any of the following conditions exist:

(1) Information contained in the application, or supplemental information requested from the applicant, is found to be false in any material detail.

(2) The applicant fails to complete the application form after having been requested to do so.

(3) The sole purpose of the event is advertising of any product, goods, wares, merchandise or event, and is designed to be held for private profit.

(4) Another special event permit application has been received prior in time, or has already been approved to hold another event at the same time and place requested by the applicant, or so close in time and place as to cause undue traffic congestion, or the police department is unable to meet the needs for police services for both events.

(5) The time, route or size of the event will substantially interrupt the safe and orderly movement of traffic contiguous to the event site or route, or disrupt the use of a street at a time when it is usually subject to traffic congestion.

(6) The concentration of persons, animals and vehicles at the site of the event, or the assembly and disbanding areas around an event, will prevent proper police, fire or ambulance services to areas contiguous to the event.

(7) The event will require the diversion of public safety or other City employees from their normal duties, so as to unreasonably reduce adequate levels of service or municipal functions to any other portion of the City.

(8) The location of the event will substantially interfere with any construction or maintenance work scheduled to take place upon or along the City streets or a previously granted encroachment permit.

(9) The event shall occur at a time when a school is in session at a route or location adjacent to the school or class thereof, and the noise created by the activities of the event would substantially disrupt the educational activities of the school or class thereof.

(10) The ability of persons to enter and exit residential or business properties impacted by the event will be unreasonably impaired considering factors such as the duration, size and scope of the event.

(11) The proposed use, event or activity will have a significant adverse environmental

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impact.

(12) The event or activity will have a substantial adverse impact on the health and safety of the general public, and/or residents and businesses within a three hundred (300′) foot radius of the event.

(13) The event will substantially interrupt public transportation, or other vehicular and pedestrian traffic, in the area of its location.

(b) When the grounds for denial of an application for permit are any of those specified in subsection (a)(1) through (13) of this section, can be corrected by altering the date, time duration, route or location of the event, or imposition of conditions, the Community and Economic Development Director shall, instead of denying the application, conditionally approve the application upon the applicant's acceptance of conditions for permit issuance.

(§ 1, Ord. 1134, eff. October 16, 2015)

§ 9-3.4108. Permit issuance—Street closure.

(a) The City shall issue the special events permit once the application has been approved, and the applicant has agreed in writing to comply with the terms and conditions of the permit, if any, and the provisions of this article pertaining to indemnification, departmental service charges and deposits, and insurance have been satisfied.

(b) Notwithstanding any provision in the Municipal Code to the contrary, the City Manager is authorized to close any street, or portion thereof, as part of the issuance of a special event permit or when necessary to further the purpose of the underlying event and protect the health and safety of the public.

(§ 1, Ord. 1134, eff. October 16, 2015)

§ 9-3.4109. Indemnification agreement.

Prior to the issuance of a special event permit, the permit applicant and authorized officer of the sponsoring organization (if any), must sign an agreement to reimburse the City for any costs incurred by it in repairing damage to City property in connection with the event proximately caused by the action of the permittee/sponsoring organization, its officers, employees or agents, or any person who was or reasonably should have been under the permittee's sponsoring organization's control. The agreement shall also provide that the permittee/sponsoring organization shall defend the City against, and indemnify and hold the City harmless from, any liability to any persons resulting from any damage or injury in connection with the event proximately caused by the actions of the permittee/sponsoring organization, its officers, employees or agents, or any person who was or reasonably should have been under the permittee's/sponsoring organization's control.

(§ 1, Ord. 1134, eff. October 16, 2015)

§ 9-3.4110. Insurance.

(a) The applicant/sponsor of an event must possess or obtain liability insurance to protect against loss from liability imposed by law for damages on account of bodily injury and property damage arising from the event. Such insurance shall name on the policy or by endorsement as additional insureds the City, its officers, employees, agents and volunteers. Insurance coverage must be maintained for the duration of the event. Such insurance shall

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provide "occurrence" coverage against liabilities for death, personal injury or property damage arising out of or in any way connected with the event. Such insurance shall be in the amount of at least One Million and No/100ths ($1,000,000.00) Dollars, per occurrence, and shall name the City and the City's officers, employees and agents as additional insureds under the coverage afforded. Proof of such insurance, in a form approved by the City Attorney, shall be filed with the City Clerk prior to the issuance of the permit and such insurance shall be maintained in full force and effect throughout the course of the event authorized by such permit.

(b) The insurance requirement set forth in this section shall not be construed to apply to special events permitted under this article solely for purposes of expressive activity which enjoy protection under the United States or California Constitutions except that applicants for such parades or special events shall be required to either: (1) agree to defend, indemnify, and save and hold harmless City, its officers, agents, employees and volunteers pursuant to Section 9-3.4109; or (2) agree to redesign or reschedule the permitted event to respond to specific risks, hazards and dangers to the public health and safety identified by the special events coordinator as being reasonably foreseeable consequences of the permitted parade or special event; or (3) provide insurance coverage as required by this section.

(c) If the City Manager determines, after consultation with the City Attorney, that a particular use, event or activity does not present a substantial or significant public liability or property damage exposure for the City or its officers, agents and employees, the special events coordinator may give a written waiver of the insurance requirements of this section.

(§ 1, Ord. 1134, eff. October 16, 2015)

§ 9-3.4111. Departmental service charges—Refunds.

(a) In addition to the payment of the nonrefundable permit application fee, a permittee shall pay the City for all City departmental service charges, as the same are defined in this article, which are incurred in connection with or resulting from the permittee's activities under the permit.

(b) If City property is destroyed or damaged by reason of the event, the permittee shall reimburse the City for the actual replacement or repair cost of the destroyed or damaged property.

(c) Each permittee shall be jointly and severally liable for the payment of fees and charges required by this article.

(d) City Billing. City departments shall submit the final invoices and billings for departmental service charges to the permittee(s) no later than 10 working days after the expiration date of the permit.

(e) Cash Deposit. As a condition precedent to the issuance of a permit authorizing an event, the permittee shall pay to the City a cash deposit in an amount sufficient to cover all applicable fees, including the total City departmental charges which the City estimates will be incurred in connection with the permit.

(f) Refunds. If a permittee is unable to hold or conduct an event because of inclement weather or some other cause beyond the control of the permittee, and submits a written request to the City Manager for a refund of fees within 10 calendar days after the date the event was to be held, the City Manager may authorize a refund of fees or a prorated portion thereof,

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except for the nonrefundable application fee.

(g) Exemption or Partial Waiver of the Departmental Service Charges. The City Council may grant an exemption or a partial waiver of the departmental services charges.

(§ 1, Ord. 1134, eff. October 16, 2015, as amended by § 1, Ord. 1157, eff. July 21, 2017)

§ 9-3.4112. Permittee/sponsor duties.

(a) Each permittee/sponsor of an event shall comply with all terms, and conditions of the special event permit.

(b) Each permittee/sponsor of an event shall ensure that the person leading a parade or other event along a route, or the person in charge of any other event carries the special event permit on his or her person for the duration of the event.

(c) Each permittee/sponsor of an event shall ensure the area used for the permitted event is cleaned and restored to the same condition as existed prior to the event, immediately following the completion of the event.

(§ 1, Ord. 1134, eff. October 16, 2015)

§ 9-3.4113. Interference.

It is unlawful for any person to interfere with or disrupt a lawfully permitted special event.

(§ 1, Ord. 1134, eff. October 16, 2015)

§ 9-3.4114. Violation—Penalties.

(a) It is unlawful and a public nuisance to intentionally violate any of the provisions of this article. Violation of this article may be charged as either an infraction or a misdemeanor. Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code Section 36901.

(b) In addition to any other remedy or penalty set forth in this article or this Code, administrative penalties may be imposed pursuant to applicable provisions of Chapter 11 Title 4 of this Code against any responsible party, in violation of any of the provisions of this article. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 11 Title 4 of this Code.

(c) Remedies under this article are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

(§ 1, Ord. 1134, eff. October 16, 2015)

§ 9-3.4115. Appeal.

The decision of the Community and Economic Development Director or designee may be appealed as provided by the appeal procedure provided in Part 6 of Article 23 of this chapter.

(§ 1, Ord. 1134, eff. October 16, 2015)

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ARTICLE 42
CERTIFIED FARMERS' MARKETS

§ 9-3.4201. Purpose.

The general purpose of this article is to establish a legal framework for the operation of certified farmers' markets within the City of Los Banos, as approved by the Community Development Director; to assure that the certified farmers' markets complement rather than conflict with adjacent use; and to ensure that a certified farmers' market is maintained primarily as an outlet for farmers to sell their products directly to consumers, while maintaining some product diversity in order to better meet the needs of customers.
(§ 1, Ord. 1135, eff. November 21, 2015)

§ 9-3.4202. Definitions.

Terms that are defined or described by the provisions of Chapter 10.5 (commencing with Section 47000) of Division 17 of the California Food and Agricultural Code, and related regulations promulgated thereunder, as the same may be amended from time to time, are intended to have their same meaning under the provisions of this article, unless a different meaning is expressly set forth herein. For the purposes of this article, the following words and phrases shall have the meanings given to them by this section, unless the context otherwise requires:

"Certified farmers' market" shall mean a location approved by the Merced County Agricultural Commissioner where agricultural products are sold by producers or certified producers directly to consumers or to individuals, organizations, or entities that subsequently sell or distribute the products directly to end users, meeting the requirements of California Code of Regulations Title 3, Section 1392 et seq., as those sections now exist or may hereafter be amended. A certified farmers' market may only be operated by one or more certified producers, by a nonprofit organization, or by a local government agency.

"Certified farmers' market certificate" shall mean a certificate issued by the Merced County Agricultural Commissioner authorizing the location where agricultural products are sold by the producers directly to consumers, or to individuals, organizations, or entities that subsequently sell or distribute the products directly to end users. The certificate is valid only when bearing the original signatures of the county Agricultural Commissioner and the authorized representative of the certified farmers' market. Upon receipt of a certified farmers' market certificate, an operator shall assume and retain responsibility for all aspects of the operation of a certified farmers' market at the location specified; including, but not limited to, legal, financial and regulatory compliance requirements.

"Certified farmers' market operator" shall mean a local government agency, one or more certified producers, or a non-profit organization who has received a certified farmers' market certificate from the Merced County Agricultural Commissioner, and who or which manages a certified farmers' market under a certified farmers' market permit issued by the City.

"Departmental service charges" means the actual costs which a department of the City incurs in connection with activities for which a certified farmers' market permit is required under this article, including, but not limited to, costs associated with fire safety, traffic and/or pedestrian control, the closure of streets or intersections, the diverting of traffic, the salaries of City personnel involved in administration or coordination of City services for the event, the cost to the City to provide support personnel, equipment, materials and supplies, cleanup and restoration, and related City costs, such as fringe benefits or employee overtime. Departmental service

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charges shall not include costs incurred by the City to provide ordinary levels of police protective services to those engaged in activities or conduct for which a special event permit is required pursuant to this article.
(§ 1, Ord. 1135, eff. November 21, 2015)

§ 9-3.4203. Certified farmers' market permit required.

(a) No person, business entity, or organization of any kind shall maintain, operate, or conduct a certified farmers' market in the City without first obtaining a certified farmers' market permit issued by the City in accordance with this article.

(b) No person shall sell or offer to sell any item at a certified farmers' market unless authorized by the market operator pursuant to a valid certified farmers' market permit issued to the market operator by the City pursuant to this article.

(c) One business license and one certified farmers' market permit issued to the market operator shall be sufficient for all vendors of an approved certified farmers' market.
(§ 1, Ord. 1135, eff. November 21, 2015)

§ 9-3.4204. Permit period.

An approved certified farmers' market permit shall expire one year from the date of issuance.
(§ 1, Ord. 1135, eff. November 21, 2015)

§ 9-3.4205. Application for certified farmers' market permit.

A certified farmers' market operator desiring to establish a certified farmers' market in the City of Los Banos shall submit a written application for a permit to operate in a form acceptable to and with all supporting information required by the Community and Economic Development Department. Such application shall be accompanied by a nonrefundable, nontransferable application fee in an amount as established by resolution of the City Council. Any such permit shall be required to be renewed annually and a separate nonrefundable, nontransferable application fee shall be paid yearly for such renewal application. The permit application shall not be deemed complete until the permit fee has been paid. Permits to operate are nontransferable.

(a) The applicant shall be an authorized representative of the certified farmers' market operator.

(b) The application shall include all of the following information:

(1) Site plan;

(2) Hours of operation and dates;

(3) Description of parking available to patrons and growers;

(4) Provisions for water and sanitary facilities (toilets);

(5) Description of requested signage;

(6) If located on private property, documentation indicating that the property owner consents to use of the property as a certified farmers' market;

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(7) A copy of the certified farmers' market certificate issued by the Merced County Agricultural Commissioner;

(8) A copy of the rules and regulations pertaining to the operation of the certified farmers' market;

(9) Other information as required by the Community and Economic Development Director.

(§ 1, Ord. 1135, eff. November 21, 2015)

§ 9-3.4206. City review and determination.

(a) Within three business days of receipt of a complete certified farmers' market permit application, the Community and Economic Development Director shall circulate the application to affected City departments for comments. The Community and Economic Development Director shall also circulate a notice of receipt of the application to property owners within three hundred (300′) feet of the property proposed for the market location for comments. Comments from affected City departments and property owners shall be returned to the Community and Economic Development Director within 10 calendar days of the circulation of the notice of receipt of application. Within 30 calendar days of receiving the complete certified farmers' market permit application, the Community and Economic Development Director shall render a decision to approve or deny the permit and mail a copy of the decision to the applicant.

(b) The Community and Economic Development Director shall grant the certified farmers' market permit application upon a finding that the establishment, maintenance or operation of the certified farmers' market will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of such proposed certified farmers' market, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

(c) In approving an application for a certified farmers' market permit, the Community and Economic Development Director may impose reasonable conditions restricting operational characteristics to mitigate any potential adverse effects on the neighborhood or surrounding area in addition to the standards for permit as set forth in Section 9-3.4207, including, but not limited to, number of vendors, seasonal market duration, days of operation, hours of operation, site location, parking, signage, or otherwise, when such restrictions are deemed necessary in the interest of public health and safety.

(§ 1, Ord. 1135, eff. November 21, 2015)

§ 9-3.4207. Standards for permit.

(a) The certified farmers' market operator shall insure that all sellers currently have and display at the market all appropriate permits, licenses and certificates, and comply with all applicable Federal, State and local laws, ordinances and regulations.

(b) No certified farmers' market shall be permitted to operate in any residential zone districts within the City with the exception of a public park, school grounds, or church property.

(c) No certified farmers' market shall operate on City-owned property or in the public right-of-way without prior written approval from the office of the City Manager which may be conditionally approved or denied in the sole discretion of the City Manager.

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(1) All certified farmers' markets conducted on City property or in the public right-of-way shall have on file with the Community and Economic Development Department, in full force and effect at all times, documents issued by an insurance company authorized to do business in the State of California evidencing that the operator is insured (and naming the City as an additional insured) under a liability insurance policy providing minimum coverage of One Million and No/100ths ($1,000,000.00) Dollars for injury or death arising out of the operation of the certified farmers' market.

(2) All certified farmers' markets conducted on City property or in the public right-of-way shall be required to execute a hold harmless agreement in a form approved by the City.

(3) All certified farmers' markets conducted on City property or in the public right-of-way shall be responsible for any damage by reason of the use of public property and shall reimburse the City for the actual replacement or repair cost of the destroyed or damaged property.

(4) All certified farmers' markets conducted on City property or in the public right-of-way shall be responsible for all City departmental service charges, as the same are defined in this article, which are incurred in connection with or resulting from the permittee's activities under the permit.

(d) Operation of a certified farmers' market shall be limited to no more than two consecutive days per week. The City may further limit the days of operation in accordance with Section 9-3.4206(c).

(e) The certified farmers' market area shall at all times be maintained in a clean and sanitary condition.

(f) The certified farmers' market shall at all times comply with all conditions of the certified farmers' market permit.

(g) All certified farmers' markets, and each certified producer, producer and/or other vendor shall completely remove all equipment, merchandise and other materials, including, without limitation, waste materials, from the site upon of the conclusion of their respective activities.

(h) The certified farmers' market shall operate only on improved surfaces, including, but not limited to, pavement or lawn.

(i) The certified farmers' market shall not offer for sale or otherwise distribute any alcoholic beverage.

(j) The certified farmers' market shall not use amplified sound for any purpose.

(k) The certified farmers' market shall operate as a physically cohesive collection of vendors on a site, excepting only those limited physical separations as may be required by State or local law for vendors of non-agricultural products located near a certified farmers' market.

(l) The certified farmers' market shall not obstruct the safe flow of vehicular or pedestrian traffic on or around the site.

(m) The certified farmers' market shall have secured with the property owner of the site on

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which the certified farmers' market plans to operate, and prior to the commencement of any operation of the certified farmers' market, provision for all of the following:

(1) Refuse disposal and sufficient trash and recycling receptacles within the area of the certified farmers' market;

(2) Litter removal within and within the boundaries of the certified farmers' market; and

(3) Access to adequate sanitary facilities, including restrooms and/or portable sinks and toilets.

(§ 1, Ord. 1135, eff. November 21, 2015)

§ 9-3.4208. Suspension/revocation of permit.

(a) Violation and noncompliance. The Community and Economic Development Director or designee may refuse to renew a permit or may revoke or suspend an existing permit on the grounds that the permit holder has failed to comply with the permit conditions or other requirements of this article. If a suspended permit lapses during the suspension period, a new application must be filed at the end of the suspension period. In any such case, the permit holder shall have the right to appeal in the time and manner set forth in this section.

(b) Revocation and suspension of permit to operate. When the City concludes that grounds for denial, suspension, revocation or refusal to renew a permit to operate exist, he or she shall serve the applicant or permit holder, either personally or by certified mail addressed to the business or residential address of applicant or permit holder, with a notice of denial or notice of intent to suspend, revoke or refuse to renew permit.

This notice shall state:

(1) The reasons for the proposed action;

(2) The effective date of the decision;

(3) The right of the applicant or permit holder to a hearing; and

(4) That the decision will be final if no hearing request is filed within 10 days.

(§ 1, Ord. 1135, eff. November 21, 2015)

§ 9-3.4209. Appeal.

The decision of the Community and Economic Development Director or designee may be appealed as provided by the appeal procedure provided in Part 6 of Article 23 of this chapter.
(§ 1, Ord. 1135, eff. November 21, 2015)

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ARTICLE 43
RESIDENTIAL NEIGHBORHOOD BLOCK PARTIES

§ 9-3.4301. Purpose and intent.

The purpose of this article is to establish regulations for the issuance of a permit for residential neighborhood block parties requiring the temporary closure of a residential neighborhood City street.
(§ 1, Ord. 1136, eff. October 16, 2015)

§ 9-3.4302. Definitions.

"Applicant" means any person or organization who seeks a block party permit to hold a block party governed by this article. The applicant shall be a person who is 18 years of age or older.

"Block party" means a social gathering on a residential street in a residential district held jointly and cooperatively by a number of residents fronting on a given public street, between two cross streets or a cul-de-sac requiring a closure of said street, or a portion thereof, to vehicular traffic and use of the street for the festivity. The purpose of the block party is to primarily benefit those residents who live on the block to be blocked off and a limited number of invited guests.

"Block party permit" or "permit" means a permit issued pursuant to this article.

"City" means the City of Los Banos.

"City Council" means the City Council of the City of Los Banos.

"Person," as used in this article, means any natural person who is a City resident and owner or lessee of property on the block for which the permit is sought, except where the context clearly requires a different meaning.

"Street" means a way or place, of whatever nature, publicly maintained and open to use of the public for purposes of vehicular travel. Streets include highways and alleys.
(§ 1, Ord. 1136, eff. October 16, 2015)

§ 9-3.4303. Block party permit required.

Any person desiring to hold, engage in, or conduct, within the City of Los Banos, any block party in a residential district shall first obtain a block party permit.
(§ 1, Ord. 1136, eff. October 16, 2015)

§ 9-3.4304. Application for block party.

(a) Any person desiring to hold, engage in, or conduct, within the City of Los Banos, any block party shall submit a written application for a block party permit in a form acceptable to and with all supporting information required by the Community and Economic Development Department, not less than 21 days or more than 90 days before the proposed block party. Such application shall be accompanied by a nonrefundable, nontransferable application fee in an amount as established by resolution of the City Council. The permit application shall not be deemed complete until the permit fee has been paid.

(b) The application shall evidence the consent of all of the occupied residential parcels on each side of the street of the proposed block party.

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(c) Notwithstanding any provision in the Municipal Code to the contrary, the City Manager is authorized to close any street, or portion thereof, as part of the issuance of a block party permit.

(§ 1, Ord. 1136, eff. October 16, 2015)

§ 9-3.4305. Block party regulations and conditions of approval.

(a) The following regulations shall apply to any permitted block party. A copy of said regulations shall be provided to an applicant with an application for a permit. The City may impose additional conditions on issuance of the permit to mitigate any potential adverse effects on the neighborhood.

(1) Block party permits will not be issued on: (i) major streets, arterial streets, thoroughfare streets, or collector streets; (ii) streets which are used as bus routes; (iii) any street that is not entirely within the City limits; or (iv) streets that provide major access for a subdivision, a church, a public park, a fire station, a community center, or a business which is in operation during the hours of the block party; or (v) which will prevent proper police, fire or ambulance services to areas contiguous to the event.

(2) The street closure shall be less than a quarter mile in length.

(3) Blocks shall only be barricaded between intersections. All four leg intersections shall remain open to traffic.

(4) No block party permit shall be granted without the written consent of at least one adult (18 years of age or older) occupant of the residences of the street to be closed.

(5) The applicant/permittee must be a resident of the block where the closure is to occur.

(6) No block party permit shall be granted for any block party between the hours of 10:00 p.m. and 8:00 a.m. No permit shall be granted that shall close a street for more than 10 hours.

(7) The permittee must be present at all times during the block party. Adult supervision must be provided at all times.

(8) Participants must be limited to citizens residing within the area of the street closure and a limited number of their invited guests. The block party may not be open to the general public. No sale of admission tickets or outside advertising is allowed.

(9) Any donations collected for the party, must be done separately and cannot be collected the day of the block party. There shall be no entrance fees charged.

(10) The permittee is responsible for complying with all relevant Los Banos Municipal Code regulations or requirements set by the City regarding noise, amplified music or other State statutes regarding disruption of the public's peace.

(11) No fireworks are permitted, including safe and sane fireworks on City property, including streets and sidewalks except as specifically approved by the Fire Department as part of the block party permit. The applicant shall provide a site plan indicating the exact location in the street where safe and sane fireworks are to be discharged.

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(12) All tables, chairs, platforms, equipment, and any other probable obstacles (including automobiles, trucks, trailers, etc.) must be placed so that they do not impede emergency access to the street, any building, or fire hydrant in the area. A minimum width of fifteen (15′) feet shall be left open along the entire length of the street to enable the passage of emergency vehicles.

(13) The right of ingress and egress for every residence or lot, or parcel of land must be maintained.

(14) The sale of alcoholic beverages is prohibited. Alcoholic beverages shall not be consumed on City public property, including streets and sidewalks. The use of alcoholic beverages on private property shall comply with all applicable laws.

(15) No cooking appliances with open flames or barbecues are allowed under canopies.

(16) The permittee shall be responsible for clean-up and clearing all trash on the street, sidewalks, and all public areas. Clean up must be completed immediately following the conclusion of the permitted time of the block party.

(b) The participants must also abide by any other conditions set forth in the permit. A violation of any of the stated conditions will be cause for termination of the block party. The Los Banos Police Department has the discretion to revoke any block party permit on-site if it is determined that the block party is causing a public nuisance.

(§ 1, Ord. 1136, eff. October 16, 2015)

§ 9-3.4306. Indemnification agreement.

Prior to the issuance of a block party permit, the permit applicant and authorized officer of the sponsoring organization (if any), must sign an agreement to reimburse the City for any costs incurred by it in repairing damage to City property in connection with the block party proximately caused by the action of the permittee/sponsoring organization, its officers, employees or agents, or any person who was or reasonably should have been under the permittee's sponsoring organization's control. The agreement shall also provide that the permittee/sponsoring organization shall defend the City against, and indemnify and hold the City harmless from, any liability to any persons resulting from any damage or injury in connection with the block party proximately caused by the actions of the permittee/sponsoring organization, its officers, employees or agents, or any person who was or reasonably should have been under the permittee's/sponsoring organization's control.

(§ 1, Ord. 1136, eff. October 16, 2015)

§ 9-3.4307. Insurance.

The applicant/permittee of a block party must possess or obtain liability insurance to protect against loss from liability imposed by law for damages on account of bodily injury and property damage arising from the block party. Such insurance shall name on the policy or by endorsement as additional insureds the City, its officers, employees, agents and volunteers. Insurance coverage must be maintained for the duration of the event. Such insurance shall provide "occurrence" coverage against liabilities for death, personal injury or property damage arising out of or in any way connected with the event. Such insurance shall be in the amount of at least One Million and No/100ths ($1,000,000.00) Dollars, per occurrence, and shall name the City and the City's officers, employees and agents as additional insureds under the coverage afforded.

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Proof of such insurance, in a form approved by the City Attorney, shall be filed with the City Clerk prior to the issuance of the permit and such insurance shall be maintained in full force and effect throughout the course of the event authorized by such permit.
(§ 1, Ord. 1136, eff. October 16, 2015)

§ 9-3.4308. Violation—Penalties.

(a) It is unlawful and a public nuisance to intentionally violate any of the provisions of this article. Violation of this article may be charged as either an infraction or a misdemeanor. Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code Section 36901.

(b) In addition to any other remedy or penalty set forth in this article or this Code, administrative penalties may be imposed pursuant to applicable provisions of Chapter 11 Title 4 of this Code against any responsible party, in violation of any of the provisions of this article. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 11 Title 4 of this Code.

(c) Remedies under this article are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

(§ 1, Ord. 1136, eff. October 16, 2015)

§ 9-3.4309. Appeal.

The decision of the Community and Economic Development Director or designee may be appealed as provided by the appeal procedure provided in Part 6 of Article 23 of this chapter.
(§ 1, Ord. 1136, eff. October 16, 2015)

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ARTICLE 44
ACCESSORY STRUCTURES IN RESIDENTIAL R-1 AND R-2 ZONING DISTRICTS

§ 9-3.4401. Purpose and applicability.

The purpose of this article is to establish standards to regulate attached and detached accessory buildings and structures, in the R-1 and R-2 residential zoning districts within the City, to ensure that such buildings and structures: (a) do not create public safety or public nuisance issues; (b) do not create an adverse aesthetic from street rights-of-way or adjacent/neighboring properties; and (c) do not create an adverse impact to adjacent parcels or the surrounding neighborhood. The intent of these regulations is to complement the requirements and standards of the City's adopted building code and fire code.
(§ 2, Ord. 1164, eff. November 2, 2018)

§ 9-3.4402. Definitions.

For the purposes of this article unless otherwise apparent from the context, certain words and phrases in this article are defined below.

"Accessory building or structure" means an attached or detached building or structure, permanent or temporary, the use and size of which is necessarily and customarily associated with, and incidental and subordinate to that of the principal dwelling on the same lot. Examples of accessory buildings or structures include, but are not limited to: a detached garage, a tool shed, a storage shed, a carport, a shade canopy structure, a greenhouse, a gazebo, a pergola, a patio cover, a landscape feature, a deck, a recreational structure, and or a swimming pool. Second dwelling units (as defined in Section 9-3.3002) are not considered an accessory building or structure for the purposes of this article.

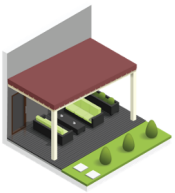
"Carport" means an attached or detached permanent roofed structure used for shielding or protection of vehicles.

"Clear vision triangle" means for an intersection: the area created by drawing a triangle having twenty (20′) foot tangents at the curb line; and for a driveway: the area created by drawing a triangle having twenty (20′) foot tangents at the outside of the driveway and the curb line.

"Enclosed" means closed on all sides such as an outdoor room with walls or windows.

"Patio cover means an attached or detached structure that provides shade and/or rain coverage for a patio or deck. A patio cover may have an open or solid roof. Open on at least three sides.

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"Pergola" means a freestanding structure with an open roof that is supported by columns or posts. A pergola may be used to cover a walkway or to provide filtered shade for an outdoor living space. Open on at least three sides.



"Shade canopy" or "shade canopy structure" means a detached roofed structure consisting of a sheet of metal or flexible material, fabric, or membrane such as nylon, plastic, or other similar material that is supported by or attached to a frame having a location on the ground and made of fiberglass, metal, or plastic or any other similar material, and used for the shielding or protection of vehicles or other equipment stored outside. Shade canopy structures include, but are not limited to, prefabricated canopies ready-made for simple assembly and canopies which are built, constructed, or composed of parts joined together in some definite manner.



"Unenclosed" means open on at least three sides.
(§ 2, Ord. 1164, eff. November 2, 2018)

§ 9-3.4403. Accessory buildings or structures in general.

(a) An accessory building or structure shall only be constructed concurrent with or after the

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construction of the primary residence on the same site. No accessory building or structure is permitted unless a principal residential dwelling exists and is occupied for the use intended. If the principal residential dwelling is destroyed or demolished the property owner shall within 90 days apply for an administrative permit to allow an existing accessory building or structure to remain on the site. In the case of destruction or demolition of the principal residential dwelling the existing accessory building or structure may be allowed to remain on the site for 24 months and an extension of 12 months if a building permit has been issued for the construction of the principal residential dwelling.

(b) An accessory building or structure shall be necessarily and customarily associated with, incidental and subordinate to the primary residential use of the site and shall not alter the character of the primary use.

(c) It shall be the responsibility of the Community and Economic Development Director to determine if a proposed accessory building or structure is necessarily and customarily associated with, incidental, and subordinate to the principal residential dwelling.

(§ 2, Ord. 1164, eff. November 2, 2018)

§ 9-3.4404. General requirements.

Except as otherwise specifically set forth in Section 9-3.4405 all accessory buildings or structures in the R-1 and R-2 residential zoning districts within the City are subject to the following standards.

(a) Lot coverage. A single accessory building or structure shall not occupy more than 30% of the required rear yard area, nor shall all such accessory buildings or structures collectively occupy more than 50% of the required rear yard area. The required rear yard area is defined as that area of the property between the rear property line and the required rear yard setback line for the principal residential dwelling. The total coverage for all buildings, including the principal residential dwelling, and all accessory buildings or structures, parking areas, driveways and patios shall not exceed 70% of the entire lot. Back and side yard patio covers, front yard and back yard landscape features, swimming pools, and play equipment, shall not be included in the lot coverage calculations.

(b) Location.

(1) Accessory buildings or structures shall be located on the same lot as the principal residential dwelling.

(2) No accessory building or structure shall be attached to a boundary fence or wall.

(3) Except as set forth in Section 9-3.4405 no accessory building or structure shall be located in the front of the house regardless of setback requirements.

(4) Enclosed accessory buildings or structures of 120 square feet or less shall have a minimum separation of three (3′) feet from the principal residential dwelling or any other enclosed building or structure on the lot. Increased separation requirements may be applicable to habitable buildings or structures as provided in the building and fire codes.

(5) Enclosed accessory buildings or structures greater than 120 square feet shall have a minimum separation of six (6′) feet from the principal residential dwelling or any

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other enclosed building or structure on the lot. Increased separation requirements may be applicable to habitable buildings or structures as provided in the building and fire codes.

(c) Setbacks and height limitations.

(1) Enclosed accessory buildings or structures of 120 square feet or less of area and not exceeding ten (10′) feet in height must be set back from the rear or side property line a minimum of one foot six (6″) inches as measured from the wall or eave of the accessory structure, whichever is closer to the property line.

(2) Enclosed accessory buildings or structures greater than 120 square feet of area or greater than ten (10′) feet in height, but not exceeding fifteen (15′) feet in height, must be set back from the rear and side property lines a minimum of three (3′) feet as measured from the wall or eave of the accessory structure, whichever is closer to the property line. For each foot in height above ten (10′) feet the three (3′) foot setback from the rear and side property lines shall be increased by one foot.

(3) Accessory buildings or structures exceeding fifteen (15′) feet in height are subject to Conditional Use Permit approval by the Planning Commission. The Commission may conditionally approve or deny a use permit for an accessory building or structure exceeding fifteen (15′) feet in height if it finds that said building or structure may have a demonstrated reduction of privacy on adjoining properties, a negative aesthetic effect on adjoining properties, a reduction in air flow onto adjoining properties, or the shading of an adjoining property that may reduce vegetative use or solar access of said property.

(d) Design. Accessory buildings or structures greater than 120 square feet of area shall share compatible architecture, material, and surface textures and colors as the principal residential dwelling.

(e) Building permit. All accessory structures require building permits except as noted in the 2013 California Building Code (CBC) Section 105.2 "Work exempt from permit," which specifies no building permit is required for "One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet." However, a permit is required for any electrical, plumbing or mechanical that is run to, or installed in, an accessory structure even if the structure does not exceed 120 square feet. All accessory buildings or structures must comply with the provisions of this article whether or not a building permit is required.

(f) Zoning clearance certificate. All accessory buildings or structures in the R-1 and R-2 residential zoning districts within the City require a zoning clearance certificate issued by the Community and Economic Development Director verifying that the accessory building or structure complies with the requirements of this article and/or other applicable provisions of the Los Banos Municipal Codes whether or not a building permit is required.

(§ 2, Ord. 1164, eff. November 2, 2018)

§ 9-3.4405. Standards for specific accessory buildings and structures.

In addition to the general requirements set forth in this article the following standards shall apply to specific accessory buildings and structures.

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(a) Shipping containers. Shipping containers are not permitted as a residential accessory building or structure subject to the provisions of Section 9-3.3803.

(b) Front yard—Shade canopy or shade canopy structure(s). Shade canopy or shade canopy structure(s) are not permitted in the front setback.

(1) A shade canopy or shade canopy structure existing on a residential lot in the front setback prior to January 1, 2018, shall be allowed if the following criteria is met:

(A) The shade canopy structure is detached from the principal residential dwelling;

(B) The shade canopy structure is constructed of metal or wood material frame;

(C) The shade canopy structure has a peaked roof;

(D) The shade canopy structure is secured directly into a concrete driveway;

(E) The shade canopy structure matches or compliments the exterior color of the principal residential dwelling;

(F) The shade canopy structure is located at least twelve (12″) inches from the front property line and at least twelve (12″) inches from the side property line;

(G) The shade canopy structure is completely open on all sides;

(H) The shade canopy structure is located directly over a City approved driveway/ hardscape;

(I) The shade canopy structure does not exceed a height of fifteen (15′) feet;

(J) The shade canopy structure does not exceed 50% of frontage;

(K) The shade canopy structure is not located in the public right-of-way and is located outside of the clear vision triangle.

(2) Registration requirement—Existing front yard—Shade canopy or shade canopy structure(s). On or before December 31, 2018, an owner or tenant of a residential property shall register with the Community and Economic Development Department in order to maintain a shade canopy structure within the front yard setback. The registration application shall include, at a minimum, the following information: name, address, telephone number(s), of the tenant and/or the legal owner of the property; proof that the shade canopy structure existed on the property prior to January 1, 2018; addresses the criteria set forth in subsection (b)(1); and, a current photo of the shade canopy structure. The Community and Economic Development Director shall be responsible for determining whether or not the required criteria set forth in subsection (b)(1) has been satisfied.

(3) Conditions—Existing front yard—Shade canopy or shade canopy structure(s). If the Community and Economic Development Director determines that the criteria for relief from the setback requirement has been satisfied the following conditions shall apply:

(A) The shade canopy structure shall only be utilized for legally parked operable vehicles/trailers;

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(B) The shade canopy structure shall not to be used for storage of personal property other than vehicles/trailers;

(C) The shade canopy structure shall be maintained in good condition;

(D) Upon sale or transfer of ownership of the property the shade canopy structure shall be immediately removed. In the case of a tenant, upon the tenant ceasing to occupy the property the shade canopy structure shall be immediately removed.

(4) Removal—Existing front yard—Shade canopy or shade canopy structure(s). An owner or tenant who does not register a pre-existing shade canopy structure on or before December 31, 2018 or if it is determined that the criteria set forth in subsection (b)(1) has not been satisfied, shall remove the shade canopy structure from the front yard setback on or before December 31, 2018.

(c) Back and side yard—Shade canopy or shade canopy structure(s). A shade canopy or shade canopy structure that is detached from the primary dwelling, and open on all sides, may be located within the required rear and side setback subject to the following:

(1) No part of a shade canopy or shade canopy structure shall be closer than three (3′) feet to the rear property line, three (3′) feet to interior side property line, and ten (10′) feet to street side property line of a reverse corner lot.

(2) The shade canopy or shade canopy structure shall not exceed fifteen (15′) feet in height. For each foot in height above eight (8′) feet the three (3′) foot setback from the rear property line shall be increased by one foot.

(d) Back and side yard patio covers. A patio cover or pergola that is attached to or detached from the primary dwelling, and open on at least three sides, may be located within the required rear and side setback subject to the following:

(1) No part of a patio cover or pergola shall be closer than three (3′) feet to the rear property line, three (3′) feet to interior side property line, and ten (10′) feet to street side property line of a reverse corner lot.

(2) The patio cover or pergola shall not exceed fifteen (15′) feet in height. For each foot in height above eight (8′) feet the setbacks set forth in subsection (d)(1) shall be increased by one foot.

(e) Front yard landscape features.

(1) Unenclosed pergolas or similar structures may be located in front yard, but not within the required front yard set-back;

(2) An entry trellis or entry arbor structure may be located over a walkway that extends between the public sidewalk and the front entrance of a residential dwelling provided that the structure shall not exceed ten (10′) feet in height, shall not exceed eight (8′) feet in width, shall be at least three (3′) feet from the front property line and at least three (3′) feet from the side property line, provided the structure is located outside of the clear vision triangle.

(3) Other decorative landscape features (structures) covering no more than 25 square feet

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and no more than eight (8′) feet tall may be located within the front yard and front yard setback, but not within the public right-of-way, provided the structure is located outside of the clear vision triangle.

(f) Swimming pools.

(1) An in-ground swimming pool may be located in the rear or side yard, with a minimum of a three (3′) foot setback between the pool and the rear and side property lines and a five (5′) foot setback between the pool and the principal dwelling.

(2) An in-ground swimming pool shall be secured by fencing or building walls with a minimum height of five (5′) feet. Any gates in the fencing must be provided with self-closing and self-latching mechanisms.

(3) An above-ground swimming pool may be located in the rear or side yard, with a minimum of a three (3′) foot setback between the pool and the rear and side property lines and a five (5′) foot setback between the pool and the principal dwelling.

(4) An above-ground swimming pool in excess of 50 gallons shall be secured by fencing or building walls with a minimum height of five (5′) feet. Any gates in the fencing must be provided with self-closing and self-latching mechanisms.

(g) Play equipment. Play equipment (structure) including, but not limited to, play, sets, playhouses, skate ramps, basketball hoops, may be located within the required rear and side setback subject to the following:

(1) No part of the play equipment (structure) shall be closer than three (3′) feet to the rear property line, three (3′) feet to interior side property line, and ten (10′) feet to street side property line of a reverse corner lot.

(2) The play equipment (structure) shall not exceed fifteen (15′) feet in height. For each foot in height above eight (8′) feet the setbacks set forth in subsection (g)(1) shall be increased by one foot.

(h) Decks.

(1) Front yard—Decks. Uncovered decks under thirty (30″) inches in height, as measured from the pad grade, may be located in front yard, but not within the required front yard setback

(2) Back yard and side yard—Decks. Uncovered decks under thirty (30″) inches in height, as measured from the pad grade, may be located in the back yard or side yard. No part of an uncovered deck shall be closer than three (3′) feet to the rear property line, three feet to interior side property line, and three (3′) feet to street side property line of a reverse corner lot. Uncovered decks over thirty (30″) inches in height, as measured from the pad grade, may be located in the back yard or side yard subject to the setback requirements of the principal residential dwelling.

(i) Carports and garages. Carports and garages shall comply with the development and set back requirements of the applicable/underlying zoning district and shall share compatible architecture, material, and surface textures and colors as the principal residential dwelling.

(§ 2, Ord. 1164, eff. November 2, 2018)

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§ 9-3.4406. Minor adjustments.

(a) The Director may grant minor adjustments to provide for minor exceptions from the site standards established by this article for height, setbacks, separation between accessory structures on the same property, and lot coverage, in order to address practical hardships that would result from the strict application of site standards or to accommodate a superior design that is also compatible with the neighborhood. In evaluating the hardship the Director shall consider the degree and nature of the hardship as against the stated purpose of the article.

(b) Minor adjustments shall be limited to the following exceptions from site standards:

(1) Height. Up to a 10% increase in the allowed height;

(2) Setbacks. Up to a 25% reduction in the required front, side or rear setback;

(3) Separation between structures. Up to a 15% exception from the separation requirement between accessory structures on the same property; and/or

(4) Lot coverage. Up to a 15% increase of the total allowable lot coverage.

(c) When the Director approves a minor adjustment, property owners existing at the time, located within three hundred (300′) feet shall be notified of the decision in compliance with Section 9-3.2323 of this title (Administrative Permit) and Chapter 3 Part 4 of this title (Use Permits). The notice shall identify the proposed adjustment and the available appeal process. The decision shall not take effect until the appeal period ends in compliance with Section 9-3.2330 of this title (Appeals).

(§ 2, Ord. 1164, eff. November 2, 2018)

§ 9-3.4407. Appeal.

The decision of the Community and Economic Development Director or designee may be appealed as provided by the appeal procedure provided in Part 6 of Article 23 of this chapter.
(§ 2, Ord. 1164, eff. November 2, 2018)

§ 9-3.4408. Enforcement.

(a) It is unlawful and a public nuisance to intentionally violate any of the provisions of this article. Violation of this article may be charged as either an infraction or a misdemeanor. Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code Section 36901.

(b) In addition to any other remedy or penalty set forth in this article or this Code, administrative penalties may be imposed pursuant to applicable provisions of Chapter 11 Title 4 of this Code against any responsible party, in violation of any of the provisions of this article. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 11 Title 4 of this Code.

(c) Remedies under this article are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

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(§ 2, Ord. 1164, eff. November 2, 2018)

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ARTICLE 45
SIDEWALK VENDING

§ 9-3.4500. Purpose.

(a) The purpose of this article is to establish a sidewalk vendor permitting and regulatory program that complies with Senate Bill 946. The provisions of this article allow the City to encourage small business activities by removing total prohibitions on portable food stands and certain forms of solicitation while still permitting regulation and enforcement of unpermitted sidewalk vending activities to protect the public's health, safety and welfare.

(b) The City Council hereby finds that, to promote the health, safety and welfare, restrictions on street vending are necessary to:

(1) Prevent interference with the performance of police, firefighter, and emergency medical personnel services;

(2) Prevent interference with the flow of pedestrian or vehicular traffic including ingress into, or egress from, any residence, public building, or place of business, or from the street to the sidewalk, by persons exiting or entering parked or standing vehicles;

(3) Provide reasonable access for the use and maintenance of sidewalks, pathways, poles, posts, traffic signs or signals, hydrants, restrooms, trash receptacles, firefighting apparatus, mailboxes, as well as access to locations used for public transportation services; and

(4) Reduce exposure to the City from personal injury or property damage claims and litigation.

(§ 1, Ord. 1171, eff. June 14, 2019)

§ 9-3.4510. Definitions.

The following words and phrases, whenever used in this article, shall mean as follows:

"Certified farmers' market" means a location operated in accordance with Chapter 10.5 of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter.

"Director" means the Community and Economic Development Director or the Director's designee.

"Person" means one or more individuals, groups, businesses, business trusts, companies, corporations, joint ventures, joint stock companies, partnership, entities, associations, clubs, or organizations composed of two or more individuals (or the manager, lessee, agent, servant, officer, or employee of any of them), whether engaged in business, nonprofit, or any other activity.

"Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.

"Sidewalk vendor" means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path.

"Stationary sidewalk vendor" means a sidewalk vendor who vends from a fixed location.

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"Swap meet" means a location operated in accordance with Article 6 of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

"Temporary special permit" means a permit issued by the City for the temporary use of, or encroachment on, the side-walk or any other public area, including, but not limited to, an encroachment permit, special event permit, block party, or temporary use permit, for purposes including, but not limited to, City or privately sponsored parades, street fairs, or street closures.

"Vend" or "vending" shall mean the sale, offer for sale, soliciting, preparation, display, barter, or exchange, of prepared, pre-packaged or unprepared, unpackaged food or foodstuffs, beverages, goods, or merchandise of any kind.

"Vending cart" means a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance used for vending, whether mobile or stationary, that is not a vehicle as defined in the California Vehicle Code.
(§ 1, Ord. 1171, eff. June 14, 2019)

§ 9-3.4520. Permit required.

(a) No person may conduct or engage in sidewalk vending in the City without first obtaining and having in his or her possession a sidewalk vending permit issued by the City in accordance with this article. No permit granted herein shall confer any vested right to any person or business for more than the permit period. All sidewalk vendors subject to this article shall comply with the provisions of this article as they may be amended hereafter.

(b) A sidewalk vending permit shall not be required for events permitted pursuant to a lawfully issued temporary special permit.
(§ 1, Ord. 1171, eff. June 14, 2019)

§ 9-3.4530. Permit application.

To apply for a sidewalk vending permit, a person must submit an application with the Director or designee, accompanied by a nonrefundable processing fee in an amount established by resolution of the City Council. The application shall be in a form prescribed by the Director and shall contain the following:

(a) The legal name and current address and telephone number of the applicant;

(b) If the applicant is an agent of an individual, company, partnership, corporation, or other entity, the name and business address of the principal;

(c) The name, address, and telephone number of the person who will be in charge of any roaming sidewalk vendors, sidewalk vending activity and/or be responsible for the person(s) working at the sidewalk vending cart;

(d) The name, address, and telephone number of all persons that will be employed as roaming sidewalk vendors or at a sidewalk vending cart;

(e) The number of sidewalk vending carts the sidewalk vendor will operate within the City under the permit;

(f) The day(s) and hours of operation the sidewalk vendor intends to operate at such location(s);

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(g) Whether the vendor intends to operate as a stationary sidewalk vendor or a roaming sidewalk vendor and, if roaming, the intended path of travel;

(h) The dimensions of the sidewalk vendor's sidewalk vending cart(s), including a picture of all sides of each side-walk vending cart operating under the permit and any signs that will be affixed thereto;

(i) If the sidewalk vendor is selling food, a description of the type of food to be sold, whether such foods are prepared on site, whether such foods will require a heating element inside or on the sidewalk vending cart for food preparation, and the type of heating element, if any;

(j) If the sidewalk vendor is selling merchandise, a description of the merchandise to be sold;

(k) If stationary, the sidewalk vendor shall provide a description of the proposed vending location, including identification of major cross streets and the side of the street on which vending will occur (if applicable), along with a photo or depiction of said location;

(l) If roaming, the sidewalk vendor shall provide a sketch of the intended path of travel;

(m) Proof the person possesses a valid California Department of Tax and Fee Administration seller's permit which notes the City as a location or sub location, which shall be maintained for the duration of the sidewalk vendor's permit;

(n) If the sidewalk vendor is selling food or food products, certification of completion of a food handler course and proof of all required approvals and a copy of the required health permit from the Merced County Department of Public Health;

(o) An acknowledgment that the sidewalk vendor will comply with all other generally applicable local, State, and Federal laws;

(p) A certification that, to their knowledge and belief, the information contained within the application is true;

(q) An agreement by the sidewalk vendor to defend, indemnify, release and hold harmless the City, its City Council, boards, commissions, officers and employees from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to the permit or the vendor's sidewalk vending activities. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, or proceeding whether incurred by the permittee, City, and/or the parties initiating or bringing such proceeding;

(r) An acknowledgement that use of public property is at the sidewalk vendor's own risk, the City does not take any steps to ensure public property is safe or conducive to the sidewalk vending activities, and the sidewalk vendor uses public property at their own risk;

(s) An acknowledgement that the sidewalk vendor will obtain and maintain throughout the duration of any permit issued under this article insurance required by this article;

(t) Any other reasonable information regarding the time, place, and manner of the proposed

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vending;

(u) Prior to the issuance of a sidewalk vendor permit, the applicant shall cause to be filed with the Director a LiveScan background check, including a LiveScan background check for all employees engaging in vending activities, conducted by the California Department of Justice within the previous six months of the application date. The Director shall furnish each applicant with a LiveScan request form for use at the Los Banos Police Department.

(v) No person shall engage in, conduct or carry on the business of a sidewalk vendor unless there is on file with the City, in full force and effect at all times, documents issued by an insurance company authorized to do business in the State of California evidencing that the operator is insured (and naming the City as an additional insured) under a liability insurance policy providing minimum coverage of One Million and No/100ths ($1,000,000.00) Dollars for injury or death arising out of the sidewalk vending activities. All insurance companies affording coverage shall be required to add the City as an additional insured under their insurance policy. A certificate of insurance and a copy of the policy endorsement shall be provided to the City prior to the issuance of a sidewalk vendor permit.

(w) Prior to issuance of a sidewalk vendor permit, the applicant shall have any vending cart to be used for vending inspected for safety by the Fire Department.

(§ 1, Ord. 1171, eff. June 14, 2019)

§ 9-3.4540. Criteria for approval or denial of permit.

(a) Within 30 calendar days of receiving a complete application, the Director, or the Director's designee, may issue a sidewalk vendor permit, with appropriate conditions, as provided for herein, if he or she finds based on all of the relevant information that:

(1) The sidewalk vending activity will not unduly interfere with traffic or pedestrian movement, or tend to interfere with or endanger the public peace or rights of nearby residents to the quiet and peaceable enjoyment of their property, or otherwise be detrimental to the public peace, health, safety or general welfare;

(2) The sidewalk vending activity will not unduly interfere with normal governmental or City operations, threaten to result in damage or detriment to public property, or result in the City incurring costs or expenditures in either money or personnel not reimbursed in advance by the vendor;

(3) The sidewalk vending activity will not constitute a fire hazard, and all proper safety precautions will be taken;

(4) The sidewalk vending activity will not require the diversion of police officers to properly police the area of such activity as to interfere with normal police protection for other areas of the City;

(5) The applicant has paid all previous administrative fines, completed all community service, and completed any other alternative disposition associated in any way with a previous violation of this article;

(6) The applicant has not had a permit revoked within the past 12 months;

(7) The applicant's application contains all required information;

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(8) The applicant has not made a materially false, misleading or fraudulent statement of fact to the City in the application process;

(9) The applicant has satisfied all the requirements of this article;

(10) The applicant has paid all applicable fees;

(11) The applicant is required to register under the provisions of California Penal Code Section 290;

(12) Within three years of the date of the application, the applicant has been convicted in a court of competent jurisdiction or pled nolo contendere to any felony offense involving the sale of a controlled substance specified in California Health and Safety Code Section 11054,11055, 11056, 11057 or 11058, or at the time of application is on probation or parole for any offenses set forth in this section for an offense that was committed within three years of the date of the application.

(b) If the permit is denied, written notice of such denial and the reasons therefor shall be provided to the applicant.

(§ 1, Ord. 1171, eff. June 14, 2019)

§ 9-3.4550. Permit expiration and renewal.

A sidewalk vending permit shall be valid for 12 months from the date of issuance and shall expire and become null and void on the anniversary of its issuance. A person may apply for a permit renewal on a form provided by the City prior to the expiration of his or her active sidewalk vending permit.

(§ 1, Ord. 1171, eff. June 14, 2019)

§ 9-3.4560. Permit rescission.

The Director may rescind a permit issued to a sidewalk vendor for a fourth violation or subsequent violation of this article. A sidewalk vendor whose permit is rescinded may apply for a new sidewalk vending permit upon the expiration of the term of the rescinded permit.

(§ 1, Ord. 1171, eff. June 14, 2019)

§ 9-3.4570. Appeals.

The decision of the Director or designee may be appealed as provided by the appeal procedure provided in Part 6 of Article 23 of this chapter.

(§ 1, Ord. 1171, eff. June 14, 2019)

§ 9-3.4580. Permits Nontransferable.

A sidewalk vendor permit is nontransferable. Any change in ownership or operation of a sidewalk vendor or sidewalk vending cart requires a new permit under this article.

(§ 1, Ord. 1171, eff. June 14, 2019)

§ 9-3.4590. Operating requirements.

All sidewalk vendors shall comply with the following:

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(a) No sidewalk vendor shall vend in any of the following locations:

(1) Upon or within any roadway, median strip, or dividing section.

(2) Along sidewalks, pathways, courtyards, and grounds adjacent to the buildings and facilities that make up the Los Banos Community Center, the Los Banos City Hall, the Los Banos Courthouse, the Los Banos Public Library, the Los Banos Police Station, the Los Banos Fire Station(s), the Memorial Hospital of Los Banos, and along the sidewalks of Pacheco Boulevard, Mercey Springs Road, Badger Flat Road, Pioneer Road, H Street from 2nd Street to Badger Flat Road, within the Los Banos Rail Corridor and Canal Side Trails.

(3) Within 200 feet of a permitted certified farmers' market, a swap meet, or an area designated for a temporary special permit. This prohibition shall be limited to the operating hours of the market or swap meet, or the limited duration of the temporary special permit.

(4) Within 300 feet of the property line of any public or private school grounds, between the hours of 8:00 a.m. and 5:00 p.m. each day that school is in session.

(5) Within 300 feet from any place of worship or child care center.

(6) Within 100 feet of a public picnic area, playground area, playground equipment, or athletic field or court.

(7) Within 400 feet of another sidewalk vendor.

(8) Within 25 feet of any street or alley intersection.

(9) Within 10 feet of a fire hydrant or other emergency facility.

(10) Within 10 feet of a curb that has been designated as a white, yellow, green, blue, or red zone, or a bus zone.

(11) Within 25 feet of any driveway approach or entrance to a parking lot or parking garage.

(12) Within 10 feet of an entrance or exit of any building or structure.

(13) Within 10 feet of any public trash receptacle, bike rack, bench, bus stop, or similar public use item.

(14) In any City parking lot.

(15) On private property without the consent of the property owner.

(b) Stationary sidewalk vendors shall not vend at any park where the City has signed an agreement for concessions that exclusively permits the sale of food or merchandise by a concessionaire.

(c) Stationary sidewalk vendors shall not vend in areas that are zoned residential.

(d) No sidewalk vendor shall vend in a manner that blocks or obstructs the free movement of pedestrians, bicycles, or vehicles. Sidewalk vendors must at all times provide a clearance of not less than four feet on all sidewalks or pedestrian areas so as to enable persons to

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freely pass while walking, running, or using mobility assistance devices.

(e) Sidewalk vending is permitted between the hours of 9:00 a.m. to 7:00 p.m., daily, except as follows:

(1) In nonresidential areas, the hours of operation shall not be more restrictive than the hours of operation imposed on other businesses or uses located on the same block.

(2) In public parks sidewalk vending shall be permitted only during hours open to the public.

(f) Sidewalk vendors shall provide a trash receptacle for customers and ensure proper disposal of customer trash. The trash receptacle must be large enough to accommodate customer trash without resort to existing trash receptacles located on any block for use by the general public.

(g) Prior to leaving any vending location, the sidewalk vendor shall pick up, remove, and dispose of all trash generated by the vending operations or the vendor's customers within a 15 foot radius of the vending location. Sidewalk vendors shall not throw, deposit, or leave, or permit to be thrown, deposited, or left, any trash, food, or other discarded or abandoned objects, in or upon any street, sidewalk, path, gutter, storm drain, inlet, catch basin, or other drainage structure, or upon any public or private lot of land in the City, so that the same might be or become a pollutant.

(h) Sidewalk vendors shall possess and display in plain view on the vending cart and a valid sidewalk vending permit issued pursuant to this article and if selling food a valid health permit from Merced County Department of Public Health. Sidewalk vendors shall possess at all times while vending any other permit required by any governmental agency. A sidewalk vendor engaged in sidewalk vending shall wear, on their person, identification with a picture and name issued by the City.

(i) Vending carts shall not be chained, fastened, or affixed at any time to any building or structure, including, but not limited to, lampposts, parking meters, traffic signals, fire hydrants, benches, bus shelters, trash cans, street signs, trees, or other objects within the public right-of-way. No vending cart shall become a permanent fixture on the vending site or be considered an improvement to real property.

(j) Vending carts shall not be left unattended or stored on public property or within the public right-of-way.

(k) Sidewalk vendors shall comply with all applicable State and local laws, including, without limitation, State food handling, labeling, and preparation requirements; fire codes and regulations; and the Americans with Disabilities Act of 1990 and other disability access standards (both State and Federal).

(l) No tables, chairs, fences, shade structures, balloons, flags, banners, on-site furniture, or any freestanding signs shall be permitted in conjunction with the sidewalk vendor's vending activities.

(m) The vendor shall not attach or use any water line, electrical line, or gas line during vending operations.

(n) Exterior storage or display of refuse, equipment, materials, goods, wares, or merchandise

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associated with the vendor is prohibited.

(o) No sound amplification equipment, music or live entertainment may be used in conjunction with any sidewalk vendor sales.

(p) A vending cart shall not be wider than four feet at its widest point (exclusive of waste containers) and no longer than seven feet at its longest point (exclusive of waste containers). A canopy or other similar overhead cover may be used but no portion of this cover (exclusive of vertical support poles or struts) shall be lower than seven feet above the side-walk. Any and all vertical supports for this cover shall be totally confined within the horizontal dimensions (width and length) of the vending cart.

(q) Any power used in a vending cart shall be contained wholly within the cart. No cords, hoses, pipes, bottles, canisters, or other conductors or containers of power or fuel shall extend from any source external to or detached from the vending cart while the vending cart is in operation upon a City sidewalk.

(§ 1, Ord. 1171, eff. June 14, 2019)

§ 9-3.4600. Administrative citations.

(a) A violation of this article by a sidewalk vendor who has a valid sidewalk vending permit from the City is punishable only by an administrative citation pursuant to Chapter 11 Title 4 of this Code in amounts not to exceed the following:

(1) One Hundred and No/100ths ($100.00) Dollars for a first violation.

(2) Two Hundred and No/100ths ($200.00) Dollars for a second violation within one year of the first violation.

(3) Five Hundred and No/100ths ($500.00) Dollars for each additional violation within one year of the first violation.

(b) A person engaged in sidewalk vending without a valid City sidewalk vending permit is punishable by an administrative citation pursuant to Chapter 11 Title 4 of this Code in amounts not to exceed the following, in lieu of the amounts set forth in paragraph (a):

(1) Two Hundred Fifty and No/100ths ($250.00) Dollars for a first violation.

(2) Five Hundred and No/100ths ($500.00) Dollars for a second violation within one year of the first violation.

(3) One Thousand and No/100ths ($1,000.00) Dollars for each additional violation within one year of the first violation.

(4) Upon proof of a valid sidewalk vending permit issued by the City, the administrative citations set forth in this paragraph shall be reduced to amounts set forth in subsection (a).

(c) A violation of this article shall not be punishable as an infraction or misdemeanor. No person alleged to have violated the provisions herein shall be subject to arrest except when otherwise permitted by law.

(d) Failure to pay an administrative citation issued pursuant to this section shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any

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other financial conditions beyond those authorized herein shall not be assessed.

(e) When assessing administrative citations pursuant to this section, the hearing officer shall take into consideration the person's ability to pay the fine. The City shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.

(f) If the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, the City shall accept, in full satisfaction, 20% of an administrative citation imposed pursuant to this article.

(g) The hearing officer may allow a person to complete community service in lieu of paying the total administrative citation, may waive the administrative citation, or may offer an alternative disposition.

(§ 1, Ord. 1171, eff. June 14, 2019)

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ARTICLE 46
REASONABLE ACCOMMODATION

§ 9-3.4601. Purpose and intent.

It is the policy of the City of Los Banos, pursuant to the Federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act, to provide individuals with disabilities reasonable accommodation in rules, policies, practices and procedures to ensure equal access to housing and facilitate the development of housing for individuals with disabilities. This article establishes a procedure for making request for reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures of the jurisdiction to comply fully with the intent and purpose of fair housing laws.
(§ 1, Ord. 1181, eff. May 1, 2020)

§ 9-3.4602. Applicability.

Reasonable accommodation in the land use and zoning context means providing individuals with disabilities or developers of housing for people with disabilities, flexibility in the application of land use and zoning and building regulations, policies, practices and procedures, or even waiving certain requirements, when it is necessary to eliminate barriers to housing opportunities.

An individual with a disability is someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment.

A request for reasonable accommodation may be made by any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, when the application of a land use, zoning or building regulation, policy, practice or procedure acts as barrier to fair housing opportunities.
(§ 1, Ord. 1181, eff. May 1, 2020)

§ 9-3.4603. Notice to the public of availability of accommodation process.

Notice of the availability of reasonable accommodation shall be prominently displayed at the public information counter in the Community and Economic Development Department, advising the public of the availability of the procedure for eligible individuals. Forms for requesting reasonable accommodation shall be available to the public in the Community and Economic Development Department.
(§ 1, Ord. 1181, eff. May 1, 2020)

§ 9-3.4604. Requesting reasonable accommodation.

(a) In order to make housing available to an individual with a disability, any eligible person as defined in Section 9-3.4602 may request a reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures.

(b) Requests for reasonable accommodation shall be in writing and provide the following information:

(1) Name and address of the individual(s) requesting reasonable accommodation;

(2) Name and address of the property owner(s);

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(3) Address of the property for which accommodation is requested;

(4) Description of the requested accommodation and the regulation(s), policy or procedure for which accommodation is sought; and

(5) Reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the dwelling.

(c) Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.

(d) A request for reasonable accommodation in regulations, policies, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual's obligation to comply with other applicable regulations not at issue in the requested accommodation.

(e) If an individual needs assistance in making the request for reasonable accommodation, the jurisdiction will provide assistance to ensure that the process is accessible.

(§ 1, Ord. 1181, eff. May 1, 2020)

§ 9-3.4605. Reviewing authority.

(a) Requests for reasonable accommodation shall be reviewed by the "reviewing authority," using the criteria set forth in Section 9-3.4606.

(b) The reviewing authority shall issue a written decision on a request for reasonable accommodation within 30 days of the date of the application and may either grant, grant modifications, or deny a request for reasonable accommodation in accordance with the required findings set for in Section 9-3.4606.

(c) If necessary to reach a determination on the request for reasonable accommodation, the Community and Economic Development Director may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the 30 day period to issue a decision is stayed until the applicant responds to the request.

(§ 1, Ord. 1181, eff. May 1, 2020)

§ 9-3.4606. Required findings.

The written decision to grant, grant modifications, or deny a request for reasonable accommodation shall be consistent with fair housing laws and based on the following factors:

(a) Whether the housing, which is the subject of the request for reasonable accommodation, will be used by an individual with disabilities protected under fair housing laws;

(b) Whether the requested accommodation is necessary to make housing available to an individual with disabilities protected under the fair housing laws;

(c) Whether the requested accommodation would impose an undue financial or administrative burden on the jurisdiction; and

(d) Whether the requested accommodation would require a fundamental alteration in the nature

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of the jurisdiction's land use and zoning or building program.
(§ 1, Ord. 1181, eff. May 1, 2020)

§ 9-3.4607. Written decision on the request for reasonable accommodation.

(a) The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the reviewing authority's findings on the criteria set forth in Section 9-3.4606. All written decisions shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process as set forth below. The notice of decision shall be sent to the applicant by certified mail.

(b) The written decision of the Community and Economic Development Director shall be final unless an applicant appeals it to the Planning Commission.

(c) If the reviewing authority fails to render a written decision on the request for reasonable accommodation with the 30 day time period allotted by Section 9-3.4606 the request shall be deemed granted.

(d) While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain the full force and effect.
(§ 1, Ord. 1181, eff. May 1, 2020)

§ 9-3.4608. Appeals.

The decision of the Community and Economic Development Director may be appealed as provided by the appeal procedure provided in Part 6 of Article 23 of this chapter.
(§ 1, Ord. 1181, eff. May 1, 2020)

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ARTICLE 47
EMERGENCY SHELTERS

§ 9-3.4701. Purpose.

(a) Consistent with Government Code Sections 65582, 65583(a), and 65589.5, all California cities are required to identify a minimum of one zone that permits emergency shelters by right. The purpose of this article is to establish standards to ensure that the development of emergency shelters does not adversely impact adjacent parcels or the surrounding neighborhood, and that they are developed in a manner that protects the health, safety, and general welfare of the nearby residents and businesses, and the character of the City of Los Banos.

(b) Emergency shelters may be allowed in the Medium Density Residential District; High Density Residential District; and General Industrial District, as a permitted use, subject to a non-discretionary Zoning Clearance issued by the Community and Economic Development Director pursuant to Government Code Section 65583 (a)(4).

(c) Emergency shelters are subject to the following standards.

(1) No individual shall be denied emergency shelter because of an inability to pay.

(2) Emergency shelters shall be operated under the authority of a governing agency or private organization that provides, or that contracts to provide, emergency shelters and which, when required by law, is properly registered and licensed.

(3) Emergency shelters shall comply with applicable California Health and Safety Codes.

(4) Emergency shelters shall comply with all property development standards of the zone in which they are located, and in addition, no emergency shelter shall be located within 300 feet of another such facility, said measurement being defined as the shortest distance between the outside walls of the structures housing such facilities.

(5) Parking shall be as required by Title 9, Article 3, Chapter 20 "Off-Street Parking" unless the applicant provides substantial evidence demonstrating that the actual parking need is lower, subject to the approval of the Community and Economic Development Director or designee.

(6) Each emergency shelter shall include, at a minimum, the following:

(A) Interior and exterior lighting necessary for security, safety, and operational purposes shall conform to the California Code of Regulations Title 24, Parts 2, 2.5 and 6 or any successor provisions as applicable in effect at the time the application is deemed complete. Exterior lighting shall be stationary, directed away from adjacent properties and public right-of-ways;

(B) If client intake is to occur on-site, there shall be an indoor client intake/waiting area equal to a minimum of 10 square feet per bed provided at the facility. If an exterior waiting area is also provided, it shall be enclosed or screened from public view and adequate to prevent obstructing of the public right-of-way and required parking and access;

(C) Clean, sanitary beds and sanitation facilities, including showers and toiletries;

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and

(D) Segregated sleeping, lavatory and bathing areas if the emergency shelter accommodates both men and women in the same building. Reasonable accommodation shall be made to provide segregated sleeping, lavatory and bathing areas for families.

(7) At least one facility manager shall be on-site at all hours the facility is open and one hour prior to and after facility operating hours. At least one full-time equivalent employee shall be required to be on-site during facility operating hours for every 20 beds in the facility.

(8) Emergency shelters may provide one or more of the following types of supportive facilities or services for the exclusive use or benefit of the shelter clients:

(A) Central cooking and dining room(s);

(B) Recreation areas, indoor and/or outdoors;

(C) Laundry facilities for clients to wash their clothes;

(D) Intake and administrative offices;

(E) Counseling and other supportive services; or

(F) Secure storage areas for bicycles and other personal possessions.

(9) The agency or organization operating the shelter shall have a written Facility Management Plan consisting of, as applicable, provisions for staff training; neighborhood outreach; security; screening of residents to ensure compatibility with services provided at the facility; training, counseling, and treatment programs for residents, and facility information, including the number of persons who can be served nightly, the location of onsite waiting and intake areas, the provision of onsite management, and onsite security during hours of operation, as established in Government Code Section 65583 (a)(4)(A).

(§ 13, Ord. 1182, eff. May 1, 2020)

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ARTICLE 48
SINGLE ROOM OCCUPANCY (SRO) FACILITIES

§ 9-3.4801. Purpose.

(a) The purpose of this article is to establish standards to ensure that the development of Single Room Occupancy (SRO) Facilities does not adversely impact adjacent parcels or the surrounding neighborhood, and that they are developed in a manner that protects the health, safety, and general welfare of the nearby residents and businesses, and the character of the City of Los Banos.

(b) Single Room Occupancy (SRO) Facilities may be allowed in the (R-3) High Density Residential zone, subject to design review and a conditional use permit. An SRO facility is not required to conform to the density standards of the General Plan or the Zoning Code. Except as set forth herein, SRO facilities shall comply with all property development standards of the zone in which they are located

(c) Single Room Occupancy (SRO) facilities are subject to the following standards:

(1) Tenancy of each SRO unit shall not be for less than 30 days. No transient occupancy is allowed; SRO units shall be occupied as the primary residence of the tenant.

(2) Excluding the bathroom area and closet(s), the SRO unit must be a minimum of 250 square feet in floor area and the maximum size shall be not more than 300 square feet. Each SRO unit shall be designed to accommodate a maximum of two people.

(3) Each SRO unit must include a closet.

(4) An SRO unit is not required to but may contain partial or full kitchen facilities. A full kitchen includes a sink, a refrigerator and a stove, range top or oven. A partial kitchen is missing at least one of these appliances. If a full kitchen is not provided, common kitchen facilities shall be provided with at least one full kitchen for every 20 SRO units or portion thereof that do not have full kitchens, or have one kitchen on any floor where SRO units without kitchens are located.

(5) An SRO unit is not required to but may contain partial or full bathroom facilities. A partial bathroom facility shall have at least a toilet and sink; a full facility shall have a toilet, sink and bathtub, shower or bathtub/shower combination. Common bathrooms must be located on any floor with any unit that does not have a full bathroom. Common bathrooms shall be either single occupant use with provisions for privacy or multi-occupant use with separate provisions for men and women. Common bathrooms shall have shower or bathtub facilities at a ratio of one for every seven units or fraction thereof. Each shared shower or bathtub facility shall be provided with an interior lockable door.

(6) Each SRO facility shall have at least 10 square feet of common usable area per unit; however no SRO facility shall provide less than 200 square feet of common outdoor area and 200 square feet of common indoor area. Maintenance areas, laundry facilities, storage (including bicycle storage), and common hallways shall not be included as usable indoor common space. Landscape areas that are less than eight feet wide shall not be included as outdoor common space.

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(7) A SRO facility with eight or more units shall provide 24 hour on-site management, and include a dwelling unit designated for the manager. All SRO facilities must have a management plan approved prior to occupation by the Los Banos Community and Economic Development Director or designee. The management plan shall contain management policies, maintenance plans, rental procedures, tenant rules, and security procedures.

(8) Laundry facilities must be provided in a separate room at the ratio of one washer and one dryer for every 10 SRO units or fractional number thereof, with at least one washer and dryer per floor.

(9) A cleaning supply storeroom and/or utility closet with at least one laundry tub with hot and cold running water must be provided on each floor of the SRO facility.

(10) Parking ratio of one space per unit and bicycle rack storage of one rack per 5 units.

(11) SRO facilities and SRO units shall comply with all requirements of the California Building Code and all other codes. All units shall comply with all applicable accessibility and adaptability requirements. All common areas shall be fully accessible. An existing structure may be converted to an SRO facility, consistent with the provisions of this section. Any such conversion must bring the entire structure up to current building code standards, including accessibility and adaptability standards, unless otherwise exempted by the Building Official.

(12) Interior and exterior lighting necessary for security, safety, and operational purposes shall conform to the California Code of Regulations Title 24, Parts 2, 2.5 and 6 or any successor provisions as applicable in effect at the time the application is deemed complete. Exterior lighting shall be stationary, directed away from adjacent properties and public right-of-ways.

(§ 14, Ord. 1182, eff. May 1, 2020)

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ARTICLE 49
REGIONAL HOUSING NEEDS ASSESSMENT OVERLAY DISTRICT

§ 9-3.4901. Purpose.

The general purpose of this article is to facilitate the development of affordable housing while promoting infill development on sites previously identified on housing inventories in the City's 4th and 5th Housing Element Cycles. Only those projects that have 20% of the total number of units deed restricted for low- and very-low-income units, and does not include a subdivision are eligible for by-right development in this Overlay District.
(Ord. 1213, 11/19/2025, eff. 12/19/2025)

§ 9-3.4902. Applicability.

The Regional Housing Needs Assessment Overlay District is applicable to those sites identified in the table below. These sites are the reused sites in the 4th and 5th Housing Element Cycles. These sites are identified in Table F6-13 of the 6th Cycle Housing Element.

Address	APN	Acres	Land Use	Zoning	Existing Use	Total Units
Westminster Way	424010005	28.5	Low Density	R-1	Vacant	144
Place Rd	424010006	24.31	Low Density	R-1	Agriculture	123
Place Rd	424010006	19.45	Medium Density	R-2	Agriculture	272
Canal Farm Ln	428150001	1.77	Medium Density	R-2	Vacant	24
Mercey Springs Rd	428030006	1	Medium Density	R-2	Vacant	14
7th Street	082420047	0.75	Medium Density	R-2	Vacant	10
Westminster Way	424010005	28.5	Medium Density	R-2	Vacant	399
Gilbert Gonzalez Jr Dr	083100084	8.48	High Density	R-3	Vacant	177
G Street	025114011	0.92	Mixed Use	R-C	Vacant	13
G Street	025114012	0.92	Mixed Use	R-C	Vacant	13
Henry Miller Plaza	025072036	4.77	Mixed Use	R-C	Vacant	71
H Street	025054006	2.02	Mixed Use	R-C	Vacant	30
San Luis Street	428121012	5.48	High Density	R-3	Vacant	115
Total		**126.87**				**1,405**

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(Ord. 1213, 11/19/2025, eff. 12/19/2025)

§ 9-3.4903. By-right development.

The City shall implement by-right development for the sites identified in Section 9- 3.4902 when a developer builds a project with at least 20% affordable units deed restricted for low- and very-low-income units and no subdivision is proposed. Pursuant to Government Code Section 65583.2(c), by right development means the following are not required for development:

(a) Conditional Use Permit;

(b) Planned Unit Development Permit;

(c) Design Review other than Objective Development Design Standards; or

(d) Other discretionary, review or approval that would constitute a "project" as defined in Public Resources Code Section 21000 (California Environmental Quality Act "CEQA").

(Ord. 1213, 11/19/2025, eff. 12/19/2025)

§ 9-3.4904. Review of application.

(a) For ministerial plan permit applications listed in this section, Community and Economic Development Director, or designee, without notice or hearing, shall consider the application ministerially without discretionary review. When the application is in compliance with the relevant standards, the permit shall be issued. The decision may be appealed to planning commission only by the applicant or the owner of the subject property.

(b) The application for the ministerial plan permit shall be reviewed for conformance with objective standards established by the General Plan, applicable Specific Plans, Zoning Code, design standards, and other adopted standards.

(c) As provided by Government Code Section 65583.2(i), an eligible project is exempt from the California Environmental Quality Act.

(d) Permanent supportive housing shall be reviewed consistent with the provisions of Government Code Sections 65650 et seq.

(e) Low barrier navigation centers shall be reviewed consistent with the provisions of Government Code Sections 65650 et seq.

(Ord. 1213, 11/19/2025, eff. 12/19/2025)

§ 9-3.4905. Required findings.

In granting a ministerial plan permit, the Community and Economic Development Director, or designee, shall issue a letter of approval and shall make the following findings:

(a) That the project is eligible for by-right approval under state law.

(b) That the project complies with all applicable objective zoning and other adopted standards, including but not limited to design review standards.

(c) That the project is granted subject to such applicable conditions as required to meet the

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standards of the use and zone in which it is located and to comply with applicable design standards.

(Ord. 1213, 11/19/2025, eff. 12/19/2025)

§ 9-3.4906. Interpretation.

If any portion of this article conflicts with any applicable state law, state law shall supersede this article. Any ambiguities in this article shall be interpreted to be consistent with state law. Statutory references in this article include successor provisions.

(Ord. 1213, 11/19/2025, eff. 12/19/2025)

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Chapter 4
Environmental Control

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ARTICLE 1
STUDIES AND REPORTS

§ 9-4.101. Purpose.

The Council hereby declares that this article is adopted in order to conform with the provisions of the Environmental Quality Act of 1970 of the State.
(§ 1, Ord. 455, eff. October 11, 1972)

§ 9-4.102. Costs: Liability.

The costs for the preparation of any environmental study and environmental impact report required to be prepared by the City pursuant to the provisions of the Environmental Quality Act of 1970 of the State shall be paid by the applicant seeking the particular zone change, building permit, or other entitlement involved.
(§ 1, Ord. 455. eff. October 11, 1972)

§ 9-4.103. Costs: Estimates: Payments.

(a) The appropriate City agency which is to undertake the preparation of the study and the report, prior to the undertaking by such agency of such a study, shall formulate an estimate of the costs to the City of such a study and report, including the costs of the time of the agency employees, travel and equipment costs, and the fees and expenses of persons not in City employ, whose services are required.

(b) Upon the completion of such an estimate of costs, the appropriate City agency shall notify the applicant for such permit, zone change, or other entitlement of such estimate and shall not thereafter proceed with such study until said sum has been paid to the City by the applicant.

(§ 1, Ord. 455, eff. October 11, 1972)

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Chapter 5
Adult Entertainment Businesses

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ARTICLE 1
GENERAL PROVISIONS

§ 9-5.101. Purpose.

It is the intent of this article to prevent community wide adverse economic impacts, increased crime, decreased property values, and the deterioration of neighborhoods which can be brought about by the concentration of adult entertainment businesses in close proximity to each other or proximity to other incompatible uses such as schools for minors, churches, and residentially zoned districts or uses. The City Council finds that it has been demonstrated in various communities that the concentration of adult entertainment businesses causes an increase in the number of transients in the area, and an increase in crime, and in addition to the effects described above, can cause other businesses and residents to move elsewhere. It is, therefore, the purpose of this article to establish reasonable and uniform regulations to prevent the concentration of adult entertainment businesses or their close proximity to incompatible uses, while permitting the location of adult businesses in certain areas.
(§ 3, Ord. 919, eff. March 19, 1997)

§ 9-5.102. Definitions.

Establishment of an "adult entertainment business". As used herein, to "establish" an adult entertainment business shall mean and include any of the following:

(1) The opening or commencement of any adult entertainment business as a new business;

(2) The conversion of an existing business, whether or not an adult entertainment business, to any adult entertainment business defined in this section;

(3) The addition to any of the adult entertainment businesses defined in this section to any other existing adult entertainment business; or

(4) The relocation of any such adult entertainment business.

Specified anatomical areas. As used herein, "specified anatomical areas" shall mean and include any of the following:

(1) Less than completely and opaquely covered human: (i) genitals or pubic region; (ii) buttocks; and (iii) female breast below a point immediately above the top of the areola; and

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities. As used herein, "specified sexual activities" shall mean and include any of the following, whether performed directly or indirectly through clothing or other covering:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast;

(2) Sex acts, actual or simulated including intercourse, oral copulation, or sodomy;

(3) Masturbation, actual or simulated; and

(4) Excretory functions as part of or in connection with any of the other activities described in

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subsection (1) through (3) of this subsection.

Adult entertainment business. "Adult entertainment businesses" shall mean any of the following:

(1) Adult arcade. The term "adult arcade" as used in this chapter, shall mean an establishment where, for any form of consideration, one or more still or motion picture protectors, or similar machines, for viewing by five or fewer persons each are used to show films, computer generated images, motion pictures, video cassettes, slides or other photographic reproductions 30% or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

(2) Adult bookstore. The term "adult bookstore" as used in this chapter, shall mean an establishment that has 30% or more of its stock in books, magazines, periodicals, or other printed matter or of photographs, films, motion pictures, video cassettes, slides, tapes, records, or other form of visual or audio representations which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities and/or specified anatomical areas.

(3) Adult cabaret. The term "adult cabaret" as used in this chapter, shall mean a nightclub, restaurant, or similar business establishment which: (1) regularly features live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities; and/or (2) shows films, computer generated images, pictures, video cassettes, slides, or other photographic reproductions 30% or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

(4) Adult hotel/motel. The term "adult hotel/motel" as used in this chapter, shall mean a hotel or motel or similar business establishment offering public accommodations for any form of consideration which: (1) provides patrons with closed circuit television transmissions, films, computer generated images, motion pictures, video cassettes, slides, or other photographic reproductions 30% or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; and (2) rents, leases, or lets any room for less than a six hour period, or rents, leases, or lets any single room more than twice in a 24 hour period.

(5) Adult motion picture theater. The term "adult motion picture theater" as used in this chapter, shall mean a business establishment where, for any form of consideration, films, computer generated images, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and 30% or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

(6) Adult theater. The term "adult theater" as used in this chapter, shall mean a theater, concert hall, auditorium, or similar establishment which, for any form of consideration, regularly features live performances which are distinguished or characterized by an emphasis on the display of specified anatomical areas or specified sexual activities.

(7) Escort bureau. The term "escort bureau" as used in this chapter, shall mean a business which, for pecuniary compensation, consideration, hire or reward furnishes or offers to

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furnish escorts.

(8) Modeling studio. The term "modeling studio" as used in this chapter, shall mean a business which provides for pecuniary compensation, monetary or other consideration, hire or reward, figure models who, for the purposes of sexual stimulation of patrons, display "specified anatomical areas" to be observed, sketched, photographed, painted, sculpted, or otherwise depicted by persons paying such consideration. "Modeling studio" does not include schools maintained pursuant to standards set by the State of California Board of Education. "Modeling studio" further does not include a studio or similar facility owned, operated, or maintained by an individual artist or group of artists, and which does not provide, permit, or make available "specified sexual activities."

Church. The term "church" as used in this chapter, shall mean a structure used primarily for religious priorship and related religious activities.

Distinguished or characterized by an emphasis upon. The term "distinguished or characterized by an emphasis upon" as used in this chapter, shall mean and refer to the dominant or essential theme of the object by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon" the depiction or description of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or predominant character theme are the depiction of the enumerated sexual activities or anatomical areas. See Pringle vs. of Covina, 115 Cal.App. 3 151 (1981).

Regularly features. The term "regularly features" as used in this chapter with respect to an adult theater or adult cabaret means a regular and substantial course of conduct. The fact that live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities occurs on two or more occasions within a 30 day period; three or more occasions within a 60 day period; or four or more occasions within a 180 day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct.

Semi-nude. The term "semi-nude" as used in this chapter, means a state of dress in which clothing covers no more than the genitals, pubic region, buttocks, areola of the female breast, as well as portions of the body covered by supporting straps or devices.

School. The term "school" as used in Section 9-5.103, shall mean any child or day care facility, or an institution of higher learning for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and maintained pursuant to standards set by the State of California Board of Education. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college, or university.
(§ 3, Ord. 919, eff. March 19, 1997)

§ 9-5.103. Minimum proximity requirements.

No adult entertainment business shall be established or located in any zone of the City other than the PM (Planned Industrial District) or the M (General Industrial District) zones or within certain distances of certain specified land uses or zones as set forth below:

(a) No such business shall be within 500 feet of any other adult entertainment business.

(b) No such business shall be within 300 feet from any existing residential zone or use, park,

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church or school.

(c) The distances set forth above shall be measured as a radius from the primary entrance of the adult business to the property lines of the property so zoned or used without regard to intervening structures.

(§ 3, Ord. 919, eff. March 19, 1997)

§ 9-5.104. Amortization of nonconforming adult business uses.

Any use of real property existing on March 19, 1997, which does not conform to the provisions of Section 9-5.103, but which was constructed, operated, and maintained in compliance with all previous regulations, shall be regarded as a non-conforming use which may be continued until March 19, 1998 (one year after the effective date of the ordinance codified in this article). On or before such letter date, all such nonconforming uses shall be terminated unless an extension of time has been approved by the Planning Commission in accordance with the provisions of Section 9-5.105.

(a) Abandonment. Notwithstanding the above, any discontinuance or abandonment of the use of any lot or structure as an adult entertainment business shall result in a loss of legal, nonconforming status of such use.

(b) Amortization - annexed property. Any adult entertainment business which was a legal use at the time of annexation of the property and which is located in the City, but which does not conform to the provisions of Section 9-5.103 shall be terminated within one year of the date of annexation unless an extension of time has been approved by the Planning Commission in accordance with the provisions of Section 9-5.105.

(§ 3, Ord. 919, eff. March 19, 1997)

§ 9-5.105. Extension of time for termination of nonconforming use.

The owner or operator of a nonconforming use as described in Section 9-5.104 may apply under the provisions of this section to the Planning Commission for an extension of time within which to terminate the nonconforming use.

(a) Time and manner of application. An application for an extension of time within which to terminate a use made nonconforming by the provision of Section 9-5.103 may be filed by the owner of the real property upon which such use is operated, or by the operator of the use. Such an application must be filed with the community development director or designated representative at least 90 days but no more than 180 days prior to the time established in Section 9-5.104 for termination of such use.

(b) Content of application; fees. The application shall state the grounds for requesting an extension of time. The filing fee for such application shall be the same as that for a variance as is set forth in the schedule of fees established by resolution from time to time by the City Council.

(c) Hearing procedure. The City Manager shall appoint a hearing officer to hear the application. The hearing officer shall set the matter for hearing within 45 days of receipt of the application. All parties involved shall have the right to offer testimonial, documentary, and tangible evidence bearing on the issues; may be represented by counsel; and shall have the right to confront and cross examine witnesses. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the

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conduct of serious affairs. Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness. The decision of the hearing officer shall be final and subject to judicial review pursuant to Code of Civil Procedure Section 1094.6.

(d) Approval of extension; findings. An extension under the provisions of this section shall be for a reasonable period of time commensurate with the investment involved, and shall be approved only if the hearing officer makes all of the following findings as are required by law:

(1) The applicant has made a substantial investment (including but not limited to lease obligations) in the property or structure on or in which the nonconforming use is conducted; such property or structure cannot be readily converted to another use; and such investment was made prior to March 19, 1997;

(2) The applicant will be unable to recoup the investment as of the date established for termination of the use; and

(3) The applicant has made good faith efforts to recoup the investment and to relocate the use to a location in conformance with Section 9-5.103.

(§ 3, Ord. 919, eff. March 19, 1997)

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Chapter 6
City Of Los Banos Water Efficient Landscape Ordinance

Editor's note: Chapter 9-6 was renumbered from Chapter 10-2 by Ord. 1156. Prior ordinance history: Ords. 863, 1059 and 1090.

§ 9-6.01. Purpose.

(a) The State Legislature has found:

(1) That the waters of the State are of limited supply and are subject to ever increasing demands;

(2) That the continuation of California's economic prosperity is dependent on the availability of adequate supplies of water for future uses;

(3) That it is the policy of the State to promote the conservation and efficient use of water and to prevent the waste of this valuable resource;

(4) That landscapes are essential to the quality of life in California by providing areas for active and passive recreation and as an enhancement to the environment by cleaning air and water, preventing erosion, offering fire protection, and replacing ecosystems lost to development;

(5) That landscape design, installation, maintenance and management can and should be water efficient; and

(6) That Section 2 of Article X of the California Constitution specifies that the right to use water is limited to the amount reasonably required for the beneficial use to be served and the right does not and shall not extend to waste or unreasonable method of use.

(b) Consistent with these legislative findings, the purpose of this chapter is to:

(1) Promote the values and benefits of landscaping practices that integrate and go beyond the conservation and efficient use of water;

(2) Establish a structure for planning, designing, installing, maintaining and managing water efficient landscapes in new construction and rehabilitated projects by encouraging the use of a watershed approach that requires cross-sector collaboration of industry, government and property owners to achieve the many benefits possible;

(3) Establish provisions for water management practices and water waste prevention for existing landscapes;

(4) Use water efficiently without waste by setting a maximum applied water allowance as an upper limit for water use and reduce water use to the lowest practical amount;

(5) Promote the benefits of consistent landscape ordinances with neighboring local and regional agencies; and

(6) Encourage the use of economic incentives that promote the efficient use of water.

(c) Landscapes that are planned, designed, installed, managed and maintained with the watershed based approach can improve California's environmental conditions and provide

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benefits and realize sustainability goals. Such landscapes will make the urban environment resilient in the face of climatic extremes. Consistent with the legislative findings and purpose of this chapter, conditions in the urban setting will be improved by:

(1) Creating the conditions to support life in the soil by reducing compaction, incorporating organic matter that increases water retention, and promoting productive plant growth that leads to more carbon storage, oxygen production, shade, habitat and esthetic benefits.

(2) Minimizing energy use by reducing irrigation water requirements, reducing reliance on petroleum based fertilizers and pesticides, and planting climate appropriate shade trees in urban areas.

(3) Conserving water by capturing and reusing rainwater and graywater wherever possible and selecting climate appropriate plants that need minimal supplemental water after establishment.

(4) Protecting air and water quality by reducing power equipment use and landfill disposal trips, selecting recycled and locally sourced materials, and using compost, mulch and efficient irrigation equipment to prevent erosion.

(5) Protecting existing habitat and creating new habitat by choosing local native plants, climate adapted non-natives and avoiding invasive plants. Utilizing integrated pest management with least toxic methods as the first course of action.

(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.01.01. Applicability.

(a) This chapter shall apply to all of the following landscape projects:

(1) New development projects with an aggregate landscape area equal to or greater than 500 square feet requiring a building or landscape permit, plan check, site plan review or design review;

(2) Rehabilitated landscape projects with an aggregated landscape area equal to or greater than 2,500 square feet requiring a building or landscape permit, plan check, site plan review, or design review;

(3) Existing landscapes limited to Sections 9-6.03.10, 9-6.04, 9-6.04.01 and 9-6.04.02; and

(4) Cemeteries. Recognizing the special landscape management needs of cemeteries, new and rehabilitated cemeteries are limited to Sections 9-6.03.04, 9-6.03.11, and 9-6.03.12; and existing cemeteries are limited to Sections 9-6.04, 9-6.04.01, and 9-6.04.02.

(b) Any project with an aggregate landscape area of 2,500 square feet or less may comply with the performance requirements of this ordinance or conform to the prescriptive measures contained in Appendix D.

(c) For projects using treated or untreated graywater or rainwater captured on site, any lot or parcel within the project that has less than 2,500 square feet of landscape and meets the lot or parcel's landscape water requirement (estimated total water use) entirely with treated or

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untreated graywater or through stored rainwater captured on site is subject only to Appendix D Section (5).

(d) This chapter does not apply to:

(1) Registered local, State or Federal historical sites;

(2) Ecological restoration projects that do not require a permanent irrigation system;

(3) Mined-land reclamation projects that do not require a permanent irrigation system; or

(4) Existing plant collections, as part of botanical gardens and arboretums open to the public.

(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.02. Definitions.

The terms used in this chapter have the meaning set forth below:

"Applied water" means the portion of water supplied by the irrigation system to the landscape.

"Automatic irrigation controller" means a timing device used to remotely control valves that operate an irrigation system. Automatic irrigation controllers are able to self-adjust and schedule irrigation events using either evapotranspiration (weather-based) or soil moisture data.

"Backflow prevention device" means a safety device used to prevent pollution or contamination of the water supply due to the reverse flow of water from the irrigation system.

"Certificate of completion" means the document required under Section 9-6.03.09.

"Certified irrigation designer" means a person certified to design irrigation systems by an accredited academic institution a professional trade organization or other program such as the U.S. Environmental Protection Agency's Water-Sense Irrigation Designer Certification Program and Irrigation Association's Certified Irrigation Designer Program.

"Certified landscape irrigation auditor" means a person certified to perform landscape irrigation audits by an accredited academic institution, a professional trade organization or other program such as the U.S. Environmental Protection Agency's WaterSense irrigation Auditor Certification Program and Irrigation Association's Certified Landscape Irrigation Auditor Program.

"Check valve" or "anti-drain valve" means a valve located under a sprinkler head, or other location in the irrigation system, to hold water in the system to prevent drainage from sprinkler heads when the sprinkler is off.

"Common interest developments" means community apartment projects, condominium projects, planned developments, and stock cooperatives per Civil Code Section1351.

"Compost" means the safe and stable product of controlled biologic decomposition of organic materials that is beneficial to plant growth.

"Conversion factor (0.62)" means the number that converts acre-inches per acre per year to gallons per square foot per year.

"Distribution uniformity" means the measure of the uniformity of irrigation water over a defined area.

"Drip irrigation" means any non-spray low volume irrigation system utilizing emission devices with a flow rate measured in gallons per hour. Low volume irrigation systems are specifically

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designed to apply small volumes of water slowly at or near the root zone of plants.

"Ecological restoration project" means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

"Effective precipitation" or "usable rainfall (Eppt)" means the portion of total precipitation which becomes available for plant growth.

"Emitter" means a drip irrigation emission device that delivers water slowly from the system to the soil.

"Established landscape" means the point at which plants in the landscape have developed significant root growth into the soil. Typically, most plants are established after one or two years of growth.

"Establishment period of the plants" means the first year after installing the plant in the landscape or the first two years if irrigation will be terminated after establishment. Typically, most plants are established after one or two years of growth. Native habitat mitigation areas and trees may need three to five years for establishment.

"Estimated total water use (ETWU)" means the total water used for the landscape as described in Section 9-6.03.04.

"ET adjustment factor (ETAF)" means a factor of 0.55 for residential areas and 0.45 for non-residential areas, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency, two major influences upon the amount of water that needs to be applied to the landscape. The ETAF for new and existing (non-rehabilitated) special landscape areas shall not exceed 1.0. The ETAF for existing non-rehabilitated landscapes is 0.8.

"Evapotranspiration rate" means the quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time.

"Flow rate" means the rate at which water flows through pipes, valves and emission devices, measured in gallons per minute, gallons per hour, or cubic feet per second.

"Flow sensor" means an inline device installed at the supply point of the irrigation system that produces a repeatable signal proportional to flow rate. Flow sensors must be connected to an automatic irrigation controller, or flow monitor capable of receiving flow signals and operating master valves. This combination flow sensor/controller may also function as a landscape water meter or submeter.

"Friable" means a soil condition that is easily crumbled or loosely compacted down to a minimum depth per planting material requirements, whereby the root structure of newly planted material will be allowed to spread unimpeded.

"Fuel Modification Plan Guideline" means guidelines from a local fire authority to assist residents and businesses that are developing land or building structures in a fire hazard severity zone.

"Graywater" means untreated wastewater that has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes, and does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes. "Graywater" includes, but is not limited to, wastewater from bathtubs, showers, bathroom washbasins, clothes washing machines, and laundry tubs, but does not include wastewater from kitchen sinks or dishwashers. Health and Safety Code Section 17922.12.

"Hardscapes" means any durable material (pervious and non-pervious).

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"Hydrozone" means a portion of the landscaped area having plants with similar water needs and rooting depth. A hydrozone may be irrigated or non-irrigated.

"Infiltration rate" means the rate of water entry into the soil expressed as a depth of water per unit of time (e.g., inches per hour).

"Invasive plant species" means species of plants not historically found in California that spread outside cultivated areas and can damage environmental or economic resources. Invasive species may be regulated by county agricultural agencies as noxious species. Lists of invasive plants are maintained at the California Invasive Plant Inventory and USDA invasive and noxious weeds database.

"Irrigation audit" means an in-depth evaluation of the performance of an irrigation system conducted by a certified landscape irrigation auditor. An irrigation audit includes, but is not limited to: inspection, system tune-up, system test with distribution uniformity or emission uniformity, reporting overspray or runoff that causes overland flow, and preparation of an irrigation schedule. The audit must be conducted in a manner consistent with the Irrigation Association's Landscape Irrigation Auditor Certification Program or other U.S. Environmental Protection Agency "WaterSense" labeled auditing program.

"Irrigation efficiency (IE)" means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The irrigation efficiencies for purposes of this ordinance are 0.75 for overhead spray devices and 0.81 for drip systems.

"Irrigation survey" means an evaluation of an irrigation system that is less detailed than an irrigation audit. An irrigation survey includes, but is not limited to: inspection, system test, and written recommendations to improve performance of the irrigation system.

"Irrigation water use analysis" means an analysis of water use data based on meter readings and billing data.

"Landscape architect" means a person who holds a license to practice landscape architecture in the State of California Business and Professions Code Section 5615.

"Landscape area" means all the planting areas, turf areas, and water features in a landscape design plan subject to the maximum applied water allowance calculation. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation).

"Landscape contractor" means a person licensed by the State of California to construct, maintain, repair, install, or subcontract the development of landscape systems.

"Landscape Documentation Package" means the documents required under Section 9-6.03.03.

"Landscape project" means total area of landscape in a project as defined in "landscape area" for the purposes of this chapter, meeting requirements under Section 9-6.01.01.

"Landscape water meter" means an inline device installed at the irrigation supply point that measures the flow of water into the irrigation system and is connected to a totalizer to record water use.

"Lateral line" means the water delivery pipeline that supplies water to the emitters or sprinklers from the valve.

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"Local water purveyor" means any entity, including a public agency, city, county, or private water company that provides retail water service.

"Low volume irrigation" means the application of irrigation water at low pressure through a system of tubing or lateral lines and low-volume emitters such as drip, drip lines, and bubblers. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

"Main line" means the pressurized pipeline that delivers water from the water source to the valve or outlet.

"Master shut-off valve" is an automatic valve installed at the irrigation supply point which controls water flow into the irrigation system. When this valve is closed water will not be supplied to the irrigation system. A master valve will greatly reduce any water loss due to a leaky station valve.

"Maximum applied water allowance (MAWA)" means the upper limit of annual applied water for the established landscaped area as specified in Section 9-6.03.04. It is based upon the area's reference evapotranspiration, the ET adjustment factor, and the size of the landscape area. The estimated total water use shall not exceed the maximum applied water allowance. Special landscape areas, including recreation areas, areas permanently and solely dedicated to edible plants such as orchards and vegetable gardens, and areas irrigated with recycled water are subject to the MAWA with an ETAF not to exceed 1.0. MAWA = (ETo)(0.62) [(ETAF x LA) + ((1-ETAF) x SLA)].

"Median" is an area between opposing lanes of traffic that may be unplanted or planted with trees, shrubs, perennials, and ornamental grasses.

"Microclimate" means the climate of a small, specific area that may contrast with the climate of the overall landscape area due to factors such as wind, sun exposure, plant density, or proximity to reflective surfaces.

"Mined-land reclamation projects" means any surface mining operation with a reclamation plan approved in accordance with the Surface Mining and Reclamation Act of 1975.

"Mulch" means any organic material such as leaves, bark, straw, and compost, or inorganic mineral materials such as rocks, gravel, and decomposed granite left loose and applied to the soil surface for the beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.

"New construction" means, for the purposes of this chapter, a new building with a landscape or other new landscape, such as a park, playground, or greenbelt without an associated building.

"Non-residential landscape" means landscapes in commercial, institutional, industrial and public settings that may have areas designated for recreation or public assembly. It also includes portions of common areas of common interest developments with designated recreational areas.

"Operating pressure" means the pressure at which the parts of an irrigation system are designed by the manufacturer to operate.

"Overhead sprinkler irrigation systems" means systems that deliver water through the air (e.g., spray heads and rotors).

"Overspray" means the irrigation water which is delivered beyond the target area.

"Permit" means an authorizing document issued by local agencies for new construction or rehabilitated landscapes.

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"Pervious" means any surface or material that allows the passage of water through the material and into the underlying soil.

"Plant factor" or "plant water use factor" is a factor, when multiplied by ETo, estimates the amount of water needed by plants. For purposes of this chapter, the plant factor range for very low water use plants is 0 to 0.1, the plant factor range for low water use plants is 0.1 to 0.3, the plant factor range for moderate water use plants is 0.4 to 0.6, and the plant factor range for high water use plants is 0.7 to 1.0. Plant factors cited in this chapter are derived from the publication "Water Use Classification of Landscape Species." Plant factors may also be obtained from horticultural researchers from academic institutions or nursery industry professional associations as approved by the California Department of Water Resources (DWR).

"Project applicant" means the individual or entity submitting a Landscape Documentation Package required under Section 9-6.03.03, to request a permit, plan check, or design review from the City of Los Banos. A project applicant may be the property owner or designee.

"Rain sensor" or "rain sensing shutoff device" means a component which automatically suspends an irrigation event when it rains.

"Record drawing" or "as-builts" means a set of reproducible drawings which show significant changes in the work made during construction and which are usually based on drawings marked up in the field and other data furnished by the contractor.

"Recreational area" means areas, excluding private single-family residential areas, dedicated to recreation or public assembly in parks, sports fields, picnic grounds, amphitheaters or golf course tees, fairways, roughs, surrounds and greens.

"Recycled water," "reclaimed water," or "treated sewage effluent water" means treated or recycled waste water of a quality suitable for non-potable uses such as landscape irrigation and water features. This water is not intended for human consumption.

"Reference evapotranspiration" or "ETo" means a standard measurement of environmental parameters which affect the water use of plants. ETo is expressed in inches per day, month, or year as represented in Appendix A and is an estimate of the evapotranspiration of a large field of four to seven inch tall, cool-season grass that is well watered. Reference evapotranspiration is used as the basis of determining the maximum applied water allowance so that regional differences in climate can be accommodated.

"Rehabilitated landscape" means any re-landscaping project that requires a permit, plan check, or design review, meets the requirements of Section 9-6.01.01, and the modified landscape area is equal to or greater than 2,500 square feet, is 50% of the total landscape area, and the modifications are completed within one year.

"Residential landscape" means landscapes surrounding single-family or multifamily homes.

"Runoff" means water which is not absorbed by the soil or landscape to which it is applied and flows from the landscape area. For example, runoff may result from water that is applied at too great a rate (application rate exceeds infiltration rate) or when there is a slope.

"Soil moisture sensing device" or "soil moisture sensor" means a device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.

"Soil texture" means the classification of soil based on its percentage of sand, silt, and clay.

"Special landscape area (SLA)" means an area of the landscape dedicated solely to edible plants, recreational areas, areas irrigated with recycled water, or water features using recycled water.

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"Sprinkler head" means a device which delivers water through a nozzle.

"Static water pressure" means the pipeline or municipal water supply pressure when water is not flowing.

"Station" means an area served by one valve or by a set of valves that operate simultaneously.

"Swing joint" means an irrigation component that provides a flexible, leak-free connection between the emission device and lateral pipeline to allow movement in any direction and to prevent equipment damage.

"Submeter" means a metering device to measure water applied to the landscape that is installed after the primary utility water meter.

"Turf" means a ground cover surface of mowed grass. Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are cool-season grasses. Bermudagrass, Kikuyugrass, Seashore Paspalum, St. Augustinegrass, Zoysiagrass, and Buffalo grass are warm-season grasses.

"Valve" means a device used to control the flow of water in the irrigation system.

"Water conserving plant species" means a plant species identified as having a very low or low plant factor.

"Water feature" means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied). The surface area of water features is included in the high water use hydrozone of the landscape area. Constructed wetlands used for on-site wastewater treatment or stormwater best management practices that are not irrigated and used solely for water treatment or stormwater retention are not water features and, therefore, are not subject to the water budget calculation.

"Watering window" means the time of day irrigation is allowed.

"WUCOLS" means the Water Use Classification of Landscape Species published by the University of California Cooperative Extension, and the Department of Water Resources 2014.
(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.03. Provisions for new construction or rehabilitated landscapes.

The City of Los Banos may designate by mutual agreement, another agency to implement some or all of the requirements contained in this chapter. The City of Los Banos may collaborate with water purveyors to define each entity's specific responsibilities relating to this chapter.
(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.03.01. Compliance with Landscape Documentation Package.

(a) Prior to construction, the City of Los Banos shall:

(1) Provide the project applicant with a copy of the ordinance and procedures for permits, plan checks, site plan review or design reviews;

(2) Review the Landscape Documentation Package submitted by the project applicant;

(3) Approve or deny the Landscape Documentation Package;

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(4) Issue a permit or approve the plan check, site plan review or design review for the project applicant; and

(5) Upon approval of the Landscape Documentation Package, submit a copy of the Water Efficient Landscape Worksheet to the local water purveyor, if other than the City of Los Banos.

(b) Prior to construction, the project applicant shall:

(1) Submit a Landscape Documentation Package to the City of Los Banos.

(c) Upon approval of the Landscape Documentation Package by the City of Los Banos, the project applicant shall:

(1) Receive a permit or approval of the plan check or site plan review or design review and record the date of the permit in the certificate of completion;

(2) Submit a copy of the approved Landscape Documentation Package along with the record drawings, and any other information to the property owner or designee; and

(3) Submit a copy of the Water Efficient Landscape Worksheet to the City of Los Banos.
(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.03.02. (Reserved)

§ 9-6.03.03. Elements of the Landscape Documentation Package.

(a) The Landscape Documentation Package shall include the following six elements:

(1) Project information:

(A) Date;

(B) Project applicant;

(C) Project address (if available, parcel and/or lot number(s));

(D) Total landscape area (square feet);

(E) Project type (e.g., new, rehabilitated, public, private, cemetery, homeowner installed);

(F) Water supply type (e.g., potable, recycled, well) and identify the local retail water purveyor if the applicant is not served by a private well;

(G) Checklist of all documents in Landscape Documentation Package;

(H) Project contacts to include contact information for the project applicant and property owner; and

(I) Applicant signature and date with statement, "I agree to comply with the requirements of the water efficient landscape ordinance and submit a complete Landscape Documentation Package."

(2) Water Efficient Landscape Worksheet:

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(A) Hydrozone information table;

(B) Water budget calculations:

(i) Maximum applied water allowance (MAWA), and

(ii) Estimated total water use (ETWU);

(3) Soil management report;

(4) Landscape design plan;

(5) Irrigation design plan; and

(6) Grading design plan.

(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.03.04. Water Efficient Landscape Worksheet.

(a) A project applicant shall complete the Water Efficient Landscape Worksheet in Appendix B which contains information on the plant factor, irrigation method, irrigation efficiency, and area associated with each hydrozone. Calculations are then made to show that the evapotranspiration adjustment factor (ETAF) for the landscape project does not exceed a factor of 0.55 for residential areas and 0.45 for non-residential areas, exclusive of special landscape areas. The ETAF for a landscape project is based on the plant factors and irrigation methods selected. The maximum applied water allowance is calculated based on the maximum ETAF allowed (0.55 for residential areas and 0.45 for non-residential areas) and expressed as annual gallons required. The estimated total water use (ETWU) is calculated based on the plants used and irrigation method selected for the landscape design. ETWU must be below the MAWA.

(1) In calculating maximum applied water allowance and estimated total water use, a project applicant shall use the ETo values from the Reference Evapotranspiration Table in Appendix A.

(b) Water budget calculations shall adhere to the following requirements:

(1) The plant factor used shall be from WUCOLS or from horticultural researchers with academic institutions or professional associations as approved by the California Department of Water Resources (DWR). The plant factor ranges from 0 to 0.1 for very low water using plants, 0.1 to 0.3 for low water use plants, from 0.4 to 0.6 for moderate water use plants, and from 0.7 to 1.0 for high water use plants.

(2) All water features shall be included in the high water use hydrozone and temporarily irrigated areas shall be included in the low water use hydrozone.

(3) All special landscape areas shall be identified and their water use calculated as shown in Appendix B.

(4) ETAF for new and existing (non-rehabilitated) special landscape areas shall not exceed 1.0.

(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.03.05. Soil management report.

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(a) In order to reduce runoff and encourage healthy plant growth, a soil management report shall be completed by the project applicant, or designee, as follows:

(1) Submit soil samples to a laboratory for analysis and recommendations.

(A) Soil sampling shall be conducted in accordance with laboratory protocol, including protocols regarding adequate sampling depth for the intended plants.

(B) The soil analysis shall include:

(i) Soil texture;

(ii) Infiltration rate determined by laboratory test or soil texture infiltration rate table;

(iii) pH;

(iv) Total soluble salts;

(v) Sodium;

(vi) Percent organic matter; and

(vii) Recommendations.

(C) In projects with multiple landscape installations (i.e., production home developments) a soil sampling rate of one in seven lots or approximately 15% will satisfy this requirement. Large landscape projects shall sample at a rate equivalent to one in seven lots.

(2) The project applicant, or designee, shall comply with one of the following:

(A) If significant mass grading is not planned, the soil analysis report shall be submitted to the City of Los Banos as part of the Landscape Documentation Package; or

(B) If significant mass grading is planned, the soil analysis report shall be submitted to the City of Los Banos as part of the certificate of completion.

(3) The soil analysis report shall be made available, in a timely manner, to the professionals preparing the landscape design plans and irrigation design plans to make any necessary adjustments to the design plans.

(4) The project applicant, or designee, shall submit documentation verifying implementation of soil analysis report recommendations to the City of Los Banos with certificate of completion.

(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.03.06. Landscape design plan.

(a) For the efficient use of water, a landscape shall be carefully designed and planned for the intended function of the project. A landscape design plan meeting the following design criteria shall be submitted as part of the Landscape Documentation Package.

(1) Plant Material.

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(A) Any plant may be selected for the landscape, providing the estimated total water use in the landscape area does not exceed the maximum applied water allowance. Methods to achieve water efficiency shall include one or more of the following:

(i) Protection and preservation of native species and natural vegetation;

(ii) Selection of water-conserving plant tree and turf species, especially local native plants;

(iii) Selection of plants based on local climate suitability, disease and pest resistance;

(iv) Selection of trees based on approved local tree and tree shading guidelines, and size at maturity as appropriate for the planting area; as specified in the City of Los Banos Standards and Specifications;

(v) Selection of plants from approved local and regional landscape program plant lists as specified in the City of Los Banos Standards and Specifications;

(vi) Selection of plants from local Fuel Modification Plan Guidelines.

(B) Each hydrozone shall have plant materials with similar water use, with the exception of hydrozones with plants of mixed water use, as specified in Section 9-6.03.07(a)(2)(D).

(C) Plants shall be selected and planted appropriately based upon their adaptability to the climatic, geologic, and topographical conditions of the project site. Methods to achieve water efficiency shall include one or more of the following:

(i) Use the Sunset Western Climate Zone System which takes into account temperature, humidity, elevation, terrain, latitude, and varying degrees of continental and marine influence on local climate;

(ii) Recognize the horticultural attributes of plants (i.e., mature plant size, invasive surface roots) to minimize damage to property or infrastructure [e.g., buildings, sidewalks, power lines]; allow for adequate soil volume for healthy root growth; and

(iii) Consider the solar orientation for plant placement to maximize summer shade and winter solar gain.

(D) Turf is not allowed on slopes greater than 25% where the toe of the slope is adjacent to an impermeable hardscape and where 25% means one foot of vertical elevation change for every four feet of horizontal length (rise divided by run x 100 = slope percent).

(E) High water use plants, characterized by a plant factor of 0.7 to 1.0, and turf are prohibited in street medians.

(F) A landscape design plan for projects in fire-prone areas shall address fire safety and prevention. A defensible space or zone around a building or structure is required per Public Resources Code Section 4291(a) and (b). Avoid fire-prone

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plant materials and highly flammable mulches. Refer to the local Fuel Modification Plan guidelines.

(G) The use of invasive plant species, such as those listed by the California Invasive Plant Council, is strongly discouraged.

(H) The architectural guidelines of a common interest development, which include community apartment projects, condominiums, planned developments, and stock cooperatives, shall not prohibit or include conditions that have the effect of prohibiting the use of low-water use plants as a group.

(2) Water Features.

(A) Recirculating water systems shall be used for water features.

(B) Where available, recycled water shall be used as a source for decorative water features.

(C) Surface area of a water feature shall be included in the high water use hydrozone area of the water budget calculation.

(D) Pool and spa covers are highly recommended.

(3) Soil Preparation, Mulch and Amendments.

(A) Prior to the planting of any materials, compacted soils shall be transformed to a friable condition. On engineered slopes, only amended planting holes need meet this requirement.

(B) Soil amendments shall be incorporated according to recommendations of the soil report and what is appropriate for the plants selected (see Section 9-6.03.05).

(C) For landscape installations, compost at a rate of a minimum of four cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of six (6″) inches into the soil. Soils with greater than 6% organic matter in the top six (6″) inches of soil are exempt from adding compost and tilling.

(D) A minimum three (3″) inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife, up to 5% of the landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such.

(E) Stabilizing mulching products shall be used on slopes that meet current engineering standards.

(F) The mulching portion of the seed/mulch slurry in hydro-seeded applications shall meet the mulching requirement.

(G) Organic mulch materials made from recycled or post-consumer organic products shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available.

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Organic mulches are not required where prohibited by local Fuel Modification Plan Guidelines or other applicable provisions of the Municipal Code.

(4) Implement practices that reduce the discharge of pesticides, herbicides and fertilizers. At a minimum the permittee shall implement landscape management measures that rely on non-chemical solutions, including:

(A) Create drought-resistant soils by amending soils with compost;

(B) Create soil microbial community through the use of compost, compost tea, or inoculation; and

(C) Use native and/or climate appropriate plants to reduce the amount of water, pesticides, herbicides and fertilizers used.

(b) The landscape design plan, at a minimum, shall:

(1) Delineate and label each hydrozone by number, letter, or other method;

(2) Identify each hydrozone as low, moderate, high water, or mixed water use. Temporarily irrigated areas of the landscape shall be included in the low water use hydrozone for the water budget calculation;

(3) Identify recreational areas;

(4) Identify areas permanently and solely dedicated to edible plants;

(5) Identify areas irrigated with recycled water;

(6) Identify type of mulch and application depth;

(7) Identify soil amendments, type, and quantity;

(8) Identify type and surface area of water features;

(9) Identify hardscapes (pervious and non-pervious);

(10) Identify location, installation details, and 24 hour retention or infiltration capacity of any applicable stormwater best management practices that encourage on-site retention and infiltration of stormwater. Project applicants shall refer to the City Standards or Municipal Code or Regional Water Quality Control Board for information on any applicable stormwater technical requirements. Stormwater best management practices are encouraged in the landscape design plan and examples are provided in Section 9-6.03.16;

(11) Identify any applicable rain harvesting or catchment technologies as discussed in Section 9-6.03.16 and their 24 hour retention or infiltration capacity;

(12) Identify any applicable graywater discharge piping, system components and area(s) of distribution;

(13) Contain the following statement: "I have complied with the criteria of the ordinance and applied them for the efficient use of water in the landscape design plan"; and

(14) Bear the signature of a licensed landscape architect, licensed landscape contractor,

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landscape designer or any other person authorized to design a landscape. (See Sections 5500.1, 5615, 5641, 5641.1, 5641.2, 5641.3,5641.4, 5641.5, 5641.6, 6701, 7027.5 of the Business and Professions Code, Section 832.27 of Title16 of the California Code of Regulations, and Section 6721 of the Food and Agriculture Code.)

(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.03.07. Irrigation design plan.

(a) This section applies to landscaped areas requiring permanent irrigation, not areas that require temporary irrigation solely for the plant establishment period. For the efficient use of water, an irrigation system shall meet all the requirements listed in this section and the manufacturers' recommendations. The irrigation system and its related components shall be planned and designed to allow for proper installation, management, and maintenance. An irrigation design plan meeting the following design criteria shall be submitted as part of the Landscape Documentation Package.

(1) System.

(A) Landscape water meters defined as a dedicated water service meter shall be installed for all non-residential irrigated landscapes of 1,000 square feet but not more than 5,000 square feet (the level at which Water Code Section 535 applies) and residential irrigated landscapes of 5,000 square feet or greater. A landscape water meter may be only a customer service meter dedicated to landscape use provided by the Public Works Department and paid for by the property owner.

(B) Automatic irrigation controllers utilizing either evapotranspiration or soil moisture sensor data and non-volatile memory shall be required for irrigation scheduling in all irrigation systems.

(C) If the water pressure is below or exceeds the recommended pressure of the specified irrigation devices, the installation of a pressure regulating device is required to ensure that the dynamic pressure at each emission device is within the manufacturer's recommended pressure range for optimal performance.

(i) If the static pressure is above or below the required dynamic pressure of the irrigation system, pressure-regulating devices such as inline pressure regulators, booster pumps, or other devices shall be installed to meet the required dynamic pressure of the irrigation system.

(ii) Static water pressure, dynamic or operating pressure. and flow reading of the water supply shall be measured at the point of connection. These pressure and flow measurements shall be conducted at the design stage. If the measurements are not available at the design stage, the measurements shall be conducted at installation.

(D) Sensors (rain, freeze, wind), either integral or auxiliary, that suspend or alter irrigation operation during unfavorable weather conditions shall be required on all irrigation systems, as appropriate for local climatic conditions. Irrigation should be avoided during windy or freezing weather or during rain.

(E) Manual shut-off valves (such as a gate valve, ball valve, or butterfly valve) shall be required, as close as possible to the point connection of the water supply, to

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minimize water loss in case of an emergency (such as a main line break) or routine repair.

(F) Approved backflow prevention devices shall be required to protect the water supply from contamination by the irrigation system. A project applicant shall refer to the City of Los Banos Standards and Specifications for additional backflow prevention requirements.

(G) Flow sensors that detect high flow conditions created by system damage or malfunction are required for all on non-residential landscapes and residential landscapes of 5,000 square feet or larger.

(H) Master shut-off valves are required on all projects except landscapes that make use of technologies that allow for the individual control of sprinklers that are individually pressurized in a system equipped with low pressure shut down features.

(I) The irrigation system shall be designed to prevent runoff, low head drainage, overspray, or other similar conditions where irrigation water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures.

(J) Relevant information from the soil management plan, such as soil and infiltration rate, shall be utilized when designing irrigation systems.

(K) The design of the irrigation system shall conform to the hydrozones of the landscape design plan.

(L) The irrigation system must be designed and installed to meet, at a minimum, the irrigation efficiency criteria as described in Section 9-6.03.04 regarding the maximum applied water allowance.

(M) All irrigation emission devices must meet the requirements set in the American National Standards Institute (ANSI) standard, American Society of Agricultural and Biological Engineers'/International Code Council's (ASABE/ICC) 802-2014 "Landscape Irrigation Sprinkler and Emitter Standard." All sprinkler heads installed in the landscape must document a distribution uniformity low quarter of 0.65 or higher using the protocol defined in ASABE/ICC 802-2014.

(N) It is highly recommended that the project applicant inquire with the Public Works Department about peak water operating demands (on the water supply system) and water restrictions that may impact the effectiveness of the irrigation system.

(O) In mulched planting areas, the use of low volume irrigation is required to maximize water infiltration into the root zone.

(P) Sprinkler heads and other emission devices shall have matched precipitation rates, unless otherwise directed by the manufacturer's recommendations.

(Q) Head to head coverage is recommended. However, sprinkler spacing shall be designed to achieve the highest possible distribution uniformity using the manufacturer's recommendations.

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(R) Swing joints or other riser-protection components are required on all risers subject to damage that are adjacent to hardscapes or in high traffic areas of turfgrass.

(S) Check valves or anti-drain valves are required on all sprinkler heads where low point drainage could occur.

(T) Areas of turf less than ten (10′) feet in width in any direction shall be irrigated with subsurface irrigation or other means that produces no runoff or overspray.

(U) Overhead irrigation shall not be permitted within twenty-four (24″) inches of any non-permeable surface. Allow-able irrigation within the setback from non-permeable surfaces may include drip, drip line, or other low flow non-spray technology. The setback area may be planted or unplanted. The surfacing of the setback may be mulch or City approved material. These restrictions may be modified if:

(i) The landscape area is adjacent to permeable surfacing and no runoff occurs; or

(ii) The adjacent non-permeable surfaces are designed and constructed to drain entirely to landscaping; or

(iii) The irrigation designer specifies an alternative design or technology, as part of the Landscape Documentation Package and clearly demonstrates strict adherence to irrigation system design criteria in Section 9-6.03.07(a)(1)(I). Prevention of overspray and runoff must be confirmed during the irrigation audit.

(V) Slopes greater than 25% shall not be irrigated with an irrigation system with an application rate exceeding 0.75 inches per hour. This restriction may be modified if the landscape designer specifies an alternative design or technology, as part of the Landscape Documentation Package, and clearly demonstrates no runoff or erosion will occur. Prevention of runoff and erosion must be confirmed during the irrigation audit.

(2) Hydrozone.

(A) Each valve shall irrigate a hydrozone with similar site, slope, sun exposure, soil conditions, and plant materials with similar water use.

(B) Sprinkler heads and other emission devices shall be selected based on what is appropriate for the plant type within that hydrozone.

(C) Where feasible, trees shall be placed on separate valves from shrubs, ground covers, and turf to facilitate the appropriate irrigation of trees. The mature size and extent of the root zone shall be considered when designing irrigation for the tree.

(D) Individual hydrozones that mix plants of moderate and low water use, or moderate and high water use, may be allowed if:

(i) Plant factor calculation is based on the proportions of the respective plant

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water uses and their plant factor; or

(ii) The plant factor of the higher water using plant is used for calculations.

(E) Individual hydrozones that mix high and low water use plants shall not be permitted.

(F) On the landscape design plan and irrigation design plan, hydrozone areas shall be designated by number, letter, or other designation. On the irrigation design plan, designate the areas irrigated by each valve, and assign a number to each valve. Use this valve number in the Hydrozone Information Table (9-6.08 Part A). This table can also assist with The City of Los Banos irrigation audit and programming the controller.

(b) The irrigation design plan, at a minimum, shall contain:

(1) Location and size of separate water meters for landscape;

(2) Location, type and size of all components of the irrigation system, including controllers, main and lateral lines, valves, sprinkler heads, moisture sensing devices, rain switches, quick couplers, pressure regulators, and backflow prevention devices;

(3) Static water pressure at the point of connection to the public water supply;

(4) Flow rate (gallons per minute), application rate (inches per hour), and design operating pressure (pressure per square inch) for each station;

(5) Recycled water irrigation systems as specified in Section 9-6.03.14;

(6) The following statement: "I have complied with the criteria of the ordinance and applied them accordingly for the efficient use of water in the irrigation design plan"; and

(7) The signature of a licensed landscape architect, certified irrigation designer, licensed landscape contractor, or any other person authorized to design an irrigation system. (See Sections 5500.1, 5615, 5641,5641.1, 5641.2, 5641.3, 5641.4, 5641.5, 5641.6, 6701, 7027.5 of the Business and Professions Code, Section 832.27 of Title 16 of the California Code of Regulations, and Section 6721 of the Food and Agricultural Code.)

(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.03.08. Grading design plan.

(a) For the efficient use of water, grading of a project site shall be designed to minimize soil erosion, runoff, and water waste. A grading plan shall be submitted as part of the Landscape Documentation Package. A comprehensive grading plan prepared by a civil engineer for other local agency permits satisfies this requirement.

(1) The project applicant shall submit a landscape grading plan that indicates finished configurations and elevations of the landscape area including:

(A) Height of graded slopes;

(B) Drainage patterns;

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(C) Pad elevations;

(D) Finish grade; and

(E) Stormwater retention improvements, if applicable.

(2) To prevent excessive erosion and runoff, it is highly recommended that project applicants:

(A) Grade so that all irrigation and normal rainfall remains within property lines and does not drain on to non-permeable hardscapes;

(B) Avoid disruption of natural drainage patterns and undisturbed soil; and

(C) Avoid soil compaction in landscape areas.

(3) The grading design plan shall contain the following statement: "I have complied with the criteria of the ordinance and applied them accordingly for the efficient use of water in the grading design plan" and shall bear the signature of a licensed professional as authorized by law.

(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.03.09. Certificate of completion.

(a) The certificate of completion (Appendix C for a sample certificate) shall include the following six elements:

(1) Project information sheet that contains:

(A) Date;

(B) Project name;

(C) Project applicant name, telephone, and mailing address;

(D) Project address and location; and

(E) Property owner name, telephone, and mailing address.

(2) Certification by either the signer of the landscape design plan, the signer of the irrigation design plan, or the licensed landscape contractor that the landscape project has been installed per the approved Landscape Documentation Package;

(A) Where there have been significant changes made in the field during construction, these "as-built" or record drawings shall be included with the certification;

(B) A diagram of the irrigation plan showing hydrozones shall be kept with the irrigation controller for subsequent management purposes.

(3) Irrigation scheduling parameters used to set the controller (see Section 9-6.03.10);

(4) Landscape and irrigation maintenance schedule (see Section 9-6.03.11);

(5) Irrigation audit report (see Section 9-6.03.12); and

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(6) Soil analysis report, if not submitted with Landscape Documentation Package, and documentation verifying implementation of soil report recommendations (see Section 9-6.03.05).

(b) The project applicant shall:

(1) Submit the signed certificate of completion to the City of Los Banos for review;

(2) Ensure that copies of the approved certificate of completion are submitted to the Public Works Department and property owner or designee.

(c) The City of Los Banos shall:

(1) Receive the signed certificate of completion from the project applicant;

(2) Approve or deny the certificate of completion. If the certificate of completion is denied, the City of Los Banos shall provide information to the project applicant regarding reapplication, appeal, or other assistance.

(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.03.10. Irrigation scheduling.

(a) For the efficient use of water, all irrigation schedules shall be developed, managed, and evaluated to utilize the minimum amount of water required to maintain plant health. Irrigation schedules shall meet the following criteria:

(1) Irrigation scheduling shall be regulated by automatic irrigation controllers.

(2) Overhead irrigation shall be restricted to certain days and times at all times during the year. It is unlawful for any person to use City supplied water for irrigation of lawn, landscaping, et cetera, between the hours of 11:00 a.m. and 7:00 p.m. on any day of the week, year round. Usage of water for the aforesaid purposes shall be restricted year round to Sun-day, Wednesday, and Friday before 11:00 a.m. and after 7:00 p.m. on the even numbered side of any street and Tuesday, Thursday and Saturday before 11:00 a.m. and after 7:00 p.m. on the odd numbered side of any street. Watering shall be prohibited on Monday. "Even-numbered side of any street" shall mean that side of the street on which the house numbers end in even figures. "Odd-numbered side of any street" shall mean that side of the street on which the house numbers end in odd figures. New plantings, such as new lawns, ground coverings, or bedding plants may be watered every day before 11:00 a.m. and after 7:00 p.m. providing the following conditions are met:

(A) New lawns, ground coverings, or bedding plants shall not include reseeding of existing lawns or replacement of existing ground cover, or bedding plants, unless the new plantings, reseeding of existing lawns or replacement of existing ground cover, or bedding plants, complies with this new ordinance. If it does comply, these areas can be watered every day before 11:00 a.m. and after 7:00 p.m. for a period of one year from planting date. The compliance with this ordinance for existing lawns and replacement of existing cover, or bedding plants will be determined by the Public Works Department upon submittal of the required information; and

(B) New lawns, ground coverings, or bedding plants shall be considered new for a

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period of one year from planting date.

(3) For implementation of the irrigation schedule, particular attention must be paid to irrigation run times, emission device, flow rate, and current reference evapotranspiration, so that applied water meets the estimated total water use. Total annual applied water shall be less than or equal to maximum applied water allowance (MAWA). Actual irrigation schedules shall be regulated by automatic irrigation controllers using current reference evapotranspiration data (e.g., CIMIS) or soil moisture sensor data.

(4) Parameters used to set the automatic controller shall be developed and submitted for each of the following:

(A) The plant establishment period;

(B) The established landscape; and

(C) Temporarily irrigated areas.

(5) Each irrigation schedule shall consider for each station all of the following that apply:

(A) Irrigation interval (days between irrigation);

(B) Irrigation run times (hours or minutes per irrigation event to avoid runoff);

(C) Number of cycle starts required for each irrigation event to avoid runoff;

(D) Amount of applied water scheduled to be applied on a monthly basis;

(E) Application rate setting;

(F) Root depth setting;

(G) Plant type setting;

(H) Soil type;

(I) Slope factor setting;

(J) Shade factor setting; and

(K) Irrigation uniformity or efficiency setting.

(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.03.11. Landscape and irrigation maintenance schedule.

(a) Landscapes shall be maintained to ensure water use efficiency. A regular maintenance schedule shall be submitted with the certificate of completion.

(b) A regular maintenance schedule shall include, but not be limited to, routine inspection; auditing; adjustment and repair of the irrigation system and its components; aerating and dethatching turf areas; topdressing with compost; replenishing mulch; fertilizing; pruning; weeding in all landscape areas, and removing any obstruction to emission devices. Operation of the irrigation system outside the normal watering window is allowed for auditing and system maintenance.

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(c) Repair of all irrigation equipment shall be done with the originally installed components or their equivalents or with components with greater efficiency.

(d) A project applicant is encouraged to implement established landscape industry sustainable best practices for all landscape maintenance activities.

(e) Implement practices that reduce the discharge of pesticides, herbicides and fertilizers. At a minimum the permittee shall implement landscape management measures that rely on non-chemical solutions, including:

(1) Practice grasscycling on decorative turf landscapes to reduce water use and the need for fertilizers;

(2) Keeping grass clippings and leaves away from waterways and out of the street using mulching, composting, or landfilling;

(3) Preventing application of pesticides, herbicides and fertilizers during irrigation or within 48 hours of predicted rainfall with greater than 50% probability as predicted by National Oceanic and Atmospheric Administration (NOAA);

(4) Limiting or replacing herbicide and pesticide use (e.g., conducting manual weed and insect removal);

(5) Prohibiting application of pesticides, herbicides and fertilizers as required by the regulations DPR 11-004 Prevention of Surface Water Contamination by Pesticides enacted by the Department of Pesticide Regulation; and

(6) Reducing mowing of grass to allow for greater pollutant removal, but not jeopardizing public safety.

(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.03.12. Irrigation audit, irrigation survey, and irrigation water use analysis.

(a) All landscape irrigation audits shall be conducted by a City irrigation auditor or a third party certified landscape irrigation auditor. Landscape audits shall not be conducted by the person who designed the landscape or installed the landscape.

(b) In large projects or projects with multiple landscape installations (i.e., production home developments) an auditing rate of one in seven lots or approximately 15% will satisfy this requirement.

(c) For new construction and rehabilitated landscape projects installed after December 1, 2015, as described in Section 9-6.01.01:

(1) The project applicant shall submit an irrigation audit report with the certificate of completion to the City of Los Banos that may include, but is not limited to: inspection, system tune-up, system test with distribution uniformity, reporting overspray or run off that causes overland flow, and preparation of an irrigation schedule, including configuring irrigation controllers with application rate, soil types, plant factors, slope, exposure and any other factors necessary for accurate programming;

(2) The City of Los Banos shall administer programs that may include, but not be limited to, irrigation water use analysis, irrigation audits, and irrigation surveys for

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compliance with the maximum applied water allowance.
(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.03.13. Irrigation efficiency.

For the purpose of determining maximum applied water allowance, average irrigation efficiency is assumed to be 0.75 for overhead spray devices and 0.81 for drip system devices.
(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.03.14. Recycled water.

(a) The installation of recycled water irrigation systems shall allow for the current and future use of recycled water.

(b) All recycled water irrigation systems shall be designed and operated in accordance with all applicable local and State laws.

(c) Landscapes using recycled water are considered special landscape areas. The ET adjustment factor for new and existing (non-rehabilitated) special landscape areas shall not exceed 1.0.
(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.03.15. Graywater systems.

Graywater systems promote the efficient use of water and are encouraged to assist in on-site landscape irrigation. All graywater systems shall conform to the California Plumbing Code (Title 24, Part 5, Chapter 16) and any applicable local ordinance standards. Refer to Section 9-6.01.01(c) for the applicability of this chapter to landscape areas less than 2,500 square feet with the estimated total water use met entirely by graywater.
(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.03.16. Stormwater management and rainwater retention.

(a) Stormwater management practices minimize runoff and increase infiltration which recharges groundwater and improves water quality. Implementing stormwater best management practices into the landscape and grading design plans to minimize runoff and to increase on-site rainwater retention and infiltration are encouraged.

(b) Project applicants shall refer to the City of Los Banos Public Works Department for information on any applicable stormwater technical requirements.

(c) All planted landscape areas are required to have friable soil to maximize water retention and infiltration. Refer to Section 9-6.03.06(a)(3).

(d) It is strongly recommended that landscape areas be designed for capture and infiltration capacity that is sufficient to prevent runoff from impervious surfaces (i.e., roof and paved areas) from either: (1) the one inch, 24 hour rain event; or (2) the 85th percentile, 24 hour rain event, and/or additional capacity as required by any applicable local, regional, State or Federal regulation.

(e) It is recommended that stormwater projects incorporate any of the following elements to improve on-site stormwater and dry weather runoff capture and use:

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(1) Grade impervious surfaces, such as driveways, during construction to drain to vegetated areas.

(2) Minimize the area of impervious surfaces such as paved areas, roof and concrete driveways.

(3) Incorporate pervious or porous surfaces (e.g., permeable pavers or blocks, pervious or porous concrete, etc.) that minimize runoff.

(4) Direct runoff from paved surfaces and roof areas into planting beds or landscaped areas to maximize site water retention.

(5) Incorporate rain gardens, cisterns, and other rain harvesting or catchment.

(6) Incorporate infiltration beds, swales, basins and drywells to retain stormwater and increase percolation into the soil.

(7) Consider constructed wetlands and ponds that retain water, handle excess flow, and filter pollutants.

(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.03.17. Public education.

(a) Publications. Education is a critical component to promote the efficient use of water in landscapes. The use of appropriate principles of design, installation, management and maintenance that save water is encouraged in the community.

(1) The City of Los Banos shall provide information to owners of permitted renovations and new, single-family residential homes regarding the design, installation, management, and maintenance of water efficient landscapes based on a water budget.

(b) Model Homes. All model homes shall be landscaped and use signs and written information to demonstrate the principles of water efficient landscapes described in this chapter.

(1) Signs shall be used to identify the model as an example of water efficient landscape featuring elements such as hydrozones, irrigation equipment, and others that contribute to the overall water efficient theme. Signage shall include information about the site water use as designed per the local ordinance; specify who designed and installed the water efficient landscape; and demonstrate low water use approaches to landscaping such as using native plants, graywater systems, and rainwater catchment systems.

(2) Information shall be provided about designing, installing, managing, and maintaining water efficient landscapes.

(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.03.18. Environmental review.

(a) The City of Los Banos must comply with the California Environmental Quality Act (CEQA), as appropriate.

(b) The City of Los Banos will:

(1) Evaluate pesticides, herbicides and fertilizers used and application activities

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performed and identify pollution prevention and source control opportunities.

(2) Collect and properly dispose of unused pesticides, herbicides, and fertilizers.

(3) Record the types and amounts of pesticides, herbicides and fertilizers used in the City by the City.

(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.04. Provisions for existing landscapes.

The City of Los Banos may by mutual agreement, designate another agency, such as a water purveyor, to implement some or all of the requirements contained in this chapter. Local agencies may collaborate with water purveyors to define each entity's specific responsibilities relating to this chapter.

(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.04.01. Irrigation audit, irrigation survey, and irrigation water use analysis.

(a) This Section 9-6.04.01, shall apply to all existing landscapes that were installed before December 1, 2015 and are over one acre in size.

(1) For all landscapes in subsection (a) that have a water meter, the City of Los Banos shall administer programs that may include, but not be limited to, irrigation water use analyses, irrigation surveys, and irrigation audits to evaluate water use and provide recommendations as necessary to reduce landscape water use to a level that does not exceed the maximum applied water allowance for existing landscapes. The maximum applied water allowance for existing landscapes shall be calculated as: MAWA = (0.8)(ETo)(LA)(0.62).

(2) For all landscapes in subsection (a) that do not have a meter, the City of Los Banos shall administer programs that may include, but not be limited to, irrigation surveys and irrigation audits to evaluate water use and provide recommendations as necessary in order to prevent water waste.

(b) All landscape irrigation audits shall be conducted by a certified landscape irrigation auditor.

(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.04.02. Water waste prevention.

(a) No property owner or responsible person shall allow or permit water waste resulting from inefficient landscape irrigation by allowing or permitting runoff from leaving the target landscape due to low head drainage, overspray, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, parking lots, or structures. No person shall allow water to run or waste from one's property onto a City street or right-of-way to such an extent that water shall flow in the street/gutter excessively beyond the frontage of the property occupied by such person; nor to flow excessively off the occupied property into the street/gutter; nor to continuously fall upon a public right-of-way or adjoining property such as to significantly contribute to gutter flow; nor to excessively flow onto or continuously upon adjoining properties or an alley.

(b) Restrictions regarding overspray and runoff may be modified if:

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(1) The landscape area is adjacent to permeable surfacing and no runoff occurs; or

(2) The adjacent non-permeable surfaces are designed and constructed to drain entirely to landscaping.

(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.05. Effective precipitation.

The City of Los Banos may consider effective precipitation (25% of annual precipitation) in tracking water use and may use the following equation to calculate maximum applied water allowance: MAWA = (ETo - Eppt)(0.62)[(0.55 x LA) + (0.45 x SLA)] for residential areas. MAWA = (ETo - Eppt)(0.62)[(0.45 x LA) + (0.55 x SLA)] for non-residential areas.
(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.06. Reporting.

(a) The City of Los Banos shall report on implementation and enforcement by December 31, 2015. Subsequently, reporting will be due by January 31st of each year. Reports should be submitted as follows.

(b) The City of Los Banos is to address the following:

(1) State whether you are adopting a single agency ordinance or a regional agency alliance ordinance, and the date of adoption or anticipated date of adoption.

(2) Define the reporting period. The reporting period shall be for the calendar year.

(3) State if using a locally modified Water Efficient Landscape Ordinance (WELO) or the MWELO. If using a locally modified WELO, how is it different than MWELO, is it at least as efficient as MWELO, and are there any exemptions specified?

(4) State the entity responsible for implementing the ordinance.

(5) State number and types of projects subject to the ordinance during the specified reporting period.

(6) State the total area (in square feet or acres) subject to the ordinance over the reporting period, if available.

(7) Provide the number of new housing starts, new commercial projects, and landscape retrofits during the reporting period.

(8) Describe the procedure for review of projects subject to the ordinance.

(9) Describe actions taken to verify compliance. Is a plan check performed; if so, by what entity? Is a site inspection performed; if so, by what entity? Is a post-installation audit required; if so, by whom?

(10) Describe enforcement measures.

(11) Explain challenges to implementing and enforcing the ordinance.

(12) Describe educational and other needs to properly apply the ordinance.

(§ 1, Ord. 1156, eff. July 7, 2017)

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§ 9-6.07. Fees.

Landscape and irrigation plan review and inspection fees shall be paid to the City Public Works Department when landscape and irrigation plans are submitted. The amount of the fee shall be established by City Council resolution as recommended by the Planning Commission.
(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.08. Inspection.

Upon installation of landscaping and irrigation systems, the installer must contact the Public Works Department to request an inspection for compliance with the approved plans before a certificate of occupancy will be issued by the Public Works Department.
(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.09. Penalties and remedies.

(a) It is unlawful to violate any of the provisions of this chapter. Violation of this chapter may be charged as either an infraction or a misdemeanor. Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code Section 36901.

(b) In addition to any other remedy or penalty set forth in this chapter or this Code, administrative penalties may be imposed pursuant to applicable provisions of Chapter 11 Title 4 of this Code against any responsible party, in violation of any of the provisions of this chapter. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 11 Title 4 of this Code.

(c) Remedies under this chapter are in addition to, and do not supersede or limit, any and all other remedies, civil (including, but not limited to, an equitable action for injunctive relief or an action at law for damages) or criminal. The remedies provided for herein shall be cumulative and not exclusive.

(§ 1, Ord. 1156, eff. July 7, 2017)

§ 9-6.10. Appeals.

(a) Except where an appeals or hearing procedure is otherwise set forth in this chapter, the applicant or any affected person of a final decision or action by City staff concerning a permit, application, or approval may be appealed by filing a written notice of appeal with the City Clerk, setting forth the specific grounds thereof.

(b) Notice of such appeal shall be filed with the City Clerk within 14 calendar days after the date written notice of such action appealed from was mailed or personally delivered to the appellant.

(c) The City Clerk shall forthwith set a date for hearing before City Manager or City Manager's designee and shall give the appellant at least five calendar days' notice of the time and place of said hearing.

(d) At such hearing the appellant shall show cause on the grounds specified in the notice of appeal why the action excepted to should not be approved. The City Manager or City Manager's designee, may continue the hearing from time to time. The findings on the

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appeal shall be final and conclusive in the matter.
(§ 1, Ord. 1156, eff. July 7, 2017)

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LOS BANOS CODE

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Title 10

PARKS AND RECREATION

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Chapter 1
Trees, Shrubs, And Plants

Note: Sections 10-1.01 through 10-1.32, codified from Ordinance No. 274, as amended by Ordinance No. 818, eff. January 9, 1990, Ordinance No. 845, eff. June 1, 1991, Ordinance No. 861, eff. January 15, 1993, Ordinance No. 874, eff. March 4, 1994 and Ordinance No. 916, eff. April 19, 1997, repealed and amended in its entirety by Ordinance No. 1085, eff. December 5, 2008.

§ 10-1.01. Title and purpose.

(a) This chapter shall be known as the "Tree Regulations" and may be cited as such. Purpose. Title 10 is adopted to acknowledge that the City of Los Banos City Council finds that:

(1) Street trees are of economic, environmental, and aesthetic importance to the City.

(2) The City requires the planting of street trees as part of subdivision developments and along major streets to enhance the character of the City.

(3) Street trees directly benefit the City residents by:

(i) Reducing erosion of the top soil by breaking the summer winds;

(ii) Reducing air pollution by the production oxygen from carbon dioxide;

(iii) Increasing property values;

(iv) Maintaining the ecological balance of the area;

(v) Providing shade and buffering the noise and glare; and

(vi) Providing energy conservation by the reduction of summer temperatures.

(4) The health and safety and general welfare of the citizens will best be served by regulating the removal, severe pruning, topping and planting of street trees and encouraging the reforestation of areas in which street trees have been removed.

(5) There is a need for a comprehensive plan for the selection and protection of Historical and Heritage Trees in the City of Los Banos.

(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.02. Definitions.

For the purpose of this chapter, the words listed in this section shall have the meaning set forth in this section.

Words used or defined in one tense or form shall include other tenses and derivative forms. Words in the singular number shall include the plural number and words in the plural number shall include the singular number. The masculine gender shall include the feminine, and the feminine gender shall include the masculine, this shall be extended to apply to partnerships, firms, and corporations or other similar entities. The words "shall" and "must" are mandatory. The word "may" is permissive. The word "person" includes individuals, firms, corporations, associations, trusts, and any other similar entities. The word "Los Banos" refers to the City of Los Banos. The word "jurisdiction" includes all public lands and rights-of-way included within

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the corporate limits of the City of Los Banos.

The following terms shall have the meanings herein ascribed to them:

"Arterial" shall mean heavy traffic carrying streets of Los Banos that function to move intra-city and inter-city traffic.

"City arborist" shall mean City Employee or Contracted Company hired by the City that is an expert in the cultivation and care of trees.

"Collector street" shall mean streets whose primary function is to collect traffic from an area and move it to a major thoroughfare or arterial while also providing substantial service to abutting land use.

"Commission" refers to the Parks and Recreation Commission of the City of Los Banos.

"Community development department" refers to the Planning Department of the City of Los Banos.

"Community forest" shall mean those trees and shrubs located within municipal limits.

"Council" refers to the Los Banos City Council.

"Director" refers to the Director of Public Works.

"Director of Public Works" refers to the Director of the Public Works Department of the City of Los Banos.

"Graft union" shall mean the place on the stem of a plant where the bud is joined to the rootstock or trunk. It is usually indicated by a slight swelling.

"Landscape Standards" shall mean standards of landscape design for the City of Los Banos.

"Landscape Standards for the City of Los Banos" shall mean policy stated in Ordinance No. 1059 Section 10-2.04 of the City of Los Banos Municipal Code.

"Landscaping" shall mean primarily the planting of vegetation of all types and shall also include as secondary accents the installation of exterior decoration, furniture, sculpture or structures, retaining walls, water features, including on-premises monument signs, and flagpoles, the preservation and enhancement of land forms and natural land features, the location and construction of aesthetically pleasing and functional approaches for structures, roadways, pedestrian ways, and enclosures, and the enhancement of the environment for human habitation by climate control, air movement, pollution control, and aesthetics.

"Local street" see Collector Street.

"Los Banos" shall mean the City of Los Banos, California.

"Municipal Code" shall mean the City of Los Banos Municipal Code as compiled and amended or any subsequent code of this City.

Owner. The word "owner" shall mean the legal owner of real property fronting on any street of the City, and any lessee of such owner.

"Parks and Recreation Operations Manager" refers to the Parks and Recreation Operations Manager of the City of Los Banos.

"Planning Director" refers to the Director of Planning for the City of Los Banos.

"Plant" shall mean any multi-cellular organism of the kingdom Plantae characteristically

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containing chloroplasts, having cellulose walls, lacking power of locomotion and reproducing by seeds or spores.

"Planting easement" refers to the portion of land made available as a public easement for the purpose of planting and maintaining City street trees.

"Public lands" shall mean those lands owned by the City of Los Banos.

"Public places" shall include all grounds owned by the City.

"Public street" shall mean and include all roads, streets, avenues, boulevards, alleys, parkways, and other public right-of-way, or any portion thereof, of the City.

"Public trees" shall mean those trees located on public lands.

"Recreation Commission" shall mean those members appointed to establish policies, regulations and standards to protect the community forest in Los Banos, California.

"Rights-of-way" shall mean those lands in the public ownership along public roads or easements.

"Shrub" shall mean a low woody perennial plant usually having several major branches.

"Shrubbery" shall mean an area where a number of shrubs are planted.

"Street" shall mean and include all roads, streets, avenues, boulevards, alleys, parkways, and other public rights-of-way, or any portion thereof, of the City.

"Street tree easement" shall mean a strip of land identified on a tract map, parcel map, or other instrument for the planting of street trees.

"Tree" shall mean a perennial woody plant having a main trunk and usually a distinct crown.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.03. Maintenance of trees within the public right-of-way and street tree easements.

The City of Los Banos shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, squares, parkways, public rights-of-way, street tree easements and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and aesthetics of such public grounds. The City may remove or cause to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to electric power lines, gas lines, water lines or other public improvements or is infected with any injurious fungus, insect or pest.

The Public Works Director shall have the power to designate the kind or variety of trees, shrubs, and plants to be planted upon any street, park, pleasure ground, boulevard, alley, public right-of-way or public place in the City subject to the supervision of the City Manager; provided, however, the owners of property fronting on any street, alley, or public place may petition the Council that such trees, shrubs, or plants shall be a certain kind or variety. The decision of the City Council shall be final.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.04. Requests for permits to prune, maintain or remove trees within the public right-of-way and street tree easements.

No person shall cut, trim, prune, plant, remove, injure, or interfere with any tree, shrub, or plant upon any street, park, pleasure ground, boulevard, alley, public right-of-way, street tree easements or public place in the City without a permit issued by the Public Works Director. The

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Public Works Director is hereby authorized to grant such permit in his discretion and, where necessary, subject to the condition that the removed tree be replaced by an official tree meeting the specifications of the City. No such permit shall be valid for a longer period than 30 days after its date of issuance.

(a) Planting street trees. A permit shall be obtained from the Director by any person proposing to plant or set out any tree on any parkway or street right-of-way that is not a part of an approved landscape plan, meeting current City Standards.

(1) The application required herein shall state the number of trees to be planted or set out, the location, grade, and variety of each tree, the method of planting and such other information as the Director may require.

(2) The Director shall issue the permit upon finding that the proposed species, location and method of planning are consistent with the requirements of this chapter and will not be injurious to the curbs, gutters and sidewalks or to the surrounding neighborhood.

(b) Root pruning and removal. No person shall root, prune, transplant or remove any tree on public property or within the City right-of-way without first filing an application and procuring a permit to do so from the Director.

(c) Tree trimming. No person shall prune or trim, cut off or perform any work on a single occasion or cumulatively over a three year period, affecting 25% or more of the crown of any tree on public property or within the City right-of-way without first filing an application and procuring a permit to do so from the Director.

(d) No fee shall be charged for any permit issued pursuant to this subsection.

(e) Permit issuance. The Director shall issue the permit upon finding that the proposed action is necessary to protect the curb, gutter, or sidewalk or to protect public health and safety and that the proposed action is found to be in conformance with industry standards for the care and maintenance of trees, shrubs, and plants. The Director may issue the permit if the proposed removal or trimming is found to be consistent with the purposes of this chapter. The Director may condition any permit for removal of a street tree, granted pursuant to this section, so as to require the permittee to replace the street tree.

(f) Time of performance. All work performed on street trees pursuant to a permit issued by the Director under this section shall be done within 30 days from the issuance of said permit or within such longer period as the Director shall specify.

(g) This permit requirement proposed by this section is not satisfied by approval of other City departments or under City contracts.

(h) The Director may issue permits to Public Utilities not to exceed one year of work undertaken by the utility pursuant to a comprehensive program if related activities are approved by the Director.

(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.05. Request to maintain public utilities within the public right-of-way that may require the cutting or trimming of trees.

It shall be the duty and responsibility of any public utility installing or maintaining any overhead

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wire or underground pipes or conduit in the vicinity of a parkway strip, to obtain permission from the Director before performing any maintenance on said wires, pipes or conduits, which would cause injury to street trees. Such public utilities shall in no way injure, cut roots, deface, prune or scar any street tree until their plans and procedures have been approved by the Director and a permit issued. The entity may file for permission from the Director by a written request. Such request shall describe the work desired to be done and it shall be within the discretion of the Director to require a written agreement upon the part of the petitioner to pay the cost thereof and to do such work in the way stipulated by the Director before the issuance of any permit under this chapter.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.06. Permits required for utility companies to prune, maintain or remove trees in the public right-of-way and street tree easements.

Any person, firm, or corporation maintaining any overhead wires or any pipes or underground conduits along or across any street, park, pleasure ground, boulevard, alley, public right-of-way or public place in the City or owning any property abutting upon any street, park, pleasure ground, boulevard, alley, public right-of-way, street tree easement or public place in the City shall obtain a permit to prune, maintain or remove a street tree within the public right-of-way. It shall be within the discretion of the Public Works Director to require a written agreement upon the part of the petitioner to pay the costs of such work and to do such work in the way stipulated by the Public Works Director before the issuance of any permit therefor.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.07. Property owner requirements to maintain private trees that may affect the public right-of-way or the community forest.

(a) Any person, firm, or corporation owning or occupying real property bordering on any street where trees have branches, limbs, trunks or other parts projecting into the public right-of-way shall prune such trees or keep them trimmed in such a manner that they will not obstruct or shade streetlights, obstruct or interfere with the passage of pedestrians on sidewalks, obstruct the vision of traffic signs or obstruct the views of any street or alley intersection.

(b) Any person owning or occupying real property bordering on any street, park or other public property, on which there may be trees that are diseased or insect infested, shall remove, spray or treat any such trees in a manner that will not infect or damage nearby public vegetation or cause harm to the community or citizens therein.

(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.08. Protection of trees during building construction, repairs, or removal.

During the erection, repair, alteration, or removal of any building, house, or structure in the City no person in charge of such work shall leave any tree, shrub, or plant in any street, park, pleasure ground, boulevard, alley, public right-of-way, street tree easement or public place in the City in the vicinity of such building or structure without such good and sufficient guards or protectors as shall prevent injuries to such tree, shrub, or plant arising out of or by reason of such erection, repair, alteration, or removal.

For the purpose of safeguarding trees during construction, the following conditions shall apply:

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(a) Damage to any tree during construction shall be immediately reported to the Director by any person causing such damage, the responsible contractor, or the owner of the site and such persons shall be required to treat the tree for such damages as specified by the Director;

(b) Oil, gasoline, chemicals and other construction materials or equipment which might be harmful to trees shall not be stored under the drip line or upslope of the tree(s);

(c) Drains shall be installed according to City specifications so as to avoid harm to the tree due to excess watering;

(d) Cutting and filling around the base of the tree shall be done only after consultation with the Director and then only to the extent authorized. The Director may require professional consultation, at the applicant's cost, to make appropriate determinations;

(e) No paint thinner, paint, plaster or other liquid or solid excess or waste construction materials or waste water shall be dumped on the ground or into any grate between the drip line and the base of the tree or uphill from any tree where such substance might reach the roots through a leaching process;

(f) Tree protection fences (minimum three (3′) foot high visibility fence with metal posts at minimum every ten (10′) feet) shall be installed at the drip line to prevent compaction and injury to a tree's surface roots to prevent exposing the trees to disease causing organisms;

(g) Wherever cuts are made in the ground near the roots of a tree, appropriate measures shall be taken to prevent exposed soil from drying out and causing damage thereto. All cuts within the drip line of a tree are to be made by hand (no backhoes or graders);

(h) Trimming cuts one inch in diameter and over must be covered at the time the cuts are made with a tree seal pruning compound approved by the Director. All root pruning is to be done by hand.

(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.09. The designation and protection of heritage trees.

The following standards shall govern the treatment of Heritage Trees.

(a) Purpose. The purpose of these regulations is to protect certain trees in order to preserve cultural heritage, maintain and enhance the scenic beauty of the community, to provide shade, improve air quality, assist in abating soil and slope erosion and preserve and enhance property values, thus promoting the public health, safety and welfare.

(b) Applicability. These regulations regulate the maintenance and removal of trees that are sited on private property.

(c) Heritage Tree defined. As used in this section "Heritage Tree" means, upon nomination by any person and with the written consent of the property owner(s), any tree or group of trees recommended by the Parks and Recreation Commission and identified by City Council resolution upon a finding that the tree or group of trees is:

(1) Of historic value because of its association with a place, building, natural feature or event of local, regional, national or historic significance; or

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(2) Identified on any historic or cultural resources survey as a significant feature of a landmark, historic site or historic district; or

(3) Representative of a significant period of the City's growth or development and was the result of a planting dedicated by citizens, civic groups or the City; or

(4) Identified because of its age, beauty, and/or uniqueness, especially if representative of a species that has significance in natural history and/or ecology.

After City Council approval of a Heritage Tree designation, the City Clerk shall notify the property owner(s) in writing. A listing of trees so designated as a Heritage Tree, including the specific locations thereof, shall be kept by the Public Works and Planning Departments. Once designated, a Heritage Tree shall be subject to the provisions of this section unless removed from the list of Heritage Trees by action of the City Council. The City Council may remove a tree from the list upon its own motion or upon written request by the property owner.

(d) Maintenance and preservation of Heritage Trees. Any person who owns, controls, has custody or possession of any real property within the City shall use reasonable efforts to maintain and preserve all Heritage Trees located thereon in a state of good health pursuant to the provisions of this section. Failure to do so shall constitute a violation of this section. Any person who conducts any grading, excavation, demolition or construction activity on property shall do so in such a manner as to not threaten the health or viability or cause the removal of any Heritage Tree. Any work performed within a radius of 10 times the diameter of the tree from the center of the trunk (i.e., the tree protection zone) shall require submittal of a tree protection plan for review and approval by the Director of Public Works or designee prior to issuance of any permit for grading or construction. The tree protection plan shall be prepared by a certified arborist and shall address issues related to protective fencing and protective techniques to minimize impacts associated with grading, excavation, demolition and construction. The Director of Public Works or designee may impose conditions on any City permit to assure compliance with this section.

(e) Removal and major pruning of Heritage Trees prohibited. It is unlawful for any person to remove, or cause to be removed any Heritage Tree from any parcel of property in the City, or prune more than 1/4 of the branches or roots within a 12 month period, without obtaining a permit; provided, that in case of emergency, when a tree is imminently hazardous or dangerous to life or property, it may be removed by order of the Police Chief, Fire Chief, the Director of Public Works or their respective designees. Any person who vandalizes, grievously mutilates, destroys or unbalances a Heritage Tree without a permit or beyond the scope of an approved permit shall be in violation of this section.

(f) Tree permit required. Any person desiring to remove one or more Heritage Trees or perform major pruning shall apply for a permit pursuant to procedures established by the Director of Public Works and shall pay a fee established by the City Council. It is the joint responsibility of the property owner and party removing the Heritage Tree or trees, or portions thereof to obtain the permit. The Director of Public Works or designee may only issue a permit for the removal or major pruning of a Heritage Tree if he or she determines there is good cause for such action. In determining whether there is good cause, the Director of Public Works or designee shall give consideration to the following:

(1) The condition of the tree or trees with respect to disease, danger of falling, proximity

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to existing or proposed structures and interference with utility services;

(2) The necessity to remove the tree or trees in order to construct proposed improvements to the property;

(3) The topography of the land and the effect of the removal of the tree on erosion, soil retention and diversion or increased flow of surface waters;

(4) The long-term value of the species under consideration, particularly lifespan and growth rate;

(5) The ecological value of the tree or group of trees, such as food, nesting, habitat, protection and shade for wildlife or other plant species;

(6) The number, size, species, age distribution and location of existing trees in the area and the effect the removal would have upon shade, privacy impact and scenic beauty;

(7) The number of trees the particular parcel can adequately support according to good arboricultural practices;

(8) The availability of reasonable and feasible alternatives that would allow for the preservation of the tree(s).

(g) Hearings and appeals. Hearings and appeals of the decision of the Public Works Director or designee shall be conducted in the same manner as provided by Sections 9-3.2226 through 9-3.2228.

(h) Exceptions. Tree permits are not required and trees may be removed in compliance with the provisions of this section under the following provisions:

(1) Removal of any tree on private property not classified or listed as a Heritage Tree;

(2) Routine maintenance, including trimming of street trees and trimming of trees on private property by a utility company licensed by the Public Utilities Commission to maintain required clearances around utility installations;

(3) Emergency circumstances, if personal injury or property damage is eminently threatened in the sole judgment of the Public Works Director, Planning Director, Police Chief, Fire Chief, or City Manager;

(4) Removal of a Heritage Tree that is dead or so diseased or damaged that it is no longer viable, as determined by the Public Works Director.

(i) Heritage Tree protection guidelines. Development proposals shall protect and preserve Heritage Trees to the fullest extent possible. Care shall be exercised by all individuals, builders, contractors and others working near protected trees so that no damage occurs to such trees. The following measures shall be used to preserve and protect the health of trees to remain, relocated trees and new trees planted to replace those removed.

(1) All trees to be saved shall be enclosed by a construction barrier placed around the protected zone of the tree, including, but not limited to, chain link fencing or other material acceptable to the Public Works Director, prior to the issuance of any grading or building permit and prior to the commencement of work. Barriers are to remain intact until construction is complete and may not be removed without the written

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consent of the Planning Director.

(2) When proposed development or other site work is to encroach into the protected zone of a tree, special measures shall be incorporated to allow for safe and healthy conditions for protected trees.

(3) Any excavation, cutting, filling, paving or construction of the existing ground surface within the protected zone of a tree shall be minimized. No adverse significant change in existing ground level shall occur within the drip line of a protected tree.

(4) Development proposals shall be configured to retain as many Heritage and significant trees as possible.

(5) Construction equipment and material shall not be stored within tree protection areas. No oil, gas, chemicals or other substances that may be harmful to trees shall be stored or dumped within the protected zone or any other location on the site from which such substances might enter the protected zone.

(6) Trenching within the protected zone of trees shall be avoided wherever possible. Trenching for utilities shall avoid major roots and, if avoidance is impractical, tunnels shall be made below roots. Trenching is to be consolidated to serve as many units as possible. Trenching within the protected zone shall be done by hand to minimize impacts.

(7) Additional measures may be imposed by the Public Works Director to protect and preserve the health of the trees to remain, relocated trees and new trees planted to replace those that are removed.

(j) Enforcement—Remedies for violation. In addition to all other remedies set forth in this code or otherwise provided by law, the following remedies shall be available to the City for violation of this section:

(1) Civil penalties.

(a) As part of a civil action brought by the City, a court may assess against any person who commits, allows, or maintains a violation of any provision of this section a civil penalty in an amount not to exceed Five Thousand and No/100ths ($5,000.00) Dollars per violation.

(b) Where the violation has resulted in damage, mutilation, disfigurement, or removal of a tree, whether through vandalism, improper pruning, or other actions, the civil penalty shall be in an amount not to exceed Five Thousand and No/100ths ($5,000.00) Dollars per tree, or the replacement value of each such tree, whichever amount is higher. Such amount shall be payable to the City. Replacement value for the purposes of this section shall be determined utilizing the most recent edition of the "Guide for Plant Appraisal," published by the Council of Tree and Landscape Appraisers.

(2) Injunctive relief. A civil action may be commenced to abate, enjoin, or otherwise compel the cessation of such violation.

(3) Costs. In any civil action brought pursuant to this section in which the City prevails, the court shall award to the City all costs of investigation and preparation for trial, the

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costs of trial, reasonable expenses including administrative costs incurred in prosecuting the action, and reasonable attorney fees.
(§ 1, Ord. 1091, eff. May 21, 2010)

§ 10-1.10. Interference with City employees while conducting tree planting or maintenance.

No person shall interfere with the Public Works Director or persons acting under his authority while engaged in planting, mulching, pruning, trimming, spraying, treating, or removing any tree, shrub, or plant in any street, park, pleasure ground, boulevard, alley, public right-of-way, street tree easement or public place in the City or in the removal of any stone, cement, or other substance from about the trunk of any tree, shrub, or plant in any such street, park, pleasure ground, boulevard, alley, public right-of-way, street tree easement or public place.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.11. The placement of deleterious substances on or around trees in the public right-of-way.

No person shall cause, authorize, or procure any brine water, oil, liquid, dye, or other substance deleterious to tree life to lie, leak, pour, flow, or drip upon or into the soil about the base of any tree, shrub, or plant in any street, park, pleasure ground, boulevard, alley, public right-of-way, street tree easement or public place in the City or onto any sidewalk, road, or pavement within the City at a point from which such substance may be lying upon or flowing, dripping, or seeping into such soil to injure such tree, shrub, or plant or to otherwise harm or kill any such tree, shrub, or plant.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.12. Impeding free access of water to trees in the public right-of-way.

No person without the approval of the Public Works Director shall place or maintain any stone, cement, or other substance so that it shall impede the free access of water or air to the roots of any tree, shrub, or plant in any street, park, pleasure ground, boulevard, alley, public right-of-way, street tree easement or public place in the City.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.13. The attachment of wires, ropes, signs, and other devices to public trees.

No person, without the permission of the City Manager and Public Works Director, shall attach or keep attached to any tree, shrub, or plant in any street, park, pleasure ground, boulevard, alley, public right-of-way, street tree easement or other public place in the City, or to the guard or stake intended for the protection thereof, any wire, rope, sign, or other device whatsoever.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.14. Building construction necessitating trimming or removal: Permits required: Conditions: Payment of costs.

When the erection, repair, alteration, or removal of any building, house, or structure necessitates the trimming, pruning, or removal of any tree, shrub, or plant on any street, park, pleasure ground, alley, public right-of-way, street tree easement or other public place in the City, except any trimming, pruning, or removal required by the construction of a residential driveway, it shall be within the discretion of the Public Works Director to refuse permission to do such work.

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Applications for permits to trim, prune, or remove any tree or plant on any of such places for such reasons shall be filed with the Public Works Director at least three business days prior to the time of doing such work. The Public Works Director may stipulate the conditions upon which any trimming, pruning, or removal may be done and may require the applicant to enter into an agreement whereby the applicant shall agree to pay all costs incurred for any inspections, labor, equipment, or services deemed necessary by the Public Works Director.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.15. Traffic visibility obstructions due to over grown foliage.

(a) Inspections. The Public Works Director may inspect any tree, shrub, or plant upon any street, park, pleasure ground, boulevard, alley, public right-of-way, street tree easement or public place in the City or on any private property, which tree, shrub, or plant overhangs or projects into any street, park, pleasure ground, boulevard, alley, or public place in the City, to determine whether the same, or any part thereof, is in such condition as to constitute a hazard or an impediment to the progress or vision of anyone traveling on such street, park, pleasure ground, boulevard, alley, public right-of-way, street tree easement or public place.

(b) Trimming or removal: Notices of intent. The Public Works Director may cause the same or such parts thereof, as are hazardous or an impediment to be trimmed or removed so as to remedy such condition. However, no such tree, shrub, or plant standing on any private property shall be cut down or removed unless 10 days' notice in writing of such intention shall be given by the Public Works Director to the owner, occupant, or agent of the property upon which such described condition exists.

(c) Trimming or removal: Objections. If the owner, occupant, or agent of such private property, within seven days after the receipt of such notice, files his objection to such removal with the Public Works Director, such tree, shrub, or plant shall not be cut down or removed unless the Public Works Director shall give such owner, occupant, or agent a reasonable opportunity to be heard in support of such objection.

(d) Trimming or removal: Objections: Overruling. If such objection shall not be sustained, the Public Works Director shall thereafter approve in writing the cutting down or removal of such hazardous tree, plant, or shrub.

(e) Liability. The provisions of this section shall not be deemed to impose any liability upon the City or its officers or employees nor relieve the owner of any private property from the duty to keep any tree, shrub, or plant upon his property or under his control in such a condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any street, park, pleasure ground, boulevard, alley, public right-of-way, street tree easement or public place within the City.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.16. Public nuisances on public or private property: Declaration.

All trees or shrubs growing in the City, which trees or shrubs are infested or infected with parasites or insect pests and which, unless exterminated, may spread to and injure or destroy the trees and shrubs of an entire community or neighborhood, are hereby declared to be public nuisances.
(§ 1, Ord. 1085, eff. December 5, 2008)

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§ 10-1.17. Public nuisances on public or private property: Abatement: Duty of property owners.

It shall be the duty of each and every owner of real property upon which such a nuisance exists, as set forth in Section 10-1.16 of this chapter, to abate, or cause the nuisance to be abated, without delay, by the extermination of such parasites or insect pests from all such infested trees or shrubs growing on such property. The duty of abating such public nuisances and exterminating such parasites and insect pests infecting trees or shrubs on or near the boundary line of adjoining private properties shall be upon the respective owners of such trees or shrubs; as such ownership is determined by the provisions of Sections 833 and 834 of the Civil Code of the State.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.18. Public nuisances on public or private property: Abatement by property owners: Methods.

Such nuisances, as set forth in Section 10-1.16 of this chapter, shall be abated by spraying the infected trees or shrubs with an insecticide or fungicide or by other treatment, as the particular case may require, so as to completely exterminate such parasites or insect pests from the trees or shrubs affected; provided, however, whenever any tree or shrub is found to be in such bad condition from the infection of parasites or insect pests that, in the opinion of the Public Works Director, it is impossible to save the tree or shrub, the owner of the land on which such tree or shrub is growing shall completely destroy the same by removal.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.19. Public nuisances on private property: Abatement by owners: Notices to abate.

Whenever the Public Works Director shall find any trees or shrubs growing upon private property, which trees or shrubs are so infected or infested with parasites or insect pests that, unless they are exterminated, they may spread to and injure or destroy other trees or shrubs in the neighborhood, the Public Works Director shall give notice to the owner that unless such nuisance is abated without delay by the extermination of such parasites or insect pests, the exterminating work will be done by the City, and the expense thereof shall be assessed upon the lots and lands from which such parasites or insect pests are exterminated.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.20. Public nuisances on private property: Abatement by owners: Notices to abate: Form.

The notice required by the provisions of Section 10-1.19 of this chapter shall be substantially in the following form:

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Notice to Destroy Tree Pests

Notice is hereby given, pursuant to the provisions of Chapter 1 of Title 10 of the Los Banos Municipal Code, that certain trees and shrubs on property assessed to you in the City of Los Banos are infested or infected with parasites or insect pests which should be exterminated by spraying them with a chemical solution to be designated by the Public Works Director of the City of Los Banos, or by trimming such trees and shrubs, or by otherwise exterminating such parasites or insect pests, as directed by the Public Works Director; otherwise such parasites or pests may spread to and injure or destroy other trees or shrubs in the neighborhood, and that such condition constitutes a public nuisance. You are hereby notified to exterminate such parasites or insect pests without delay; otherwise the work of exterminating them and abating such nuisance will be done by the undersigned, in which case the expense thereof will be assessed upon your property and will constitute a lien thereupon until paid, and, unless paid as provided in said Chapter 1 of Title 10, will be placed upon the next tax roll upon which general City taxes are collected and collected in the manner and form and under the applicable provisions of the tax laws. You are further notified to appear before the City Council of the City of Los Banos at its meeting on _____, 20_____, at 7:00 p.m. in the Council Chambers in the City Hall, Los Banos, California, and show cause, if any you have, why such nuisance should not be found to exist and the same ordered abated, as provided in said Chapter 1 of Title 10.

Dated _____, 20_____

_____
Public Works Director of the City of Los Banos

(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.21. Public nuisances on private property: Abatement by owners: Notices to abate: Service and posting.

The Public Works Director shall mail a copy of the notice required by the provisions of Section 10-1.19 of this chapter, with all blanks properly filled, to each and every owner of real property, on which such a nuisance exists, whose name and address appear on the last equalized assessment roll. If the name and address of such owner do not appear on the assessment roll or are not otherwise known to the Public Works Director he shall cause a copy of the notice to be conspicuously posted on the property affected. The notices so posted shall be substantially the same as the notices served by mail. The mailing or posting of such notices shall be done and completed at least 10 days before the time fixed for the hearing set forth in the notice. The failure of any property owner to receive such notice shall not deprive the City Council from proceedings nor affect in any manner the validity of any of the proceedings taken, or to be taken, or of any assessment levied pursuant to the provisions of this chapter.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.22. Public nuisances on private property: Abatement by owners: Notices to abate: Affidavits.

Upon giving the notice as set forth in Section 10-1.21 of this chapter, the Public Works Director shall make and file with the City Clerk his affidavit stating the existence of the nuisance and that in each and every case the owner of real property having trees or shrubs thereon infected with parasites or insect pests was notified by mail or by posting the notices required by the provisions of this chapter. A copy of the form of notice so mailed or posted shall be annexed to the affidavit, together with a list of all properties on which such infested trees or shrubs have been declared to

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be a nuisance.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.23. Public nuisances on private property: Abatement by City: Council orders.

The Public Works Director shall attend the hearing set by the Council pursuant to the provisions of Section 10-1.20 of this chapter and report on any other matters desired by the Council concerning such nuisances. Thereupon, if satisfied that such nuisances exist, the Council shall by resolution find such nuisances to exist and order the Public Works Director to proceed with the work of abating the nuisances pursuant to the provisions of this chapter.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.24. Public nuisances on private property: Abatement by owners: Methods.

Any owner of real property on which any trees or shrubs are infected or infested may cause such parasites or insect pests to be exterminated; provided, however, in all such cases the work shall be done to the satisfaction of the Public Works Director and shall be undertaken prior to the time his assistants arrive to do the work.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.25. Public nuisances on private property: Abatement by City: Reports of costs.

When the work ordered by the Council pursuant to the provisions of Section 10-1.23 of this chapter is done by the Public Works Director, he shall keep an account of the costs of abating such nuisances upon each separate lot or parcel of land and shall embody such account in a report and assessment list to the Council which he shall file with the City Clerk. Such report and assessment list shall refer to each separate lot or parcel of land by a description sufficient to identify it and shall state separately the cost of exterminating such parasites or insect pests on each lot or parcel of land.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.26. Public nuisances on private property: Abatement by City: Reports of costs: Notices.

The Public Works Director shall post a copy of the report and assessment list required by the provisions of Section 10-1.25 of this chapter near the entrance door to the City Hall, together with a notice of filing the same and of the time and place when and where it will be submitted to the Council for hearing and confirmation at least 10 days before the day fixed therein. The Public Works Director shall also mail or post copies of such notice to all the owners of property on which such nuisance was abated in the manner, for the time, and with like effect, and file with the City Clerk an affidavit thereof as set forth in Sections 10-1.21 and 10-1.22 of this chapter. Such notices shall be substantially in the following form:

Notice of Filing Report and Assessment List For Exterminating Tree Pests and of Hearing Thereon

Notice is hereby given that the Public Works Director of the City of Los Banos has filed with the City Clerk of said City a report and assessment list covering the cost of exterminating parasites and insect pests from trees and shrubs growing on private property in said City, a copy of which is posted near the entrance door to the City Hall. Your property is assessed therein in the sum of $_____

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Notice is further given that on the _____ Day of _____, 20_____, at 7:00 p.m. in the Council Chambers in said City Hall said report and assessment list will be presented to the City Council of said City for consideration and confirmation, and any and all persons interested having any objections to said report and assessment list, or to any other matter contained therein or relating thereto, may appear at said time and place and be heard. Notice is further given that you may pay said assessment at the office of the City Clerk at any time before 5:00 p.m., August 31, 20_____, and, if not paid before that time, it will be entered against your property on the City tax roll.

Dated_____, 20_____

_____
Public Works Director of the City of Los Banos

(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.27. Public nuisances on private property: Abatement by City: Reports of costs: Hearings.

The owners and all other persons interested in any work done pursuant to the provisions of Section 10-1.23 of this chapter, or in the assessment made for such work, who feel aggrieved by any act or determination of the Public Works Director in relation thereto, or who claim that the work was not performed in a good and workmanlike manner, or who claim that any portion of the work, for any reason, was omitted or illegally included, or who have any objections to the correctness of the assessment or other act or determination or proceeding of the Public Works Director, may appear before the Council at the time and place set forth in the notice required by the provisions of Section 10-1.26 of this chapter and be heard. Following such hearing the Council may remedy and correct any error and revise and correct any of the acts or determinations of the Public Works Director relating to such work, and may amend, alter, modify, or correct the assessment in such manner as to the Council shall seem just, and may require the work to be completed according to its directions. All the decisions and determinations of the Council following such hearing shall be final and conclusive. The assessment, when confirmed, shall become and remain a lien upon the properties stated therein until paid.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.28. Public nuisances on private property: Abatement by City: Assessments for costs: Payment.

Any property owner may, at any time prior to 5:00 p.m. of August 31, following the doing of the work pursuant to the provisions of Section 10-1.23 of this chapter, pay the amount assessed against his property at the office of the Public Works Director, and the lien thereof against the property affected shall be released.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.29. Public nuisances on private property: Abatement by City: Assessments for costs: Collection with taxes.

After August 31 following the completion of the work pursuant to the provisions of Section 10-1.23 of this chapter the Chief Financial Officer shall enter and extend the amounts of the assessments made for such work and remaining unpaid against the respective lots or parcels of land on the City tax roll, and the Tax Collector shall include the sums on the bills for such taxes.

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Thereafter such amounts shall be collected at the same time and in the same manner as general City taxes are collected and shall be subject to the same penalties and the same procedure and sale in the event of delinquency. All laws applicable to the levy, collection, and enforcement of City taxes shall be applicable to such special assessments.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.30. City of Los Banos Standards of Landscape Design and implementation.

The Public Works Director shall prepare and recommend, and the City Council shall adopt by resolution a comprehensive plan for the planting and maintaining of trees within public streets of the City, which plan shall be designated as the Standards of Landscape Design. Said plan shall include those public streets identified in Section 10-1.02 which, in the Commission's judgment, bear a relationship to the purposes of this chapter. The plan shall be so prepared that all appropriate public streets may be included in the plan. The plan shall consist of a written statement, maps, and such detailed designs as may be appropriate, setting forth or depicting the following:

(a) The specific types of trees to be planted and maintained, including their desirable spacing and location;

(b) The identification of those existing trees which should be retained;

(c) The identification of those trees which may constitute a hazard or public nuisance, and which may require substantial maintenance or removal.

(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.31. City of Los Banos master list of approved street trees for planting in the public right-of-way and street tree easements.

The Parks and Recreation Department with the assistance of the Director of Public Works shall prepare, recommend and maintain a master street tree list enumerating the species of shade and ornamental trees permitted to be planted on public property. The master street tree list shall be submitted to the Parks and Recreation Commission which shall make a final recommendation to the City Council. The City Council shall adopt this by a resolution. A master list of trees that are suitable for implementing the, City of Los Banos Landscape Standards, and for the planting of trees within all other public streets not included in the comprehensive plan. The master list shall be prepared and adopted within three months after the adoption of the ordinance codified in this section. In preparing and amending the master list, the Director shall consult with persons who, by reason of training and experience, have expertise in the selection, planning, planting, and maintenance of trees that are well suited to local climatic and soil conditions. Upon its adoption, the list shall be known as the master list of trees, and shall be placed on file in the office of the City Clerk and the offices of the Director of Public Works, and the Director of Planning, and shall thereafter be the official master list. Revisions or changes to the master list may be made in the same manner described hereinabove for the preparation, adoption, and filing of the original master list. The Master Street Tree List may be reviewed annually by the Director of Public Works and the Parks and Recreation Commission.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.32. Conformance.

All trees hereinafter planted within a public street within the City shall conform as to type,

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species, spacing, and location as prescribed by the comprehensive street tree plan, if applicable, or by the master list of trees. Projects requiring approval of the City Planning Department or City Planning Commission under provisions of site plan review as prescribed by the City's Zoning Ordinance shall conform to the requirements of this section.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.33. Liability.

Nothing contained in the ordinance codified in Sections 10-1.01 through 10-1.35 shall be deemed to impose any liability upon the City, its officers or employees, nor to relieve any private property owner from the duty to avoid violating any of the applicable provisions of the ordinance codified in Sections 10-1.01, 10-1.01.05 and 10-1.26 through 10-1.31.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.34. Enforcement.

The Director of Public Works is hereby charged with the responsibility for the enforcement of the ordinance codified in Sections 10-1.01 through 10-1.35, and may serve notice to any person in violation thereof or institute legal proceedings as may be required, and the City Attorney is hereby authorized to institute appropriate proceedings to that end.
(§ 1, Ord. 1085, eff. December 5, 2008)

§ 10-1.35. Trees in new developments.

(a) Residential subdivisions. Developers of residential dwelling units shall be required to plant two street trees per every lot, and where this is not possible due to lot configuration, a separate location within the subdivision may be designated to allow compliance or an in-lieu fee established by resolution paid by the developer to fulfill this requirement approved by the Director of Public Works, (four trees where space permits on corner lots) prior to the final inspection.

(b) Commercial and industrial developments shall comply with the standards set forth in the City of Los Banos Landscape Standards.

(c) A tree inspection fee is required for all residential and commercial developments. The fees shall be determined by City Council resolution.

(d) Tree mixture. Landscape plans shall encourage a mixture of tree types.

(e) Planting of trees. Planting of trees in the City shall be in accordance with standards recommended by the City of Los Banos Landscape Standards.

(f) Tree maintenance. Trees shall be maintained in good health, and shall not be trimmed or pruned to reduce the natural height or overall crown of the tree except as necessary for the health of the tree and public safety in accordance with accepted arboricultural practices, or as may otherwise be approved by the City of Los Banos Parks Department. Dead or seriously diseased trees shall be replaced with comparable and compatible specimen from the City approved tree list.

(g) Landscape for commercial projects shall be subject to annual inspections. Commercial Developments shall enter into an agreement with the City at the time of development that the landscape shall be maintained in substantial conformance with the approved landscape

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plan as determined by the Director of Public Works. It shall be the responsibility of the Public Works Director to enforce the agreement.

(§ 1, Ord. 1085, eff. December 5, 2008)

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Chapter 2
(Reserved)

Editor's note: Chapter 2, City of Los Banos Water Efficient Landscape Ordinance, was renumbered to Chapter 9-6 by Ord. 1156.

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Chapter 3
Community Preservation

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ARTICLE 1
IN GENERAL

§ 10-3.100. Purpose and intent.

The City has a history and reputation for well-kept properties; and property values and the general welfare of the community are founded, in part, upon the appearance and maintenance of private properties. The purpose of this chapter is to promote the health, safety, economic, aesthetic and general welfare of the citizens of the City, and to protect neighborhoods against nuisances, blight and deterioration by establishing requirements for all building exteriors, whether residential or nonresidential, or structures of whatever kind, and establishing requirements for the maintenance of all land, whether improved or vacant.

Owners and occupants of some properties within the City permit conditions to exist which are below the minimum conditions required by this Code and therefore injurious and inimical to the public health, safety, and welfare of the residents of the City and contribute substantially and increasingly to the deterioration of residential neighborhoods and commercial areas.

The abatement of certain uses and abuses of property as described in this chapter reasonably relates to the proper exercise of police power to protect the health, safety, and general welfare of the public.

Abatement of conditions less than those required by this Code will promote health, safety, and welfare of the residents of the City because maximum use and enjoyment of property in close proximity to another depends upon maintenance of both properties.

This chapter shall apply to all buildings, structures and lands within the City without regard to use, date of construction or alterations.
(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.101. Definitions used within this chapter.

"Building/structure" means and includes, but is not limited to, any house, garage, carport, duplex, apartment, condominium, mobile home, storage shed, any commercial establishment, warehouse, fence, wall or other structures affixed to or upon real property, or any assemblage of materials on private property of another for the purpose of human habitation.

"City" means the area within the territorial City limits of the City of Los Banos and all territory outside of the City over which the City has jurisdiction by virtue of ordinance or law.

"City Manager" means the Manager of the City, or any person or persons designated by the City Manager to act in his/her stead in connection with this chapter.

"Director" means and includes each of the Directors of the City departments which are now or may in the future be charged with the enforcement of this Code.

"Enforcement Officer" means any City employee designated by any Director or by the City Manager to enforce the provisions of this Code. Such employees may be employed in any City department.

"Hearing Officer" means the City's City Manager or any person appointed by the City Manager to preside over administrative enforcement hearings held pursuant to this chapter.

"Person" means any natural person, firm, association, business, or organization, corporation, partnership, trust, estate, or any other legal entity recognized by law as the subject of legal rights

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or duties.

"Property" means any parcel of land which is identified in the secured roll of the Merced County Assessor, all residential, commercial and other real property, including but not limited to front yards, side yards, backyards, driveways, walkways, alleys, sidewalks, and shall include any building or structure whether fixed or moveable, located on such property.

"Property owner" means the record owner of real property as listed in the most current equalized assessment roll as maintained by the Merced County Assessor.

"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.

"Violation" means a violation of this Code by any property owner or any responsible party.

"Visual blight" means any unreasonably or unlawful condition or use of premises or of a building exterior which by reason of its appearance as viewed at ground level from the public right-of-way or from neighboring premises, is detrimental to the surrounding area and the property of others, or is detrimental to the health, safety and welfare of individuals residing within the community.
(§ 2, Ord. 1059, eff. December 7, 2007)

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ARTICLE 2
REMEDIES

§ 10-3.102. Civil violations.

(a) In addition to any other remedy provided by this Code, any provision of this chapter may be enforced by injunction issued by the Superior Court upon a suit brought by the City.

(b) As part of a civil action filed to enforce provisions of this chapter, a court may assess a maximum civil penalty of Two Thousand Five Hundred and No/100ths ($2,500.00) Dollars per violation of this chapter for each day during which any person commits, continues, allows or maintains a violation of any provision of this chapter.

(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.103. Criminal violations.

(a) It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. A violation of any of the provisions or failing to comply with any of the mandatory requirements of this chapter shall constitute a misdemeanor; except that notwithstanding any other provision of this Code, any such violation constituting a misdemeanor under this Code may, in the discretion of the City Attorney, be charged and prosecuted as an infraction. Any person convicted of a misdemeanor under the provisions of this chapter, unless provision is otherwise herein made, shall be punishable by a fine of not more than One Thousand and No/100ths ($1,000.00) Dollars or by imprisonment in the County jail for a period of not more than six months or by both fine and imprisonment. Any person convicted of an infraction under the provisions of this Code, unless provision is otherwise herein made, shall be punishable by a fine only as follows: Upon a first conviction, by a fine of not exceeding Two Hundred Fifty and No/100ths ($250.00) Dollars and for a second conviction or any subsequent conviction within a period of one year, by a fine of not exceeding Five Hundred and No/100ths ($500.00) Dollars.

(b) Each such person shall be charged with a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued or permitted by such person and shall, upon conviction, be punished accordingly.

(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.104. Administrative remedies.

This Code established the administrative enforcement of remedies for violations of this Code and applicable State Codes. The general remedies include administrative abatement, summary abatement, civil penalties, administrative citations, recordation of notices of violation and mediation. The City may pursue any of these administrative remedies for violations of this chapter.

(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.105. Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this article. The City Council declares that it would have adopted such section, subsection, sentence, clause, phrase or portion

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thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.
(§ 2, Ord. 1059, eff. December 7, 2007)

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ARTICLE 3
PROPERTY CONDITIONS CONSTITUTING A NUISANCE

§ 10-3.106. Public nuisance defined.

A public nuisance consists of doing any act, or permitting or allowing any condition or thing to exist, occur, or accumulate upon any property within the City that is injurious to health, indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property and endangers the health or safety of others.
(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.107. Alleys.

(a) It is unlawful for any person who owns, leases, occupies, or has charge, control, or possession of any property in the City to place or allow to remain in any alley abutting said property, from ground level up to a height of twelve (12′) feet above the alley surface.

(b) Any remedy utilized by the City to correct or abate a violation of this section shall, whenever possible, be initially directed to any person who controls, occupies or is in possession of the property in violation. This does not preclude the City from pursuing any remedy available to it against the lessor, manager, or property owner in order to correct or abate the violation.

(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.108. Sidewalk encroachment.

It is unlawful, and constitutes a public nuisance to place wires, cables, hoses, including unattended garden hoses, and other objects across or on public sidewalks in such a manner that they may cause a tripping or other hazard for those using the sidewalk, or otherwise substantially impair the public use of the sidewalk.
(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.109. Fences and walls.

It is unlawful, and constitutes a public nuisance, to allow on property in public view within the City, exterior perimeter walls and fences that either are structurally unsound so as to constitute a hazard to persons or property or are partially destroyed or permitted to remain in a state of partial construction for a period of 180 days or more, and which by reason of such condition are either defective or are in such a condition of deterioration or disrepair that they are considered visual blight, as defined in Section 10-3.101.
(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.110. Unsecured buildings.

It is unlawful and constitutes a public nuisance for any responsible party or owner of any property in the City to fail to install, or to fail to use, reasonable security measures to prevent unauthorized entry into any vacant or uninhabited building upon such property. Except when the owner of responsible party is personally upon the property, all exterior openings, such as doors and windows, affording entry into any building upon such property shall be reasonably secured against unauthorized entry into such building.
(§ 2, Ord. 1059, eff. December 7, 2007)

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ARTICLE 4
NUISANCE VEGETATION AND JUNK

§ 10-3.111. Definitions.

(a) As used in this section, "nuisance vegetation" means any of the following:

(1) Dry grass, stubble, hay, brush, any dry or dead plant, bush, shrub, tree, or other dry vegetation which present a visual blight upon the area, which may harbor insect or rodent infestations or which may likely become a fire hazard or result in a condition which may threaten the health and safety or the economic welfare of adjacent property owners or occupants;

(2) Any plant or grass, whether growing or dormant, which bears downy or winged seeds;

(3) Poison oak (Rhus diversiloba) or poison ivy (Rhus toxicodendron);

(4) Mistletoe (Phoradendron flavescens) or other parasitic or injurious growth capable of spreading to healthy trees and plants at any time during its germination or growth cycle;

(5) Puncture vine (Tribulus terrestris);

(6) Overgrown vegetation, whether living, dormant, dead, cultured or uncultured, which encroaches into the public right-of-way or renders that right-of-way unsafe by blocking vision or can otherwise be hazardous to pedestrian or vehicular traffic or which is capable of harboring insects, rats, mice, or other vermin, or other similar conditions which are dangerous to the public health or welfare or which are hazardous to pedestrian or vehicular traffic. Grass or weeds must not grow to a height or bulk that creates a traffic, pedestrian, or fire hazard or which is a blight on the neighborhood, and in no event taller than eight (8″) inches above ground level;

(7) Any tree or other vegetation which is dead, decayed, infected, diseased, infested with or in danger of becoming infested with, objectionable insects, scale, or fungus, or which is otherwise a hazard to public safety and welfare;

(8) Any tree, plant, vine, or foliage, whether living, dormant, or dead, that is otherwise noxious, dangerous, or injurious to people or to City trees, or that interferes with the maintenance or inspection of a City tree;

(9) Tumbleweeds (amaranths) and other similar vegetation which characteristically break away from their roots at maturity and can be blown by the wind to create hazards to pedestrian or vehicular traffic.

(b) As used in this section, "junk" means any of the following objects or materials upon a property if such object or material is left, placed, kept, exposed, or stored in public view for more than 1/2 of any continuous 10 day period. Materials described below which are upon the property of a properly zoned business and which constitute lawfully stored or displayed merchandise or services of said business are excluded from this article:

(1) An accumulation of dirt, soil, rock, gravel, bark, humus, sod, or other similar natural materials; providing, however, the accumulation of such material which is an integral part of an organized landscape design, or which is part of an incomplete project, is

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excluded from this definition if the excess or the residue of such accumulation is completely removed from the property by the completion of the building or landscaping project. A project shall be deemed completed if there is no obvious change to the accumulation or to the project in any 30 day period;

(2) Construction or packing material or supplies, including, but not limited to, lumber, dry wall, roofing tile, cement, nails, pallets, plywood, scrap lumber, or other building materials, products, or supplies; electrical, irrigation or plumbing supplies; provided, however, that a reasonable quantity of these materials and supplies is excluded from this definition during active construction upon the subject property. A project shall be deemed active if there is obvious change to the accumulation or to the project in any 30 day period;

(3) Firewood longer than thirty-six (36″) inches in length and greater than twenty-four (24″) inches in diameter, all firewood that is not stacked;

(4) An accumulation of aluminum cans, newspapers, plastic bottles, glass, cardboard or cardboard boxes, or an accumulation of other recyclable materials that has been stored in public view for more than 1/2 of any continuous 10 day period;

(5) Any appliance, tool, equipment, furniture, furnishing, or other item of personal property including, but not limited to, any couch, love seat, sofa, sofa bed, recliner, hassock, upholstered chair, mattress, bed springs, box springs, bed frame, headboard, desk, dresser, bureau, cabinet, television, radio, stereo, stove, refrigerator, freezer, dish washer, washing machine, dryer, shopping cart, sinks, toilets, or any similar item, whether or not any such item is broken or abandoned, resting or being stored on the premises in public view for more than 1/2 of any continuous 10 day period;

(6) Any item or items or personal property, of any size and of any quantity, which are littered on or scattered upon or about the property in a random, haphazard, aimless, disarrayed, or disorganized manner, so as to cause a public nuisance for more than 1/2 of any continuous 10 day period.

(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.112. Nuisance vegetation and junk prohibited.

It is unlawful and shall constitute an abatable nuisance for any person owning, leasing, occupying, or having charge, control, or possession of any property in the City to maintain or permit to exist upon such property any nuisance vegetation or junk, regardless of the source or origin of such material.

(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.113. Dumping prohibited.

(a) It is unlawful and shall constitute an abatable nuisance for any person to abandon or dump any nuisance vegetation or junk upon public property, upon any public street, sidewalk, or alley, upon any private property, thereof in the City. The unauthorized leaving of nuisance vegetation or junk upon such property is unlawful and punishable as an infraction or misdemeanor.

(b) It is unlawful for any person to abandon or dump any garbage, trash, rubbish, nuisance vegetation, or junk into any garbage container without the express permission or consent of

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the person owning or renting or having legal control of same.
(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.114. Duty of removal.

It is hereby made the duty of every owner of real property in the City to keep said property free and clear of all junk, nuisance vegetation, and any other material prohibited thereon by this Code which from any cause whatsoever has accumulated upon said property. It is hereby made the duty of every property owner to lawfully destroy or remove all such prohibited materials from his or her private property, from the abutting half of the street and/or alley, from the sidewalk space thereupon, and between the sidelines thereof as extended. Failure of any property owner so to do is unlawful and punishable civilly, criminally or administratively and creates a nuisance subject to penalty or abatement as provided in this chapter.
(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.115. Imposition and collection of reinspection fees.

(a) The City Council has authorized reinspection fees for all third (3rd) and subsequent reinspection of properties or activities regulated under this chapter when, upon reinspection, the City determines the properties or activities previously found not in compliance with the provisions of this chapter continue not to be in compliance.

(b) Reinspection fees shall be charged according to the following schedule:

(1) Third (3rd) and fourth (4th) reinspection:

2007 — 2008	34.00
2008 — 2009	35.00
2009 — 2010	36.00
2010 — 2011	37.00

(2) Fifth (5th) and all subsequent reinspection:

2007 — 2008	104.00
2008 — 2009	107.00
2009 — 2010	110.00
2010 — 2011	114.00

(c) Where the assessment of reinspection fees is authorized under this section, the City shall provide the responsible party with a written notice stating:

(1) The amount of reinspection fees assessed;

(2) The dates on which all inspections and reinspections took place; and

(3) The deadline for payment of such fees.

(d) Code enforcement fees collected pursuant to this chapter shall not be duplicated by any

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other action to recover these fees.

(e) Failure of the responsible party to receive notice of reinspection fees shall not affect the validity of any fees imposed under this chapter.

(f) The reinspection fee schedule is established and will be revised as necessary by the City Council to reflect current costs incurred for the additional work undertaken by City staff when the responsible party fails to correct Code violations identified in this chapter in a timely manner.

(g) The City shall collect the assessed reinspection fees by the use of appropriate legal means, including, but not limited to, referral to the Finance Department for collection or assessment against the property.

(§ 2, Ord. 1059, eff. December 7, 2007)

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ARTICLE 5
REGULATION OF VACANT AND BOARDED BUILDINGS; PUBLIC NUISANCE

§ 10-3.116. Vacant buildings; declaration of purpose.

The Council finds that neglected, vacant buildings are a major cause of blight in residential and nonresidential neighborhoods. Vacant buildings often attract transients and criminals, including drug users and prostitutes. Use of vacant buildings by transients and criminals, who may employ primitive cooking or heating methods, creates a risk of fire for the vacant building and adjacent properties. Vacant properties are often used as dumping grounds for drug paraphernalia, furniture, tires, garbage, junk and debris and are often overgrown with weeds and grass creating a wide variety of health and safety concerns. In addition, vacant buildings which are simply boarded up for long periods of time with plywood or other materials to prevent entry by transients or vandals very often discourage economic development, disrupting neighborhood stability, retarding appreciation of property values and promote visual blight conditions, all of which interfere with the rights of neighboring property owners and occupants to the full use and enjoyment of their property.

The City currently expends resources monitoring and responding to vacant buildings, because of the numerous health, welfare, safety and economic problems caused by neglected, vacant buildings. There is already a substantial cost to the City for monitoring neglected, vacant buildings (whether or not those buildings are boarded up) as well as substantial toll on the citizens who are affected by the nuisance conditions created, therefore the City Council finds there is an urgent need to refine the process by which these buildings are monitored and remediated.
(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.117. Boarded buildings; declaration of purpose.

Boarded buildings are a major cause and source of crime and blight in both residential and nonresidential neighborhoods. In addition, vacant buildings which are boarded and unkempt, and which are vacant for long periods of time, discourage economic development and retard appreciation of property values.
(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.118. Vacant building; defined.

For the purposes of this chapter, the term "vacant building" means an unoccupied or an illegally occupied structure or an occupied structure without adequate facilities/utilities.
(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.119. Boarded building; defined.

For the purposes of this chapter, the term "boarded building" means an unoccupied building, some or all of whose doors and windows and other openings have been covered with plywood or other materials for the purpose of preventing entry into the building.
(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.120. Violation.

Every owner or responsible person shall maintain their vacant or boarded building in accordance

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with all of the requirements set forth herein. Failure to do so constitutes a violation of this Code and a public nuisance.
(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.121. Method of boarding.

All windows, doors and openings shall be secured as per the board up specifications maintained by the City's Building Department. All plywood used must be five-eighths (5/8") inch except the security door which shall be three-fourths (3/4") inch.
(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.122. Boarded or vacant building; time period maintenance.

No responsible party shall allow a building to stand vacant for more than 60 days, unless one of the following applies:

(a) The building is the subject of an active building permit and the owner is progressing diligently to repair the premises for occupancy;

(b) The building meets all applicable codes in existence at either the time of its construction or at the time of its alteration or modification and is actively being offered for sale, lease, or rent;

(c) The building is being maintained in a safe and orderly manner and does not contribute to blight conditions;

(d) Maintenance in a safe and orderly manner shall include:

(1) Maintenance of any landscaping and plant materials in good condition,

(2) Maintenance of the exterior of the building, including but not limited to paint and finishes, in good condition,

(3) Regular removal of all exterior trash, debris and graffiti,

(4) Maintenance of the building in continuing compliance with all applicable codes and regulations.

(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.123. Vacant building monitoring fee.

(a) Fee imposed. There is hereby imposed upon every owner of a vacant building an annual vacant building monitoring fee in an amount to be set by resolution of the City Council. The fee shall not exceed the estimated reasonable cost of monitoring the vacant building. The fee shall be payable as to any building, residential or nonresidential, which:

(1) Is boarded up by voluntary action of the owner or as the result of enforcement activities by the City; or

(2) Is vacant for more than 60 days for any reason.

(b) Fee waiver. The vacant building monitoring fee may be waived by the Building Official upon a showing by the owner that:

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(1) The owner has obtained a building permit and is progressing diligently to repair the premises for occupancy; or

(2) The building meets all applicable codes and is actively being offered for sale, lease, or rent; or

(3) Imposition of the fee would impose a substantial economic hardship on the owner or would hinder the rehabilitation of the building.

(c) Procedure.

(1) The vacant building monitoring fee shall be billed to the owner of the property and mailed to the owner's address as set forth on the last equalized assessment roll of the County Assessor.

(2) Any owner billed may apply for a waiver on the grounds set forth in subsection (b) of this section by submitting a written statement of the grounds for the waiver, and the owner's daytime telephone number, to the Building Official within 30 days after the billing is mailed to the owner. The Building Official shall review the written statement and may contact the owner to discuss the application for waiver. The Building Official shall prepare a written decision which shall be mailed to the owner.

(3) Any owner who disagrees with the decision of the Building Official may submit a written notice of appeal to the Building Official within 15 days of receipt of the decision. Failure to timely appeal the decision of the Building Official relating to a denial of a waiver constitutes a waiver of all rights to an administrative hearing and determination of the matter subject only to review pursuant to California Code of Civil Procedure Section 1094.5.

(4) If the fee is not paid within 60 days after billing, or within 60 days after the decision of the Building Official or after the decision upon appeal by the owner becomes final, the fee may be specially assessed against the property involved and made a personal obligation of the owner. If the fee is to be specially assessed against the property, a Hearing Officer, as designated by the City Manager, shall confirm the assessment and thereafter said assessment may be collected at the same time and in the same manner as ordinary real property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary real property taxes. All laws applicable to the levy, collection, and enforcement of real property taxes are applicable to the special assessment.

(5) The designated Hearing Officer may also cause a notice of lien to be recorded. The notice shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, a description of the real property subject to the lien, and the amount of the fee.

(§ 2, Ord. 1059, eff. December 7, 2007)

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ARTICLE 6
NUISANCE; CREATING BEHAVIORS

§ 10-3.124. Findings.

The City Council finds as follows:

(a) Just as the physical conditions of properties within the City can constitute public and private nuisances, so too the behavior of persons on properties within the City can constitute public and private nuisances. Examples of behavior which can constitute nuisances include large and noisy gatherings, noisy activities during late-night hours, use or sale of controlled substances on premises, and the coming and going of persons with the intent to purchase controlled substances.

(b) It is as important for the public health, safety and welfare for interested residents of the City or the City itself to be able to abate nuisance-creating behaviors as it is to abate nuisance-creating physical conditions.

(c) The owners of properties within the City are responsible to monitor their properties and to take appropriate action if a nuisance exists thereon, whether that nuisance be created by existing physical conditions or by nuisance-creating behaviors. Such nuisances can be avoided with adequate property management. If a property owner does not fulfill his or her responsibilities, it is necessary for the safety, health, and welfare of neighborhoods and the City as a whole that interested persons or the City be able to undertake abatement action. An abatement remedy for nuisance-created behaviors is needed.

(d) Neighborhood health and safety must be protected in a way which does not promote housing discrimination or promote evictions based on prejudice, unfounded fears or personal animosities.

(e) Nothing in the ordinance codified in this chapter exempts property owners from strict compliance with State Housing Law on evictions, retaliatory conduct or discriminatory conduct or privacy.

(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.125. Purpose.

(a) The purpose of this section is:

(1) To set forth and make enforceable minimum standards for the management of human behavior on residential properties and to protect the public health, safety, and welfare; and

(2) To put in place a remedy which will permit aggrieved persons or the City to take effective, efficient judicial or administrative action against property owners who permit nuisance-creating behaviors to occur on their properties on a continuing basis, in order to compel such owners to abate the nuisance-creating behaviors.

(b) Provisions of this chapter are intended to be supplementary and complementary to all of the other provisions of this Code and State law and all remedies set forth herein shall be cumulative to other remedies which may be available under the Code or State law.

(§ 2, Ord. 1059, eff. December 7, 2007)

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§ 10-3.126. Application.

(a) The provisions of this chapter shall apply generally to all property throughout the City wherein any of the nuisances hereinafter specified, are found to exist; provided, however, that any condition which would constitute a violation of this chapter, but which is duly authorized under any specific City, State or Federal statute, shall not be deemed to violate this chapter.

(b) The provisions of this chapter shall not apply to activities which constitute a bona fide exercise of constitutional rights.

(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.127. Responsibility for proper property management.

(a) Every owner of real property within the City and every person responsible for the management of real property within the City is required to manage the property in a manner that does not violate the provisions of this Code. The owner shall remain liable for violations thereof regardless of any contract or agreement with any third party regarding the management or control of property.

(b) Every responsible party or owner of real property in the City is required to behave on the property, and supervise anyone on the property, in a manner so as not to violate the provisions of this Code.

(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.128. Generally.

It is hereby declared a public nuisance and a violation of this Code for any responsible party or owner of any premises in this City to permit their premises to be used in such a manner that any one or more of the activities described in the following subsections are found to occur repeatedly thereon:

(a) The illegal sale of controlled or illegal drugs or substances;

(b) The illegal use of controlled substances and other illegal drugs or substances;

(c) The frequent gathering, or coming and going, of people who have an intent to purchase or use controlled substances or other illegal drugs or substances on the premises;

(d) The occurrence of prostitution;

(e) Unlawful activities of a criminal street gang (as defined in Penal Code Section 186.22);

(f) The making or continuing, or causing to be made and continued, of any loud, unnecessary or unusual noise which disturbs the peace and quiet of the neighborhood or which causes discomfort or annoyance to more than one reasonable person of normal sensitivity residing in the area. This section shall only become effective when the Police Department has documented more than three calls for service over any 90 day period to the same address and/or dwelling in relation to making or continuing, or causing to be made and continued, any loud unnecessary and unusual noise which disturbs the peace and quiet of the neighborhood;

(g) The firing of gunshots or brandishing of weapons by a resident of the premises, or by a

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guest of a resident;

(h) The use of property to provide shelter to or seclusion of any action, act, or occurrence which is a crime under Federal, State, or local laws. To provide such shelter shall be to harbor a public nuisance, and shall be unlawful.

(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.129. Administrative enforcement action.

(a) Whenever an Enforcement Officer has inspected any premises and determined that the premises are in violation of this chapter, that Officer may issue a notice and order to abate the nuisance.

(b) No notice and order is required to be issued hereunder if the owner is making good faith efforts to abate the nuisance. Indicia of good faith may include prompt responses to City communications and requests, cooperation with Enforcement Officers, active professional property management, and taking steps to repair physical conditions which contribute to the nuisance.

(c) (1) Whenever an Enforcement Officer issues a notice and order pursuant to this chapter to an owner or responsible party for rental residential property regarding a nuisance that exists at their property, the Officer shall concurrently issue a written notice to the tenants of the property who may also be deemed violators by that Officer. The notice shall generally describe the nuisance and the City's remedies under this Code. The notice shall also state that tenants may contact the Officer to provide or receive information about their building. Notice to the tenant or unit need not be given when the Enforcement Officer determines that doing so would endanger persons or compromise an ongoing police investigation.

(2) The Enforcement Officer shall follow reasonable procedures intended to provide all tenants with notice of subsequent proceedings and actions pursuant to this chapter, but failure of any tenant to receive such notice shall not invalidate any subsequent action taken by the City.

(d) After the time for abatement set forth in the notice and order has expired, the Enforcement Officer shall determine whether the owner has taken the action ordered by the Officer and whether the nuisance has been abated. If the Officer determines that the nuisance has been abated, the owner and any occupants other than the owner shall be notified in writing of such determination and the compliance order shall be void thereafter.

(e) If the Enforcement Officer determines that the nuisance has not been abated and no written appeal has been received within the time specified in the notice and order, the compliance order shall become final except for the appropriate assessment of administrative penalties and costs against an owner or responsible party, which assessment only may be appealed and heard by a Hearing Officer if a written appeal is received by the Director within 15 days of the assessment. If an appeal is received, the Director shall set a hearing before a Hearing Officer.

(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.130. Remedies.

(a) The administrative enforcement procedure described in Section 10-3.121 notwithstanding,

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the City Attorney may, in addition to or alternatively to that procedure, bring a civil action for injunctive relief and seek civil penalties in an amount not to exceed Twenty Thousand and No/100ths ($20,000.00) Dollars against any owner or responsible party who violates this Code.

(b) Any person affected by a public nuisance described in this article may bring a civil action for injunctive relief and damages against any owner or responsible party who violates this Code.

(c) In any civil action brought pursuant to this chapter, the court may award reasonable attorneys' fees and costs to the prevailing party.

(§ 2, Ord. 1059, eff. December 7, 2007)

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ARTICLE 7
DEFACEMENT OF PROPERTY

§ 10-3.131. 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 Los Banos. 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.
(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.132. Definitions.

As used in this section:

"Graffiti" means any inscription, word, figure, or design that is marked, etched, scratched, drawn, sprayed, painted, pasted or otherwise affixed to, or on, any surface to the extent that same was unauthorized by the owner thereof, or, despite authorization, is otherwise deemed by the City Council to be a public nuisance.

"Property" means real or personal property, whether publicly or privately owned, within the City.

"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.

"Ink marker" means any broad-tipped marker pen with a tip of one-quarter (1/4″) inch or greater in width.

"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 (1/4″) inch or greater in width.

"Graffiti implement" means a pressurized container, ink marker or a paint stick.

"Responsible party" means any person who is the owner of property, or who has primary responsibility for control over property, or who has primary responsibility for the repair and maintenance of property.
(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.133. Graffiti declared a public nuisance.

The City Council hereby declares that graffiti is a public nuisance and is subject to punishment as prescribed in this Code.
(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.134. Graffiti prohibited.

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(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.

(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.135. Assisting in or encouraging violations.

It is unlawful for any person to assist, aid, abet or encourage another to violate the provisions of this article by words or overt act.

(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.136. Punishment provisions.

(a) Each penalty imposed for a violation of this article shall be: (1) a penalty of One Hundred Twenty-Five and No/100ths ($125.00) Dollars for a first violation; (2) a penalty of Two Hundred Fifty and No/100ths ($250.00) Dollars for a second violation within a year; (3) a penalty of Five Hundred and No/100ths ($500.00) Dollars for each additional violation within one year.

(b) Where there has been a conviction, or guilty or nolo contendere plea of a violation of this article, the court shall, in addition to any penalty imposed pursuant to this article, and at the City's option, order the defendant to complete community service, including graffiti removal service, of not less than six hours and no more than 48 hours for a first conviction. Upon the second and subsequent conviction, a person shall be required, at the City's option, to perform community service, including graffiti removal service of not less than 48 hours and no more than 96 hours. A defendant shall be ordered to complete community service during a time other than during his or her hours of school attendance or employment.

(c) Where there has been a conviction, or guilty or nolo contendere plea of a violation of this article, the court shall, in addition to any punishment imposed pursuant to this article, and at the victim's option, order the defendant to perform the necessary labor to clean up, repair, or replace the property damaged by that person.

(d) Where there has been a conviction, or guilty or nolo contendere plea of a violation of this article, the court shall, in addition to any punishment imposed pursuant to this chapter, and at the victim's option, and as restitution, order the defendant to pay for any related costs incurred for the clean up, repair, or replacement of the property damaged by that person.

(e) If a minor is personally unable to pay any penalty or restitution levied for violating any provision of this section, the parent or legal guardian of the minor shall be liable for payment of the penalty and restitution.

(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.137. Removal of graffiti.

(a) Right of City to require removal by responsible party. 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 calendar days after having been given notice of the violation of this section.

(b) Consent to enter; abatement upon failure to obtain consent.

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(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.

(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.138. 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) If a hearing is requested by the responsible party, the City Manager, or designee ("Hearing Officer"), shall give the responsible party not less than 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.

(2) If the Hearing Officer determines that abatement of the nuisance shall be commenced, the City may enter upon the property and cause such nuisance to be removed in the manner determined most appropriate by the City.

(3) If a hearing has not been requested by the responsible party, the City may enter upon the property and cause such nuisance to be removed in the manner determined most appropriate by the City.

(4) Upon removal of the public nuisance, the City may provide an accounting of the expense of abatement along with a demand for payment to the responsible party.

(5) If payment is not made within 30 days from the date of the accounting and demand for payment, the payment shall be deemed delinquent and shall be subject to a penalty assessment of One Hundred and No/100ths ($100.00) Dollars plus interest on the unpaid amount plus penalty, which interest shall accrue at the rate of one and one-half (1 1/2%) percent per month until paid.

(6) In the event the expense of abatement has not been paid within 30 days from the date of issuing an accounting and demand for payment, the amount unpaid including any penalty and interest therein, shall constitute a lien pursuant to Government Code Sections 38773 and 38773.1 against the property of the responsible party. Prior to recording a notice of lien, the Hearing Officer shall provide notice pursuant to Government Code Section 38773.1. Any such lien not paid by June 30th of each year shall, upon adoption of a resolution by the City Council, be collected along with, and in the same manner as, the general property taxes. The liened property shall be subject to the penalties, procedures, and sale in case of delinquency as provided in the Civil

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Code of California.

(7) As an alternative to a lien and pursuant to Government Code Section38773.5, 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.

(8) 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) 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 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, and38773.6. If payment is not made within 30 days from the date of the accounting and demand for payment, the payment shall be deemed delinquent and shall be subject to a penalty assessment of One Hundred and No/100ths ($100.00) Dollars plus interest on the unpaid amount plus penalty, which interest shall accrue at the rate of one and one-half (1 1/2%) percent per month until paid.

(4) In the event the expense of abatement has not been paid within 30 days from the date of issuing an accounting and demand for payment, the amount unpaid including any penalty and interest therein, 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 Hearing Officer shall provide notice pursuant to Government Code Section 38773.2. Any such lien not paid by June 30th of each year shall, upon adoption of a resolution by the City Council, be collected along with, and in the same

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manner as, the general property taxes. 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) As an alternative to a lien and pursuant to Government Code Section38773.6, 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) 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.

(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.139. Reward.

The City hereby offers a reward of One Hundred and No/100ths ($100.00) Dollars 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.

(§ 2, Ord. 1059, eff. December 7, 2007)

§ 10-3.140. Cumulative remedies.

The procedures set forth in this chapter are not exclusive and nothing contained herein shall be deemed to preclude the City Attorney from initiation of any civil or criminal action or from the pursuit of any available remedy.

(§ 2, Ord. 1059, eff. December 7, 2007)

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PARKS AND RECREATION

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LOS BANOS CODE

Title 11

BUSINESS REGULATION

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Chapter 1
Business License Program

ARTICLE 1
GENERAL PROVISIONS

§ 11-1.101. Purpose.

The purpose of this chapter is to provide a regulatory mechanism for the reasonable regulation of lawful businesses doing business within the City in the interest of the public health, safety and welfare of the people of the City. The primary focus of the City's business license regulations is to provide reasonable assurance that businesses operating in the City are doing so in compliance with city, State, Federal, or otherwise applicable codes, rules, regulations or laws; to maintain an accurate record or database of businesses conducting business in the City for statistical purposes; to identify all businesses operating in the City; to enhance the efficiency of business retention efforts; to protect the public; to prevent disturbances of neighborhoods; to prevent the creation of nuisances; to assist in zoning, building, and fire code compliance; and to otherwise protect the health, safety and welfare of the people of the City. The business license program is not designed to raise revenue, nor is it a substitute for land use regulations.
(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.102. Definitions.

The terms used in this chapter have the meaning set forth below:

"Business" shall mean and include professions, trades, vocations, the rental or lease of multi-family residential with four or more units, enterprises, establishments and occupations, or other activity, for gain, profit, compensation, or livelihood, including, but not limited to, providing goods or services, whether or not the business has a fixed place of business in the City.

"Director" shall mean the Community and Economic Development Director or any other person the City Manager may designate to administer the business license program.

"Engaged in business" shall mean the commencing, conducting, operating, managing or carrying on of a business, whether done as owner, or by means of an officer, agent, manager, employee, servant or otherwise, whether operating from a fixed location in the City or coming into the City from an outside location to engage in such activities.

"Person" shall mean and include any business owner, individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, business trust, club, society, or any other entity or group or combination acting as a unit, other than as an employee.
(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.103. Business license required.

(a) No person shall engage in, operate or conduct a business within the City, unless under and by the authority of a valid, unexpired and unrevoked business license issued pursuant to this chapter. Nothing herein shall signify any approval by the City of the qualifications of the holder of the business license to engage in their business nor shall it signify that such holder of the business license has obtained all other required licenses or approvals to engage in such business.

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(b) A separate business license shall be obtained for each business location or branch of a business within the City and for each separate business operating at the same location. Only one business license, issued to the sponsoring person or entity, is required for temporary activities where multiple businesses participate, for example, farmers markets, flea markets, craft fairs, and antique shows.

(c) A business license shall not be issued to a business that requires State licensing for the business owner, or for each technician or employee, until satisfactory proof of training or licensing is provided to the City. These businesses include, without limitation, attorneys, certified public accountants, insurance brokers and agents, contractors, physicians, real estate brokers and agents, barbers, cosmetologists, massage therapists, estheticians and manicurists.

(d) Independent contractors shall each obtain a business license without regard to whether they are operating separately or together with other independent contractors at the same location.

(e) When a person by use of signs, circulars, cards, telephone book, newspapers, internet advertising, including, but not limited to, social media, or other form of advertisements, holds out, or represents that such person is engaged in or conducting business in the City, or when a person holds an active license or permit issued by a government agency indicating that such person is in business in the City, then these facts shall be considered prima facie evidence that such person is engaged in conducting a business in the City for purposes of this chapter.

(f) If State or Federal law exempts a business from obtaining a business license, said business shall provide satisfactory proof that the business is exempt from the City's business license requirement.

(g) The Director shall have the authority and discretion to waive the requirement of obtaining a business license for minors under the age of 18 years of age; or community based service clubs and religious, educational, or charitable organizations.

(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.104. Business license fees.

(a) Every person engaging in business in the City shall pay a business license fee as prescribed by resolution adopted by the City Council as amended from time to time. To the extent the City Council determines to be practical, such fees may vary depending on the type of business for the sole purpose of apportioning relative regulatory costs to parties regulated. The business license fee is not a revenue-raising device, but shall bear a reasonable relationship to the costs incurred by the City in reviewing, processing and acting upon the application and administering this chapter.

(b) When a business license fee is imposed upon any business pursuant to this chapter and such business is conducted at one or more fixed places of business and one or more branch establishments, the fee shall be computed as if each fixed place of business and branch establishment is separate and independent.

(§ 1, Ord. 1163, eff. May 4, 2018)

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§ 11-1.105. Late fee for late application or renewal.

A person determined to be engaged or operating a business without a valid unexpired business license, when one is required, shall be subject to a late fee penalty of 50% of the applicable business license fee.
(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.106. Business license fee exemption.

(a) Any business that is exempt from paying fees under the United States Constitution, the California Constitution, or under the laws of the State of California, is required to obtain a business license but shall be exempt from paying the business license fee. However, said business shall be required to pay any applicable State-imposed fees.

(b) Any business of any charitable or non-profit institution, corporation, or association organized or conducted for non-profit purposes only and having non-profit tax exempt status under State or Federal law, when the receipts derived are to be used for the benefit of such organization and not for the private gain of any person is required to obtain a business license but shall be exempt from paying the business license fee. However, said business shall be required to pay any applicable State-imposed fees.

(c) Any person claiming an exemption pursuant to this section shall file a sworn statement with the Director stating the facts upon which the exemption is claimed and shall furnish such information and verification as requested by the Director. The Director shall make a determination on the claim for an exemption within a reasonable time.

(§ 1, Ord. 1163, eff. May 4, 2018)

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ARTICLE 2
APPLICATION AND RENEWAL PROCEDURES

§ 11-1.201. Application for a new business license.

(a) It shall be the sole responsibility of every person required to obtain a business license to file an application with the City on an approved form and pay all applicable licensing fees, unless otherwise exempt. The application must include a detailed, specific description of all activities to be conducted and/or services or goods to be provided at the business. An application for a new business license shall be filed prior to the date the applicant intends to begin transacting business in the City. If the application is filed after the date the applicant has already begun transacting business in the City or after the expiration of the 30 day renewal period the applicant shall be subject to a penalty of 50% of the application fee and may also be subject to other penalties and enforcement authorized by this chapter for operating without a valid and unexpired business license.

(b) If the applicant is not the owner of the premises where the proposed business will be conducted, the applicant, if required by the Director, shall submit a copy of a lease, rental agreement or other documentation that establishes the applicant has the property owner's authorization to conduct such business.

(c) The Director may request such other additional information and/or documentation as deemed necessary to determine whether the proposed business operations and premises comply with applicable local, State or Federal laws.

(d) Upon submittal of a complete application and payment of all applicable licensing fees, the business license application shall be reviewed by the Director and may be reviewed by any City department or any governmental agency deemed necessary by the Director, to determine if the business operations and premises to be occupied meet the requirements of Federal, State, or local laws. The Director may also refer to any governmental agency any information submitted by persons subject to the provisions of this chapter in connection with the conduct of a business regulated, or supervised, or otherwise the concern of any such agency, including agencies concerned with health regulations, zoning conformance, fire safety, police considerations or any other safeguard of the public interest. City personnel may investigate and inspect the premises of the business for the purpose of assuring that the premises comply with all applicable local and State laws.

(e) The Director shall make a determination to approve, conditionally approve or deny the license within a reasonable period of time after submittal of a complete application, payment of all applicable fees, and completion of any required inspections.

(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.202. Annual renewal of a business license.

(a) Every person desiring to continue in business after the expiration of their business license period shall pay the required renewal fee prior to the date of expiration of their current license. In the case of a business activity having a fixed location, application for a license for a different location is not a renewal and shall be deemed a new license application and subject to the provisions of Section 11-1.201.

(b) Renewal fees shall be subject to a 50% late penalty if paid within 30 days after the

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expiration of the current license ("grace period"). If the business continues to operate beyond the 30 day grace period, the business shall be required to submit a new business license application as set forth in Section 11-1.201 and shall be required to pay the new license application fee and the 50% late penalty and may also be subject to other penalties and enforcement authorized by this chapter for operating without a valid and unexpired business license.

(c) As part of the renewal process and prior to the issuance of a renewed license the Director may: (1) request that the licensee update the licensee's application; (2) request from the licensee such other additional information and/or documentation as deemed necessary to determine whether the business operations and premises comply with applicable local, State or Federal laws; and/or (3) request that City personnel investigate and inspect the premises of the business for the purpose of assuring that the premises comply with all applicable local and State laws.

(d) The Director shall make a determination to approve, conditionally approve or deny the renewal license within a reasonable period of time after submittal of the required renewal fees including any late penalties, and, if required, the submittal of a completed updated application and completion of any required inspections.

(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.203. Conditions of approval.

(a) The Director may impose conditions on a new or renewal license as are necessary to ensure public safety and prevent the business from disturbing the peace and tranquility of the neighborhood in which it is located or if he or she determines that the business may have or is having an adverse impact on neighboring properties or the community at large and/or may require or is requiring a greater use of City law enforcement and other resources than other businesses, whether due to its location, type of business or other reasons, and further determines that such conditions are reasonably necessary to mitigate those impacts. The conditions may include, but are not limited to, the following:

(1) Limitations upon hours or days of operation, when required in order to prevent disturbance of the peace and quiet of a neighborhood caused by the business or the patrons of the business;

(2) Requirement that the business provide licensed or other qualified security personnel for the exterior or interior of the business during operating hours;

(3) Requirement that the business fund any additional law enforcement services required as a result of the operation of the business;

(4) The installation of on-site improvements required to prevent operation of the business from disturbing its neighbors at a particular location; or

(5) Other conditions related to operations or improvements demonstrated under the particular circumstances to be necessary in order to prevent hazards; disturbance of the peace, quiet or safety of the neighborhood; or other nuisance.

(b) Such conditions may be imposed at the time a business license is initially issued, upon renewal of the license, or at any time during the term of the license.

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(c) The Director may eliminate or modify a condition previously placed on a license upon receipt of written request by the business owner if, after investigation, the Director makes the determination that the reason for the original imposition of a condition has been corrected or no longer exists.

(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.204. Notice and effect of conditions.

(a) The Director shall provide written notice of conditions imposed on the business license to the applicant or holder.

(b) Conditions imposed at the issuance of an initial business license become effective immediately upon issuance. The holder of the business license is entitled to appeal the conditions within the time and manner prescribed; however, the business license shall not be effective until the appeal is finally determined.

(c) Conditions imposed at the time of renewal or during the term of the business license become effective 14 days following issuance; however, if an appeal is filed within the time and in the manner prescribed, the conditions shall not become effective until the appeal is finally determined.

(§ 1, Ord. 1163, eff. May 4, 2018)

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ARTICLE 3
BUSINESS LICENSE ISSUANCE

§ 11-1.301. Business license issuance, term, and operative date.

(a) Upon the approval of a business license as set forth in this chapter, the Director shall issue a business license to the applicant within five business days of said approval.

(b) Annual Licenses. Annual business licenses shall be for a term of 12 months commencing on the operative date of a new business license or business license renewal. The operative date for a new annual business license shall be the date of issuance of the business license, except where an interim license is issued the operative date shall be the date of the issuance of the interim license. The operative date for a business license renewal shall be the date following the date of expiration of the previous year's business license.

(c) Interim Licenses. A person may begin operation of business activities upon issuance of an interim license. An interim license may be used to operate the business until such time as an annual or short-term business license is processed and issued. An interim license will be issued only upon payment of all required fees. The interim business license is valid only until the decision is made to issue or deny an annual or short-term business license or for three months, whichever is shorter. The issuance of an interim license in no way constitutes a promise or guarantee that an annual or short-term business license will be issued. The applicant must cease operation immediately if the annual or short-term business license is denied.

(d) Temporary Licenses. Temporary licenses are licenses issued for a period of three days or less. Temporary licenses may only be issued for vendors, peddlers and solicitors, promoters, or persons or businesses that are operating in connection with a single event for a period of three days or less. Temporary licenses shall be required for each separate location and event. The fees for the specific temporary licenses shall be set by resolution of the City Council. No more than six temporary licenses shall be issued per 12 month period to the same licensee. The operative dates for the temporary license shall be stated on the license.

(e) Short-Term Licenses. Short-term licenses are licenses issued for a period of either three or six months. Short-term licenses may be issued to businesses engaged in business in the City for a limited period of time. The fees for the specific short-term licenses shall be set by resolution of the City Council. No more than one short-term license shall be issued per 12 month period to the same licensee. The operative date for a short-term license shall be the date of issuance of the business license, except where an interim license is issued the operative date shall be the date of the issuance of the interim license.

(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.302. Contents of business license.

Each business license issued shall contain:

(a) The name and mailing address of the person to whom the license is issued;

(b) The name of business;

(c) The address of the business;

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(d) The issuance and expiration dates of the license;

(e) Telephone number of business;

(f) Exact nature of business (business code);

(g) Such other information as deemed necessary by the Director; and

(h) If applicable, conditions of approval shall be attached to the business license.
(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.303. Posting.

All business licenses issued pursuant to the provisions of this chapter shall be posted and kept in the following manner:

(a) Any persons transacting and carrying on business at a fixed location in the City shall keep such business license posted in a conspicuous place upon the premises where such business is carried on.

(b) Any persons transacting and carrying on business, but not operating at a fixed location in the City, shall keep such business license upon them at all times while transacting and carrying on such business.
(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.304. Branch establishments and trade names.

(a) A separate business license shall be obtained for each branch establishment of the business transacted and carried on. A separate business license is required for each separate type of business at the same location, and each license shall authorize the licensee to transact and carry on only the business licensed thereby in the manner designated in such license; provided, however, warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this section shall not be deemed to be separate places of business or branch establishments.

(b) A separate license shall be obtained for each trade name used in the conduct of any business within the limits of the City.
(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.305. Businesses requiring certificates of occupancy.

All commercial, industrial, and miscellaneous buildings within the City which are going to a house a business requiring a City business license shall have a certificate of occupancy issued by the Building Department before a license to operate such business may be issued. Any existing buildings which are structurally altered to house a business requiring a City business license shall also have a certificate of occupancy issued by the Building Department before a license to operate such business may be issued.
(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.306. Compliance with other laws, rules, and regulations prerequisite to issuance of business licenses.

No license shall be issued under the provisions of this chapter until the applicant has complied

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with all of the provisions of the Building Code, the Fire Prevention Code, applicable municipal code provisions, including zoning provisions, and, when applicable, the rules and regulations of State and/or Federal provisions and the Police Department and Health Department.
(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.307. Duplicate licenses.

A duplicate license may be issued by the Director to replace any business license previously issued under the provisions of this chapter which has been lost or destroyed. This duplicate business license may be issued by the Director upon receipt of a written statement by the business owner indicating the need for the duplicate license and by paying a duplicate license fee.
(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.308. Assignment of license prohibited.

The assignment of or attempt to assign any business license issued pursuant to this chapter is unlawful and any such assignment or attempt to assign a license shall render the license null and void. Business licenses are non-transferable.
(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.309. Illegal occupations.

A business license issued pursuant to this chapter does not authorize, permit or allow the license holder to do any act or conduct any business of any kind which is otherwise prohibited by City policies, regulations or ordinances; or any State or Federal statute, law, rule, order or regulation.
(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.310. Withholding a business license.

The City shall withhold a business license to engage in business from any person when there are pending violations of any City Code against such person and/or business applying for a business license, or when a debt is owed to the City as a result of a violation of this Code.
(§ 1, Ord. 1163, eff. May 4, 2018)

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ARTICLE 4
DENIAL, SUSPENSION OR REVOCATION OF BUSINESS LICENSE

§ 11-1.401. Grounds for denial or revocation.

(a) Every business license granted under this chapter is granted and accepted by all parties with the express understanding that the City may revoke the business license if it is in the best interest of the health, welfare, or safety of the public to do so and grounds for such revocation exist as noted in this Section.

(b) Except as otherwise provided in this chapter, a business license may be denied or revoked pursuant to this chapter upon any of the following grounds:

(1) The applicant has failed to complete the application for a business license or renewal, or has failed to provide any additional requested information or documentation as prescribed in this chapter;

(2) The applicant has knowingly made any false, misleading or fraudulent statement of material fact in the application for the business license or in any report or statement required to be submitted to the City;

(3) The applicant is found to have committed a crime involving moral turpitude that is substantially related to the business activity for which the business license is being sought;

(4) The business or the activities or conduct of the business at the proposed fixed location is prohibited by any provision of this Code or any local, State or Federal law, statute, rule or regulation;

(5) That the applicant or licensee does not have the appropriate permits or licensing necessary to conduct the business activities for which the business license is sought as required by this Code or any local, State or Federal law, statute, rule or regulation;

(6) The business or the activities or conduct of the business has been or is in violation of any conditions of approval or restrictions imposed;

(7) The business is being operated in a manner determined to constitute an immediate threat or menace to the health or safety of the public. Failure to correct objectionable conditions constituting a public nuisance within a reasonable time after lawful notice from a governmental entity shall be prima facie proof thereof;

(8) The building, structure, premises, or the equipment used to conduct the business activity fails to comply with all applicable health, zoning, fire, building and safety laws of the City, State, Federal, or otherwise applicable codes, rules, or regulations or laws;

(9) The prescribed fees for the business license or renewal have not been paid; or

(10) Delinquent business license fees or renewal fees have not been paid.

(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.402. Process for denial of a business license.

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(a) On determining that grounds for denial of an initial application or a renewal exist, the Director shall furnish written notice of the proposed denial to the applicant or licensee stating the reasons therefor, and serving the notice and a copy of this chapter or any otherwise applicable code sections, upon the applicant or licensee, in person or by regular mail. The applicant or licensee shall be given an opportunity to appear and meet with the Director to contest the proposed decision to deny the application for the business license and to show cause why the application for the business license or renewal should not be denied.

(b) After holding the meeting described in subsection (a) herein, or if the applicant or licensee does not request a meeting, upon determining that there are sufficient grounds, the Director shall:

(1) Approve the application;

(2) Conditionally approve the application;

(3) Deny the application.

(c) The decision of the Director shall become effective 14 days following the date of service (either by regular mail or personally) upon the applicant or licensee of the notice of decision. If the applicant or licensee files an appeal within the time and manner prescribed, the license (in the case of a renewal) shall remain in effect until the appeal is finally determined.

(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.403. Effect of business license denial.

If an applicant's business license application for a particular business activity has been denied, or a licensee's renewal has been denied, the City shall not process a new application by that applicant or licensee for that business activity for a 12 month period after the date of the decision to deny unless the Director determines that the reason for the denial has been cured and no longer exists.

(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.404. Suspension or revocation of issued or renewed license.

The Director is authorized to suspend or revoke any issued business license upon determining that grounds exist for denial of issuance of a license under the provisions of this chapter.

(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.405. Process for suspension or revocation of a business license.

(a) On determining that grounds for license suspension or revocation exist, the Director shall furnish written notice of the proposed suspension or revocation to the licensee stating the reasons therefor, and serving the notice and a copy of this chapter or any otherwise applicable code sections, upon the holder of the license, in person or by regular mail. The licensee shall be given an opportunity to appear and meet with the Director to contest the proposed decision to suspend or revoke the business license permit and to show cause why the business license should not be suspended or revoked.

(b) After holding the meeting described in subsection (a) herein, or if the licensee does not

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request a meeting, upon determining that there are sufficient grounds, the Director shall:

(1) Issue a warning;

(2) Impose reasonable conditions on the license;

(3) Suspend the license for a specified period not to exceed six months;

(4) Revoke the license.

(c) The decision of the Director shall become effective 14 days following the date of service (either by regular mail or personally) upon the licensee of the notice of decision. If the licensee files an appeal within the time and manner prescribed, the license shall remain in effect until the appeal is finally determined. If the Director finds that it is necessary in order to protect against a serious and immediate threat to the health, safety or welfare of the public caused by exercise of the license the revocation or suspension shall take effect immediately upon service of the notice.

(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.406. Effect of business license revocation.

If a licensee's business license for a particular business activity has been revoked, the City shall not process a new application by that applicant or licensee for that business activity for a 12 month period after the date of the decision to revoke unless the Director determines that the reason for the revocation has been cured and no longer exists.

(§ 1, Ord. 1163, eff. May 4, 2018)

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ARTICLE 5
ENFORCEMENT AND REMEDIES

§ 11-1.501. Violation: Penalties.

(a) It is unlawful and a public nuisance to intentionally violate any of the provisions of this chapter. Violation of this chapter may be charged as either an infraction or a misdemeanor. Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code Section 36901.

(b) In addition to any other remedy or penalty set forth in this chapter or this Code, administrative penalties may be imposed pursuant to applicable provisions of Chapter 11 of Title 4 of this Code against any responsible party, in violation of any of the provisions of this chapter. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 11 of Title 4 of this Code.

(c) Remedies under this chapter are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.502. Continuing violations.

Each and every day, or fractional part of a day, that any business conducted, carried on, or engaged in, or any such thing is done without a business license, shall constitute a separate violation of the provisions of this chapter.

(§ 1, Ord. 1163, eff. May 4, 2018)

§ 11-1.503. Enforcement authority/entry to inspect.

(a) The Director shall have authority to enforce each of the provisions of this chapter. The Los Banos Police Department—Code Enforcement Division and other City departments shall render assistance in the enforcement of this chapter as may be necessary. The City Attorney is authorized to file a complaint against any persons found in violation of this chapter.

(b) The Director, code enforcement officer, fire inspector, and other City officers empowered to enforce the provision of this chapter, shall have the power and authority to enter into a business, at any reasonable time, to see the business license posted in a conspicuous place upon the premises.

(§ 1, Ord. 1163, eff. May 4, 2018)

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ARTICLE 6
APPEALS

§ 11-1.601. Appeals.

(a) Except where an appeals or hearing procedure is otherwise set forth in this chapter, a decision or action of the Director may be appealed by filing a written notice of appeal with the City Clerk, setting forth the specific grounds thereof.

(b) Notice of such appeal shall be filed with the City Clerk within 14 calendar days after the date written notice of such action appealed from was mailed or personally delivered to the appellant.

(c) The City Clerk shall forthwith set a date for hearing before City Manager or City Manager's designee and shall give the appellant at least five calendar days' notice of the time and place of said hearing.

(d) At such hearing the appellant shall show cause on the grounds specified in the notice of appeal why the action excepted to should not be approved. The City Manager or City Manager's designee, may continue the hearing from time to time. The findings on the appeal shall be final and conclusive in the matter.

(§ 1, Ord. 1163, eff. May 4, 2018)

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Chapter 2
Auction Sales

§ 11-2.01. Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Auctioneer" shall mean every person who shall offer for sale in the City at public auction, either as principal or agent, to the highest bidder on the spot any article of merchandise or property except livestock, farm produce, and used farm machinery.

"Itinerant merchant or itinerant vendor of goods" shall mean a person, whether as principal or agent, who engages in a temporary or transient business in the City selling goods, wares, and merchandise and who, for such purpose, leases or occupies a room, store buildings, structure, or place in the City for the exhibition or sale of such goods, wares, and merchandise, and such person shall not escape the payment of a higher license tax by temporarily associating him or herself with any local merchant, dealer, or tradesman or by conducting such temporary or transient business in connection with, or as a part of, or in the name of any local dealer, merchant, or auctioneer.

"Sale by public auction", without limiting the generality of the term, shall mean and include a sale in which, instead of the bidders making increasingly higher bids for articles of merchandise, the seller or auctioneer announces a price at which he or she will sell one or more articles of merchandise and then, if no sale occurs, increasingly adds additional articles of merchandise to those originally offered, with or without varying the previously announced price, until a buyer is finally induced to buy the accumulated articles at the price fixed.
(§§ 1, 4 (b), and 12, Ord. 390, as amended by § 4, Ord. 1161, eff. February 17, 2018)

§ 11-2.02. Compliance required.

No person shall advertise for sale, sell, dispose of, or offer for sale at public auction, or cause or permit to be advertised, offered for sale, sold, or disposed of at public auction, any goods, wares, or merchandise, whether the same shall be their own property or the property of someone else, without first complying with the provisions of this chapter and obtaining the licenses provided for in Section 11-2.07 of this chapter.
(§ 1, Ord. 390, as amended by § 4, Ord. 1161, eff. February 17, 2018)

§ 11-2.03. Permits: Applications.

Any person desiring to conduct or hold an auction sale shall make an application therefor to the City Clerk. Such application shall set forth the following information:

(a) The time during each day and the number of days, weeks, or months the applicant desires to hold or conduct such auction;

(b) The full name of the applicant and his or her residence address and the names of all persons interested in the conduct or holding of the auction;

(c) The name of the auctioneer;

(d) The place where the auction shall be held;

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(e) The length of time for which the permit is desired;

(f) Whether the applicant has been previously engaged in a like or similar business and, if so, the places where he or she has previously conducted such auction sales; and

(g) Such other information as the City Clerk shall deem reasonable and necessary to establish the truth of each and all such statements.

(§ 2, Ord. 390, as amended by § 4, Ord. 1161, eff. February 17, 2018)

§ 11-2.04. Permits: Applications: Accompanying data.

The application for a permit to conduct or hold an auction sale shall have attached thereto a complete inventory of all goods to be sold at the auction. Such inventory shall show whether or not the goods are owned by the applicant or are being sold by him or her on consignment, designating particularly the consigned goods. The inventory shall also set forth the grade, quality, kind, and cost price of each article. There shall also be attached to such application an affidavit stating that all of the statements contained in the application and in the inventory are true and correct. If the applicant shall be a corporation, the affidavit may be made by the president, general manager, secretary, or treasurer of the corporation.

(§ 2, Ord. 390, as amended by § 4, Ord. 1161, eff. February 17, 2018)

§ 11-2.05. Permits: Issuance.

The application for a permit to conduct or hold an auction sale shall be filed with the City Clerk, and, if the statements therein contained are found to be true and the required license fees have been paid, the City Clerk shall issue to the applicant a permit for the length of time designated, not to exceed, however, a period of three months.

(§ 2, Ord. 390, as amended by § 4, Ord. 1161, eff. February 17, 2018)

§ 11-2.06. Licenses: Required.

No person in the City shall conduct a sale by public auction, as defined in Section 11-2.01 of this chapter, until he or she shall have first obtained an auctioneer's license from the City Clerk.

(§ 4 (a), Ord. 390, as amended by § 4, Ord. 1161, eff. February 17, 2018)

§ 11-2.07. Licenses: Fees.

(a) Auctioneers. The license fee for any person conducting, carrying on, or managing the business of an auctioneer shall be Twenty-Five and No/100ths ($25.00) Dollars per quarter; provided, however, if the person by or for whom the auctioneering is done is an itinerant merchant or itinerant vendor of goods, wares, or merchandise, the license fee shall be Fifty and No/100ths ($50.00) Dollars per day. Any person who has received a license as an auctioneer shall not permit another person to conduct an auction under his or her license.

(b) Auction Sales. The license fee for every person conducting, carrying on, or managing an auction sale of goods, wares, merchandise, or real estate shall be Ten and No/100ths ($10.00) Dollars per day; provided, however, no license shall be required for an auction sale conducted pursuant to an order of any court or judge or under the authority of any mortgage or deed of trust.

(§ 4 (b) and (c), Ord. 390, as amended by § 4, Ord. 1161, eff. February 17, 2018)

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§ 11-2.08. Permits and licenses: Suspension and revocation.

(a) Suspension. The City Clerk shall have the authority to suspend any license and permit issued pursuant to the provisions of this chapter for violations of the provisions of this chapter. Such suspensions shall continue only during the pendency of the trial of the action for the violation alleged.

(b) Revocation. Each and every day a violation of the provisions of this chapter continues or occurs shall be deemed a separate offense, and, in the addition to the penalty set forth in Chapter 2 of Title 1 of this Code, the City Clerk, upon proof of the conviction of the applicant, shall revoke the license and permit under which an auction is being held. It shall thereafter be unlawful for any such person whose license and permit are so revoked to hold or conduct any auction sale unless he or she shall make an application and procure a new license and permit for such purpose.

(§ 9, Ord. 390, as amended by § 4, Ord. 1161, eff. February 17, 2018)

§ 11-2.09. Auctioneers.

(a) Compliance Required. No person, other than a licensed auctioneer who shall have complied with the provisions of this section, shall hold, conduct, carry on, or maintain any auction room or place for holding public auction sales, or advertise or hold him or herself out to the public as an auctioneer, or conduct, carry on, or maintain any sale of goods by public auction, bona fide or otherwise.

(b) Permits Required. No person shall engage in the calling of auctioneer in the City unless a permit therefor shall first have been procured from the Chief of Police. Any citizen of the United States and of the State of good moral character may become an auctioneer within the City and be authorized to sell real and personal property at public auction if such permit has been procured, and if such person has filed a bond pursuant to the provisions of subsection (c) of this section for the faithful performance of his or her duties, and on payment of the license tax set forth in Section 11-2.07 of this chapter. Such permit may be granted to a firm or corporation provided such firm or corporation shall designate a member of the firm or corporation as auctioneer who shall comply with the provisions of this section. The permit shall not be transferable, and it shall not be loaned or used by any other person except as set forth in this section.

(c) Bonds. The auctioneer's bond shall be in the sum of Five Thousand and No/100ths ($5,000.00) Dollars, shall be payable to the City, and shall be executed by a surety company authorized to transact a surety business in the State. The bond shall be approved by the City Attorney, shall be filed in the office of the City Clerk, and shall inure to the benefit of the City and any person aggrieved or damaged by any act of the auctioneer.

(d) Compliance with Filed Inventories. No person to whom an auctioneer's permit has been granted, or the auctioneer, or any other person shall sell or offer for sale any article not listed in the inventory, or sell or offer for sale any article listed in the inventory without first giving the City Clerk an opportunity to check the same against the inventory filed with the application, or make any representation concerning the quality or grade of the article contrary to that set forth in the inventory. The person to whom the permit is granted shall pay the City Twelve and No/100ths ($12.00) Dollars for each day, or fraction thereof, the representative of the City Clerk attends such sale.

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(e) Employment of Criers. Any auctioneer may employ a crier at any sale; provided, however, the auctioneer shall be responsible for the acts of any person substituting for him or her, or any employee or crier, upon his or her bond.

(f) Invoices of Sales. It shall be the duty of the person whose merchandise is being sold at public auction to give each and every purchaser of an article, the selling price of which amounts to or exceeds Two and 50/100ths ($2.50) Dollars, an invoice containing a full description of the article and the selling price thereof, together with a statement giving each and every warranty under which the article was sold. Duplicate copies of such invoices shall be kept.

(g) Records. Each auctioneer shall keep a record book in which he or she shall enter all sales, the amount paid, and the date of each sale. Such record book shall be open at all times for inspection by members of the Police Department and any person interested therein.

(h) Violations: Penalties. For every violation of the provisions of this chapter, or of his or her duty as an auctioneer, such auctioneer shall forfeit to the City the sum of Two Hundred Fifty and No/100ths ($250.00) Dollars, which shall be recoverable upon his or her bond, in addition to any other penalty provided for violations of the provisions of this chapter. Any such fines shall be paid into the City Treasury for the use of the general fund.

In addition to the other penalties provided for the violation of any of the provisions of this section by any auctioneer, or by any other person with an auctioneer's knowledge and consent or connivance, the license of such auctioneer shall be revoked.

Any person aggrieved or damaged by any act of an auctioneer in the City in violation of or contrary to the provisions of this chapter may have an action against such auctioneer and his or her bondsmen upon his or her official bond therefor.

(§ 13, Ord. 390, as amended by § 4, Ord. 1161, eff. February 17, 2018)

§ 11-2.10. Supplemental inventories.

No person shall be permitted to have or sell at auction any goods, wares, or merchandise not listed or included in the inventory filed with the application for the permit to conduct or hold an auction sale; provided, however, such person, upon filing with the City Clerk a supplemental inventory in the same form as the original inventory, may sell such additional goods, wares, or merchandise as may be included in the supplemental inventory. Such supplemental inventories may be filed from time to time as desired.

(§ 3, Ord. 390, as amended by § 4, Ord. 1161, eff. February 17, 2018)

§ 11-2.11. Misrepresentations.

(a) False Statements. No person acting as an auctioneer shall make any statements which are false in any particular or which have the tendency to mislead any person present, or make any misrepresentation whatsoever as to the quality, quantity, character, present condition, value, cost, general selling price, or whether the property is new or secondhand, or partly so, of any property offered for disposal by auction sale.

(b) Bankrupt and Damaged Stock. No person shall sell, or attempt to sell, by auction, or advertise for sale by auction, any goods, wares, or merchandise by falsely representing or pretending that such goods, wares, and merchandise are in whole or in part a bankrupt or insolvent stock, damaged goods, or goods saved from a fire, or make any false statement as

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to the previous history, ownership, quality, or character of such goods, wares, and merchandise.

(c) Substitutions. No person shall offer for sale at auction any article and induce its purchase by any bidder and afterwards substitute any article in lieu of that offered to and purchased by the bidder, except with the bidder's knowledge and consent.

(§ 5, Ord. 390, as amended by § 4, Ord. 1161, eff. February 17, 2018)

§ 11-2.12. Bidding.

No person shall act, or cause or induce anyone else to act, as a by-bidder or what is commonly known as a "capper," "booster," or "shiller" at any auction or place where any auction shall take place, or offer to make any false bid, or offer any false bid to buy, or pretend to buy, any article sold or offered for sale at any auction. It shall be the duty of the auctioneer to make some description of the person making a bid, and to point to or designate the position of the bidder on the premises, each time a bid is announced.

(§§ 6 and 7, Ord. 390, as amended by § 4, Ord. 1161, eff. February 17, 2018)

§ 11-2.13. Invoices.

It shall be the duty of the person whose merchandise is being sold at public auction to give each and every purchaser of an article, the selling price of which amounts to or exceeds Two and 50/100ths ($2.50) Dollars, an invoice containing a full description of the article and the selling price thereof, together with a statement giving each and every warranty under which the article was sold. Duplicate copies of such invoices shall be kept.

(§ 8, Ord. 390, as amended by § 4, Ord. 1161, eff. February 17, 2018)

§ 11-2.14. Jewelry stock.

(a) Permits Required. No person shall sell, dispose of, or offer for sale at public auction, or cause or permit to be sold, disposed of, or offered for sale at public auction, any platinum, gold, silver, plated ware, precious stones, semi-precious stones, watches, or other jewelry, whether the same shall be his or her own property or whether he or she shall sell the same as an agent or employee of another, until a permit for such sale shall have first been obtained from the Council. Such sales shall be permitted only where a merchant is bona fide disposing of his or her stock for the purpose of retiring from business.

(b) Permits: Applications. Not less than 30 days nor more than 60 days prior to the commencement of any jewelry stock auction sale the merchant shall file with the City Clerk a sworn written application for a permit. The application shall set forth the following information:

(1) The place of the proposed sale;

(2) The date or dates on which the applicant desires to hold a jewelry auction; and

(3) The name of the auctioneer who will conduct the auction.

(c) Permits: Applications: Inventories. There shall be attached to the application, in duplicate, a detailed inventory, item by item, of the goods, wares, and merchandise to be sold, the wholesale value or cost to the applicant of each item, and the quality and grade thereof. Each item of merchandise shall be numbered separately in the inventory, and the number

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in the inventory shall correspond to the number physically attached to such item. Such inventory shall be accompanied by a statement, sworn to by the applicant, that all of the merchandise described in the inventory is a bona fide part of the applicant's stock in trade and was not secured, purchased, or brought into his or her place of business for, or in anticipation of, such sale; that no other merchandise will be brought into his or her place of business after the date of the filing of the application; that no merchandise will be sold or offered for sale which is not set forth in the inventory; and that each of the statements made in the inventory are true and correct to his or her own personal knowledge.

(d) Permits: Applications: Deposits. The application shall be accompanied by a cash deposit with the City Clerk in the amount of Five Hundred and No/100ths ($500.00) Dollars, which amount shall be retained as a penalty in the event of a violation by the applicant of any of the provisions of this chapter. Any such penalty shall be in addition to the penalties otherwise provided for violations of the provisions of this chapter.

(e) Permits: Applications: Investigations. Upon the receipt of an application for a jewelry auction permit, the City Clerk shall investigate and report to the Council his or her findings as to the character of the applicant and the auctioneer and the bona fide nature of the proposed sale. The City Clerk shall check each item of the inventory submitted with the actual item in the applicant's place of business, shall make an investigation to ascertain the truthfulness of the application, shall determine whether the merchandise described in the inventory is a bona fide part of the applicant's stock in trade and not secured, purchased, or brought into such place of business for, or in anticipation of, such sale, and shall determine whether the applicant is bona fide disposing of his or her stock for the purpose of retiring from business. The applicant shall pay the City Twelve and No/100ths ($12.00) Dollars for each day, or fraction thereof, the City Clerk is engaged in such investigation. Such sum shall be deducted from the deposit made by the applicant pursuant to the provisions of subsection (d) of this section, and the amount of the deposit, after the deduction of the fees for the investigation by the City Clerk, shall be repaid to the applicant upon the written order of the City Clerk after the conclusion of the auction.

(f) Permits: Terms: Extensions. Except as otherwise provided in this subsection, such sales shall not continue for more than 30 days in all from their commencement. All permits granted pursuant to the provisions of this section shall expire within 60 days from the date of issuance. No sale at public auction shall be held during the month of December of any year. If the applicant has not been able to dispose of his or her stock, as shown on the inventory filed with his or her application, within the 30 days permitted by the original permit, and if he or she shall file a request with the Council for an extension of the permit for a period of not more than 30 additional calendar days, the Council may, by a four-fifths vote, grant such request. Such extension shall not include any portion of the month of December of any year.

(g) Days of Sales. Every sale at public auction of the stock on hand of such merchants shall be held on successive days, Sundays and legal holidays excepted.

(h) Hours of Sales. No auction sale of jewelry shall be conducted at public auction between the hours of 6:00 p.m. and 8:00 a.m.; provided, however, the Council, in the exercise of its discretion, may change or extend the hours for the holding of such auction sales.

(§ 11, Ord. 390, as amended by § 4, Ord. 1161, eff. February 17, 2018)

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§ 11-2.15. Exemptions.

The provisions of this chapter shall not apply to any auction held for charitable or benevolent purposes or for any church fair, festival, or bazaar; nor to any auction held or conducted by any public officer pursuant to the provisions of any law of the United States or State; nor to any auction of livestock, farm produce, or used farm equipment in an auction yard established for the purpose of selling livestock, farm produce, or used farm equipment.
(§§ 10 and 14, Ord. 390, as amended by § 4, Ord. 1161, eff. February 17, 2018)

§ 11-2.16. Violations: Penalties.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.
(§ 15, Ord. 390, as amended by § 4, Ord. 1161, eff. February 17, 2018)

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Chapter 3
Sales On Public Streets And Sidewalk Sales

§ 11-3.01. Purpose of provisions.

The City Council finds that the continued unrestricted use of the public sidewalks by merchants for the display of merchandise creates potential health and safety hazards. The Council further finds the unrestricted display of merchandise on public sidewalks may have an adverse impact on the aesthetics of the City. It is the intent of the Council to regulate sales on streets and sidewalks in order to insure the safe and unobstructed passage of pedestrians and motorist using the public right-of-way.
(§ 1, Ord. 948, eff. April 16, 1999, as amended by § 5, Ord. 1161, eff. February 17, 2018)

§ 11-3.02. Permit required.

Except as otherwise provided in this chapter, it is unlawful in the City for any person to leave or cause to he placed, any personal property upon any sidewalk, gutter, alley or street of the City, whether or not such property upon any sidewalk, gutter, alley or street of the City constitutes merchandise of any store, without first obtaining a City permit. The "personal property" referred to in this section includes, but is not limited to, produce, merchandise, store boxes, store substances, or materials, signs or any other object or implement of any class, kind or character. This section shall not be construed to prohibit parking of automobiles where otherwise allowed.
(§ 1, Ord. 948, eff. April 16, 1999, as amended by § 5, Ord. 1161, eff. February 17, 2018)

§ 11-3.03. Permit—Issuance—Conditions and limitations.

The Planning Director may issue administrative permits for sidewalk sales for individual businesses, in the downtown commercial district only, subject to the following conditions and limitations:

(a) Applicants must be retail merchants possessing a valid City business license and having a fixed place of business within the City's downtown commercial district.

(b) The number of sidewalk sales shall not exceed one per month per business.

(c) Each permit shall expressly provide that any sidewalk sale for an individual business shall be limited to three consecutive days.

(d) Each permit shall expressly provide that any personal property or merchandise placed upon the sidewalk pursuant to the permit shall extend no further along the sidewalk than the exterior limits of the merchant's place of business.

(e) Each permit shall expressly state that no obstructions shall be placed upon the public sidewalk extending in excess of four feet into the sidewalk from the front of any structure, provided that in all cases a minimum sidewalk depth of five feet from the curbing shall be kept clear of any obstruction.

(f) No live music, including a band or disc jockey, shall be permitted.

(g) Each permit shall be in effect for a period of 12 months from the time of issuance.

(h) Each permit shall specify all signage to be used in the conduct of the sidewalk sales;

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provided, that in no circumstance shall any sign be allowed in excess of eleven (11″) inches by seventeen (17″) inches in size. Signage shall be allowed only for the purpose of stating the price of items or articles for sale.

(i) The Planning Director may approve a permit subject to additional conditions, as he or she finds reasonable and appropriate.

(§ 1, Ord. 948, eff. April 16, 1999, as amended by § 5, Ord. 1161, eff. February 17, 2018)

§ 11-3.04. Group permits—Conditions and limitations.

The Planning Director may issue group permits for area wide promotional sidewalk sales subject to the following conditions and limitations:

(a) All permits shall be issued to a bona fide merchant association comprised of retail merchants having a fixed place of business within the City's downtown commercial district and desiring to sponsor a special program, event or sale.

(b) The number of group sidewalk sales shall be limited to six per year.

(c) No permit shall be in effect for more than three consecutive business days.

(d) Each permit shall describe the geographic area entitled to the group permit and expressly provide day or days and hours that such sale shall be allowed.

(e) The administrative permit shall expressly state that no obstruction shall be placed upon the public sidewalk extending in excess of four (4′) feet into the sidewalk from the front of any structure; provided, that in all cases a minimum sidewalk depth to four (4′) feet from the back edge of curb shall be kept clear from any obstruction.

(f) The Planning Director may approve a permit subject to additional conditions, as he or she finds reasonable and appropriate.

(g) Each permit shall specify all signage to be used in the conduct of the sidewalk sale; provided, that in no circumstances shall any sign he allowed in excess of eleven (11″) inches by seventeen (17″) inches in size. Signage shall be allowed only for the purpose of stating the price of items or articles for sale.

(h) Any live music shall be approved by the City Council prior to the event.

(§ 1, Ord. 948, eff. April 16, 1999, as amended by § 5, Ord. 1161, eff. February 17, 2018)

§ 11-3.05. Permit—Hold harmless clause required.

(a) Each permit issued for sidewalk sales shall include an agreement wherein the recipient of the permit agrees to hold the City harmless from liability arising from the conduct of such outdoor sales.

(b) The agreement shall state:

The recipient of this permit hereby agrees to hold the City harmless from, to defend the City against, and to indemnify the City from all claims, demands, and suits made against the City, its officers, or its employees, including attorney's fees and court costs incurred by the City arising from any act or omission on the part of the recipient, its officers, employees, subcontractors, agents, guests, invitees or those entities participating in any sales activities

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sponsored by the recipient, in the prosecution of sales upon the sidewalk or any portions thereof.

(§ 1, Ord. 948, eff. April 16, 1999, as amended by § 5, Ord. 1161, eff. February 17, 2018)

§ 11-3.06. Liability insurance.

Each permit issued for a sidewalk sale shall include an agreement wherein the recipient of the permit agrees to indemnify the City from any liability arising from the conduct of any outdoor sales, and shall furnish to the City a certificate of public liability insurance or bond for public liability in the amount of One Million and No/100ths ($1,000,000.00) Dollars with the City named as the co-insured.

(§ 1, Ord. 948, eff. April 16, 1999, as amended by § 5, Ord. 1161, eff. February 17, 2018)

§ 11-3.07. Permit—Revocation—Appeal.

(a) Any permit issued pursuant to this chapter may be revoked by the Planning Director and the privileges granted thereunder terminated: (1) in the event Planning Director finds and determines, in his or her sole discretion, any permittee has failed to abide with the conditions of the permit, or (2) in the event the Planning Director determines that exercise of the privileges granted under this chapter may be detrimental to the public health, safety and welfare.

(b) Revocation by the Planning Director of any permit is appealable to the Council, upon written notice of appeal filed with the City Clerk within 10 calendar days of receipt of notice of revocation.

(§ 1, Ord. 948, eff. April 16, 1999, as amended by § 5, Ord. 1161, eff. February 17, 2018)

§ 11-3.08. Exemption from permit requirement.

The display of personal property belonging to a business may occur on a regular basis, which display shall be exempt from permitting requirements outlined in this chapter, provided such personal property is located on private property (i.e., within an alcove), not within the public right-of-way, immediately in front of the respective business.

(§ 1, Ord. 948, eff. April 16, 1999, as amended by § 5, Ord. 1161, eff. February 17, 2018)

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Chapter 4
Liquidation Sales

§ 11-4.01. Licenses: Required.

No person in the City shall advertise, notice, or hold out by advertising in newspapers, magazines, periodicals, or otherwise, or by window signs, billboards, radio, or in any other manner whatsoever, that any sale of goods, wares, or merchandise is an insurance, bankrupt, sell out, bankruptcy, bankrupt stock, mortgage, mortgagee's, insolvent, assignee's, executor's administrator's, receiver's, trustee's, pledgee's, lease expiring, removal, retiring, quitting, liquidating, liquidizing, or closing-out sale or other designation, or a sale of goods, wares, or merchandise damaged by fire, smoke, or water, whether the sale is so designated or is held under a similar name or other designation in the City, until he or she shall have obtained a special license to conduct such sale from the City Clerk as set forth in this chapter.

The provisions of this section shall apply to all such sales, whether conducted by the owner, his or her agent, a consignee, or otherwise.
(§ 1, Ord. 391, as amended by § 6 Ord. 1161, eff. February 17, 2018)

§ 11-4.02. Licenses: Applications.

At least 10 days prior to the commencement of any liquidation sale, as set forth in Section 11-4.01 of this chapter, the person intending to hold such sale shall submit to the City Clerk an application in writing stating the reasons for such sale. Such application shall specify the period of time during which the sale shall continue, which time shall in no case exceed 30 days. A new application and special license shall be procured for each 30 day sale period, or portion thereof. No person shall make any false statement in any such application.
(§§ 2, 3 (b), and 5, Ord. 391, as amended by § 6 Ord. 1161, eff. February 17, 2018)

§ 11-4.03. Licenses: Applications: Accompanying inventory data.

The application for a license to hold a liquidation sale shall have attached thereto an inventory of all goods, wares, and merchandise on all the premises where such sale is to take place. The inventory shall show the actual purchase price and any other details required by the City Clerk necessary to fully identify the goods, wares, and merchandise to be sold at such sale. No additional goods, wares, or merchandise may be brought in or added to the submitted inventory and offered to the public at such sale.
(§§ 2 and 3 (a), Ord. 391, as amended by § 6 Ord. 1161, eff. February 17, 2018)

§ 11-4.04. Licenses: Applications: Filing.

The City Clerk shall file the application for a license to hold a liquidation sale and shall endorse on the application the date the special license is granted. The application shall be open to inspection only by the employees of the office of the City Clerk and the Police Department.
(§ 4, Ord. 391, as amended by § 6 Ord. 1161, eff. February 17, 2018)

§ 11-4.05. Licenses: Fees.

The license fee for a liquidation sale pursuant to the provisions of this chapter shall be Twenty-Five and No/100ths ($25.00) Dollars, plus Two and No/100ths ($2.00) Dollars for each One Thousand and No/100ths ($1,000.00) Dollars, or fraction thereof, shown on the inventory

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submitted pursuant to the provisions of Section 11-4.03 of this chapter. Such license fee shall be in addition to any other license fee being paid to the City by the applicant. For the purpose of ascertaining such special license fee, the inventory shall be computed from the total cost (purchase price) of such goods, wares, and merchandise or 60% of the advertised value of such goods, wares, and merchandise, whichever is the larger amount.
(§ 3(a), Ord. 391, as amended by § 6 Ord. 1161, eff. February 17, 2018)

§ 11-4.06. Licenses: Validity.

Licenses issued pursuant to the provisions of this chapter shall be valid only for the goods, wares, and merchandise listed on the inventory required by the provisions of Section 11-4.03 of this chapter. Any additions to such inventory shall cause the goods, wares, and merchandise so inventoried to lose their identity, and any such license issued shall cease to apply to the sale of such goods, wares, and merchandise.
(§ 6, Ord. 391, as amended by § 6 Ord. 1161, eff. February 17, 2018)

§ 11-4.07. Licenses: Changes in ownership.

If there shall be any change in the ownership of the goods, wares, and merchandise listed on the inventory submitted pursuant to the provisions of Section 11-4.03 of this chapter or advertised or noticed for sale, a notice of such change shall immediately be given in writing to the City Clerk, and a new license shall be obtained, using the same procedure as set forth for the original license.
(§ 7, Ord. 391, as amended by § 6 Ord. 1161, eff. February 17, 2018)

§ 11-4.08. Advertising.

Any sale pursuant to the provisions of this chapter shall only be advertised or carried on as an insurance sale by the insurance carrier, a bankruptcy sale by a trustee in bankruptcy, a mortgage sale by a mortgagee, an insolvent sale by a trustee in insolvency, an assignee's sale by an assignee for creditors, an executor's sale by an executor, an administrator's sale by an administrator, a receiver's sale by a receiver, and a trustee's sale by a trustee; provided, however, a person purchasing directly from an insurance carrier, trustee in bankruptcy, mortgagee, trustee in insolvency, assignee for creditors, executor, administrator, receiver, or trustee may advertise, notice, and represent that he or she has so purchased such goods, wares, and merchandise.

No person shall make any false statement in any advertisement or notice of any such sale of goods, wares, and merchandise.
(§§ 5 and 8, Ord. 391, as amended by § 6 Ord. 1161, eff. February 17, 2018)

§ 11-4.09. Stock in trade.

The provisions of this chapter shall not prevent a merchant from selling his or her regular stock in trade at any sale licensed by the provisions of this chapter, the inventory of which would not cover his or her regular stock in trade; provided, however, such regular stock in trade shall be segregated separately and designated as such by appropriate signs clearly visible to prospective customers and so advertised. The lettering for such advertisements shall not be less than two (2″) inches in height.
(§ 9, Ord. 391, as amended by § 6 Ord. 1161, eff. February 17, 2018)

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§ 11-4.10. Fire sales.

No sale of goods, wares, or merchandise shall be advertised, noticed, represented, or conducted as a fire sale unless all of such goods, wares, and merchandise to be sold shall have been actually damaged by fire, smoke, or water used in extinguishing a fire.
(§ 10, Ord. 391, as amended by § 6 Ord. 1161, eff. February 17, 2018)

§ 11-4.11. Exemptions.

The provisions of this chapter shall not apply to public or court officers, or to any person acting under the direction of State or Federal courts in the course of his or her official duties, or to licensed pawnbrokers selling unredeemed pledges in accordance with law.
(§ 11, Ord. 391, as amended by § 6 Ord. 1161, eff. February 17, 2018)

§ 11-4.12. Violations: Penalties.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.
(§ 12, Ord. 391, as amended by § 6 Ord. 1161, eff. February 17, 2018)

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Chapter 5
Solicitation, Peddling And Canvassing

§ 11-5.01. Title and purpose.

(a) This chapter shall be known as the "Los Banos Solicitation Ordinance."

(b) The purpose and intent of this chapter is to balance free speech and expression with the health, safety and welfare of the residents of the City of Los Banos.

(§ 1, Ord. 1100, eff. January 21, 2012, as amended by § 7, Ord. 1161, eff. February 17, 2018)

§ 11-5.02. Definitions.

The words and terms used in this chapter shall be defined as follows:

"Applicant" means the person applying to the City for a permit required pursuant to this chapter.

"Canvasser" means and includes any person who conducts a poll or survey or who otherwise canvasses from door-to-door, from place to place, from house to house, or from street to street for commercial purposes.

"Charitable purposes" mean and include activities for the benefit of non-profit philanthropic, social service, benevolent, patriotic, educational, or religious activities, including, but not limited to, nonprofit organizations, tax-exempt organizations, and public and private schools.

"City" means the City of Los Banos.

"Commercial purposes" mean and include any and all activities related primarily to an economic transaction such as the exchange of goods or services for a financial fee or cost, excepting activities for charitable purposes or political fundraising and canvassing as defined herein.

"Commercial solicitation" means the conducting, managing or carrying on of any activities of a canvasser, peddler or solicitor as defined in this section. Commercial solicitation as defined in this section does not include solicitation by telephone or solicitation through the United States mail; or by distribution of a circular, leaflet, flyer, or pamphlet; or upon prior request, invitation, or appointment from an occupant of any residence or business.

"Noncommercial solicitation" means solicitation not primarily commercial in nature, and not primarily related to an economic transaction such as the exchange of goods or services for a financial fee or cost.

"Peddler" means and includes any person who, for commercial purposes, travels by foot, automotive vehicle, or any other type of conveyance, from door-to-door, from place to place, from house to house, or from street to street, carrying, conveying or transporting food, goods, wares, merchandise, publications, or other personal property or services offering and exposing the same for sale.

"Person" means any individual, partnership, corporation, or association, firm, company, society, organization, church, congregation, assembly, or league, and shall include any director, officer, trustee, receiver, assignee, agent, or other similar representative thereof.

"Political fundraising and canvassing" means going in and upon private residences for the purpose of discussing and enlisting resident support on political matters such as, but not limited to, the statutory or regulatory authority of local, or state or national governments, enactment or repeal of legislation and election of candidates to office. Political fundraising and canvassing

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activities include, but are not limited to: door-to-door soliciting of financial contributions in support of a political candidate's or organization's political activities; circulation of petition(s) for resident signature(s), requesting resident votes in favor or opposition to ballot measures and candidates; enlisting residents to vote, write letters, march or otherwise express their opinions on political matters.

"Solicitor" means and includes any person who, for commercial purposes, travels by foot, automotive vehicle, or any other type of conveyance, from door-to-door, from place to place, from house to house, or from street to street, taking or attempting to take subscriptions, contracts for sale, or orders for the sale of food, goods, wares, merchandise, publications, or other personal property for future delivery, or for services to be furnished or performed in the future, whether or not such person has, carries or exposes for sale a sample of the subject of such sale or whether he/she collects advance payments on such sales or not.
(§ 1, Ord. 1100, eff. January 21, 2012, as amended by § 7, Ord. 1161, eff. February 17, 2018)

§ 11-5.03. Regulations separate from business tax ordinance.

No person shall be relieved of the obligation of obtaining any permit or complying with any other requirement of this chapter by payment of a business license fee pursuant to Chapter 1 of this title.
(§ 1, Ord. 1100, eff. January 21, 2012, as amended by § 7, Ord. 1161, eff. February 17, 2018)

§ 11-5.04. Permit required.

No person shall engage in commercial solicitation in the City of Los Banos without first applying for and receiving a valid permit to do so.
(§ 1, Ord. 1100, eff. January 21, 2012, as amended by § 7, Ord. 1161, eff. February 17, 2018)

§ 11-5.05. Activities exempt from permit.

(a) Persons engaging in the following activities do not need a solicitation permit:

(1) Those seeking to obtain contributions or to sell any goods, articles or services of any kind for the support or benefit of any charitable, religious or political purpose; or on behalf of any non-profit association, organization, corporation or project; or on behalf of any public agency;

(2) Those seeking to influence the personal belief of the occupant of any residence or business in regard to any political or religious matter;

(3) Those seeking to obtain, from an occupant of any residence or business, an indication of the occupant's belief in regard to any political or religious matter;

(4) Those seeking to obtain donations made incidental to canvassing door-to-door on behalf of any charitable, religious or political purpose; or on behalf of any non-profit association, organization, corporation or project; or on behalf of any public agency;

(5) Those engaged in non commercial solicitation as defined herein;

(6) Those engaged in political fundraising and canvassing as defined herein;

(7) Those engaged in mobile vending requiring a vendor permit pursuant to Title 9 Chapter 3 Article 36 of the Los Banos Municipal Code.

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(b) Excepting mobile vendors, those persons who are exempt under this section are still required to comply with the requirements set forth in Section 11-5.11 and shall be subject to the provisions of Sections 11-5.14, 11-5.15 and 11-5.16.

(§ 1, Ord. 1100, eff. January 21, 2012, as amended by § 7, Ord. 1161, eff. February 17, 2018)

§ 11-5.06. Permit application.

(a) Every person who desires to act as a canvasser, peddler or solicitor shall file an application with the City and pay a nonrefundable application fee in such amount as may be established by the City Council by resolution.

(b) The application shall contain the following information:

(1) Name, birth date, and driver's license or other state-issued photo identification card of the applicant.

(2) Permanent home address and telephone number, and local address and home and mobile telephone numbers, if available, of the applicant.

(3) A brief description of the nature of the applicant's business and of the food, goods, wares, merchandise, publications, or other personal property or services that are the subject of the application.

(4) If employed, the name and address of the applicant's employer together with the credentials establishing the exact relationship between the applicant and the applicant's employer.

(5) Two passport-quality photographs of the applicant, which photographs shall be two (2″) inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner.

(6) Completion of LiveScan fingerprinting by the Los Banos Police Department.

(7) A statement as to whether or not the applicant has been convicted of any felony or misdemeanor involving injury to person(s) or property, theft, fraud, or misrepresentation within 10 years preceding the application date.

(8) A statement whether or not the applicant has failed to pay any judgment arising from or connected with the activities authorized by the permit.

(9) A statement whether or not the applicant has suffered revocation of any permit required to engage in commercial solicitation in any other jurisdiction within 10 years preceding the application date.

(10) If the applicant is a minor under the age of 16 years old and employed, transported or supervised by another, the applicant must provide proof of registration with the State Labor Commission, pursuant to the California Code of Regulations Title 8, Section 13670 et seq., including amendments thereto.

(11) If the application involves the sale of food, produce, or any other item intended for human consumption, the applicant must provide valid health or other permit(s), issued by the appropriate agency, as required by applicable local, State or Federal law.

(12) Where applicable, documentation from the State of California that the cardholder is

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in compliance with Government Code Section 12599.

(13) Any additional information as required by the City.

(§ 1, Ord. 1100, eff. January 21, 2012, as amended by § 7, Ord. 1161, eff. February 17, 2018)

§ 11-5.07. Issuance of permit and identification card.

(a) The City shall approve or deny the permit as soon as practicable but not later than 10 business days of receipt of an application as deemed complete by the City. Sufficient notice shall be given if mailed or delivered to the permittee at the address listed on the application.

(b) Upon approval of the application, the City shall issue the applicant a permit to canvass, solicit or peddle and shall issue an identification card, which shall contain the name, address, and telephone number of the permittee and his or her employer or the business entity he or she represents, and the expiration date of the permit. No permit or identification card shall be transferable.

(c) The City shall deny any application for a permit based upon any of the following:

(1) The applicant made one or more material misstatements in the permit application.

(2) The applicant has been convicted, or held liable for, a crime of moral turpitude, or any felony or misdemeanor offense that reasonably and directly indicates a risk to the public.

(3) The applicant has had a judgment in an action for fraud, deceit or misrepresentation entered against him or her by any court of competent jurisdiction within 10 years prior to the date of the application.

(4) The applicant fails to provide proof of possession of any license or permit which, under Federal, State or local law or regulations, the applicant is required to have in order to conduct the proposed business.

(5) The applicant has previously been convicted for violation of any provision of this chapter or has had any license issued pursuant to this chapter revoked.

(6) The applicant has suffered revocation of any permit required to engage in commercial solicitation in any other jurisdiction within 10 years preceding the application date.

(§ 1, Ord. 1100, eff. January 21, 2012, as amended by § 7, Ord. 1161, eff. February 17, 2018)

§ 11-5.08. Permittee must keep permit and identification card in possession.

Every person who acts as a canvasser, peddler or solicitor shall conspicuously display on their person the City issued identification card at all times while engaging in commercial solicitation and shall carry on their person a valid City issued permit. A valid permit and identification card shall be presented upon request by any person approached by the solicitor, peddler, or canvasser for the purposes of soliciting, peddling, or canvassing, and or upon the request of any peace officer or any representative of the City authorized to enforce this chapter.

(§ 1, Ord. 1100, eff. January 21, 2012, as amended by § 7, Ord. 1161, eff. February 17, 2018)

§ 11-5.09. Effective period of permit and identification card: Renewals.

Each permit and identification card shall be valid for a period of one year from the date of

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issuance thereof, unless revoked. Permits and identification cards may be renewed for one-year periods upon payment of a renewal fee in such amount as may be established by the City Council by resolution; provided, however, that the procedure for renewals of permits and identification cards shall be the same as required for original applications, except that fingerprinting and photographing of applicants shall not be required for renewals if deemed to be unnecessary by the City.
(§ 1, Ord. 1100, eff. January 21, 2012, as amended by § 7, Ord. 1161, eff. February 17, 2018)

§ 11-5.10. Properties displaying no soliciting signs.

It is a violation of this section for any commercial or noncommercial solicitor to solicit or distribute a circular, leaflet, flyer, or pamphlet at or to any property at which a sign is displayed indicating "No Solicitors" or a similar indication that no solicitation is desired by the occupant(s).
(§ 1, Ord. 1100, eff. January 21, 2012, as amended by § 7, Ord. 1161, eff. February 17, 2018)

§ 11-5.11. Time, place and manner prohibitions.

The following acts shall constitute a violation of this chapter and shall apply to commercial and non commercial solicitation:

(a) No person shall solicit, peddle, or canvass before the hour of 9:00 a.m. or after the hour of 8:00 p.m., except by prior appointment.

(b) No person shall solicit, peddle, or canvass at any property at which a sign is displayed indicating "No Solicitors" or a similar indication that no solicitation is desired by the occupant(s).

(c) No person shall use profane or abusive language, threatening gestures, or verbal threats during any soliciting, peddling, or canvassing.

(d) No person shall refuse to leave the premises when asked to do so by the occupant(s).

(e) No person shall block or impede the path of the individual(s) being solicited, peddled, or canvassed.

(f) No person shall continue to solicit, peddle, canvass, follow, or accompany any individual after the individual has asked the person to leave or after the individual has declined the solicitation.

(g) No person shall touch the individual(s) being solicited, peddled, or canvassed without that individual(s)' consent.

(h) No person shall knowingly make false statements or misrepresentations during the course of the soliciting, peddling, or canvassing.
(§ 1, Ord. 1100, eff. January 21, 2012, as amended by § 7, Ord. 1161, eff. February 17, 2018)

§ 11-5.12. Permit revocation.

(a) Permits issued under the provisions of this chapter may be revoked by the City at any time for any of the following causes:

(1) Subsequent determination of facts or subsequent occurrences that would have

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required a denial of the permit at the time of application;

(2) The permittee engages in fraud, misrepresentation, or false statement in the course of engaging in the business of commercial solicitation;

(3) Any violation of this chapter;

(4) The permittee has been convicted, or held liable for, a crime of moral turpitude, or any felony or misdemeanor offense that reasonably and directly indicates a risk to the public;

(5) The applicant engages in commercial solicitation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(b) The City shall notify the permit holder of a revocation of a permit by depositing written notice of such revocation in the first-class U.S. mail, postage prepaid, addressed to the applicant, not later than three business days following the decision to revoke the permit. The notice of revocation must contain a statement of the facts upon which the revocation is based and must contain a statement of the appeal procedure set forth in Section 11-5.13.

(§ 1, Ord. 1100, eff. January 21, 2012, as amended by § 7, Ord. 1161, eff. February 17, 2018)

§ 11-5.13. Appeal of permit denial or revocation.

(a) An applicant or permittee who is denied an original permit or a renewal thereof by the City, or whose permit has been revoked, may appeal to the City Manager, by filing a written notice of appeal with the City Clerk, setting forth the specific grounds thereof.

(b) Notice of such appeal shall be filed with the City Clerk within 14 calendar days after the date written notice of such action appealed from was mailed or personally delivered to the appellant.

(c) The City Clerk shall forthwith set a date for hearing before City Manager or City Manager's designee and shall give the appellant at least five calendar days' notice of the time and place of said hearing.

(d) At such hearing the appellant shall show cause on the grounds specified in the notice of appeal why the action excepted to should not be approved. The City Manager or City Manager's designee, may continue the hearing from time to time. The findings on the appeal shall be final and conclusive in the matter.

(§ 1, Ord. 1100, eff. January 21, 2012, as amended by § 7, Ord. 1161, eff. February 17, 2018)

§ 11-5.14. Administrative penalties.

In addition to any other remedy or penalty set forth in this chapter or this Code, administrative penalties may be imposed pursuant to applicable provisions of Chapter 11 Title 4 of this Code against any responsible party, in violation of any of the provisions of this chapter. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 11 of Title 4 of this Code.

(§ 1, Ord. 1100, eff. January 21, 2012, as amended by § 7, Ord. 1161, eff. February 17, 2018)

§ 11-5.15. Violations constituting misdemeanors.

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(a) The violation of any provision of this chapter, or failure to comply with any of the mandatory requirements of this chapter, shall constitute a misdemeanor; except that notwithstanding any other provisions of this chapter, any such violation constituting a misdemeanor under this chapter may, at the discretion of an authorized enforcement officer be enforced pursuant to any available legal remedy including the City's administrative enforcement ordinance of this Code.

(b) Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code Section 36901.

(c) Unless otherwise provided, a person, firm, corporation or organization shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this chapter is committed, continued or permitted by the person, firm, corporation or organization and shall be punishable accordingly as herein provided.

(§ 1, Ord. 1100, eff. January 21, 2012, as amended by § 7, Ord. 1161, eff. February 17, 2018)

§ 11-5.16. Remedies not exclusive.

Remedies under this chapter are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

(§ 1, Ord. 1100, eff. January 21, 2012, as amended by § 7, Ord. 1161, eff. February 17, 2018)

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Chapter 6
Aggressive Solicitation

§ 11-6.01. Purpose and findings.

(a) The purpose of this chapter is to improve the quality of life and economic vitality of the city, and to protect the safety of the general public against certain abusive conduct of persons engaged in solicitation, by imposing reasonable time, place and manner restrictions on solicitation while respecting the constitutional rights of free speech for all citizens.

(b) The City Council of the City of Los Banos finds:

(1) The maintenance and improvement of the quality of life and economic vitality of the City of Los Banos are significant government interests.

(2) The protection of the citizens of the City of Los Banos from the danger of assault, battery, theft and disturbances of the peace, as well as other crimes, is also a significant government interest.

(3) Aggressive and abusive solicitations threaten these significant government interests by diminishing access to an enjoyment of public places, threatening the commercial well being of local businesses, and creating an environment of fear, intimidation, and confrontation.

(4) Citizens of the City of Los Banos are involuntarily subjected to aggressive and abusive solicitations for monetary or other donations, which cause them to feel threatened, intimidated, and coerced. Such conduct usually includes approaching and following persons, repeated requests for donations, unwanted physical contact, abusive language and threats, and obstruction of pedestrian and vehicular traffic.

(5) Aggressive and abusive solicitations increase the risk of assault, battery, theft, disturbing the peace, and other crimes. Such solicitations can provoke confrontations due to the threatening and offensive nature of the conduct of the solicitor. These situations put not only the solicited person, but also the solicitor, at risk of being the victim of assaultive and criminal conduct.

(6) Solicitation during the hours of darkness is inherently more threatening and intimidating, than during daylight hours.

(7) The content-neutral time, place and manner restrictions on aggressive and abusive solicitations as narrowly tailored in this chapter serve these significant government interests. Such restrictions will lessen feelings of coercion, intimidation, fear, and confrontation, by prohibiting that conduct most likely to create such feelings.

(8) The restrictions in this article leave open ample alternative avenues of communication and these restrictions are not intended to diminish the freedom or liberty of speech guaranteed under the United States and California Constitutions.

(9) It is not the intent or purpose of this Council in enacting this chapter to eradicate or displace any individual or group of homeless or indigent persons, but rather to protect the public from persons who engage in aggressive and abusive solicitations, and/or who solicit in certain narrowly defined areas of heightened sensitivity.

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(§ 1, Ord. 991, eff. December 4, 2002, as amended by § 8, Ord. 1161, eff. February 17, 2018)

§ 11-6.02. Definitions.

"Aggressive solicitation" for the purpose of this chapter includes all behaviors either prohibited or regulated by specific time, place or manner restrictions asset forth in this chapter. "Aggressive solicitation" also includes any conduct during the solicitation or immediately before or after the solicitation that is intended or is likely to cause a reasonable person to:

(1) Fear bodily harm to oneself or to another.

(2) Fear damage to or loss of property.

(3) Otherwise be intimidated, harassed or threatened.

A "person" for purposes of this chapter includes individual persons, organizations and entities as set forth in Section 11-1.102 of this title.

A "public place" means a place to which the public or a substantial group of persons has access, and includes, but is not limited to, any street, highway, sidewalk, public walkway, public alley, parking lot, parking structure, plaza, transportation facility, school, place of amusement, park, playground, and any doorway, entrance, hallway, lobby and other portion of any business establishment.

"Private property" means any property that is privately owned, and does not constitute a "public forum."

A "public forum" for the purposes of this chapter, includes all public places, and those places, which may be privately owned, and are deemed freely open to the public. These areas may include, but not be limited to, shopping centers, malls or other areas in which there are places in which persons can meet friends, dine, rest, be entertained, post public notices and participate in community events and activities.

"Solicitation" for the purposes of this chapter, is any request made in person, including asking or begging, seeking an immediate donation of money, food, cigarettes or items of value. Purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is in substance a donation, for the purpose of this chapter.
(§ 1, Ord. 991, eff. December 4, 2002, as amended by § 8, Ord. 1161, eff. February 17, 2018)

§ 11-6.03. Times of solicitation.

No person shall solicit after sunset or before sunrise.
(§ 1, Ord. 991, eff. December 4, 2002, as amended by § 8, Ord. 1161, eff. February 17, 2018)

§ 11-6.04. Place of solicitation.

No person shall solicit in any of the following places, nor shall any person solicit when the person solicited is in any of the following places:

(a) Within twenty-five (25′) feet of any bank, savings and loan, or other financial institution buildings, including their outdoor automatic teller machines.

(b) In the parking lot of any bank, savings and loan, or other financial institution.

(c) Within ten (10′) feet of any entranceway or exit from any building open to the public other

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than those referenced in subsection (a).

(d) In any outdoor dining area when patrons are seated at tables or on chairs owned and serviced by an eating establishment.

(e) On private property, not deemed a public forum, unless the solicitor has permission from the owner, tenant, lessee or agent of the property.

(f) In any vehicle on the street or while such vehicle is located in any public place.

(g) At any bus stop.

(h) In any public transportation vehicle or facility.

(i) Upon any street, roadway or alley, including median strips or islands.

(j) Upon the grounds of a public or private school and the sidewalks immediately adjacent thereto.

(§ 1, Ord. 991, eff. December 4, 2002, as amended by § 8, Ord. 1161, eff. February 17, 2018)

§ 11-6.05. Manner of solicitation.

No persons shall solicit, ask, or beg in an aggressive manner in any public place. Aggressive solicitation, includes, but is not limited to, the act of soliciting, asking, or begging in any of the following manners:

(a) Intentionally coming within three (3′) feet of a solicited person unless and until that person has indicated, by word or conduct, he or she wishes to make a donation.

(b) Continuing to request a donation from a solicited person, after that person has indicated by word or conduct, he or she does not wish to make a donation.

(c) Persisting in closely following or approaching a person they have solicited, after that person has indicated by word or conduct, he or she does not wish to make a donation.

(d) Blocking the path of a person solicited, or other pedestrians, along a sidewalk, alley, public walkway, and street or in any public place.

(e) Using profane, offensive or abusive language, either during the solicitation or following a refusal.

(f) Approaching any person, whom a reasonable person would immediately identify as being under the age of 18, for the purpose of solicitation.

(g) While under the influence of alcohol or any illegal narcotic or controlled substance.

(h) Accosting any person in any public place, or place open to the public, for purposes of soliciting or begging. "Accost" includes walking up to and approaching a person in a manner likely to threaten or harass or intimidate a reasonable person.

(i) Approaching any operator or occupant of a motor vehicle for the purpose of soliciting, asking or begging while the operator or occupant is entering or exiting or operating a motor vehicle that is stopped in any public place or roadway.

(j) Rendering any service to a motor vehicle, including but not limited to any cleaning,

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washing, protecting, guarding or repairing of said vehicle or any portion thereof, without the consent of the owner, operator or occupant of such vehicle, and thereafter, requesting payment for the performance of such service, regardless of whether such vehicle is stopped, standing or parked.

(§ 1, Ord. 991, eff. December 4, 2002, as amended by § 8, Ord. 1161, eff. February 17, 2018)

§ 11-6.06. Violations—Penalties.

Any person violating any of the provisions of this chapter shall be deemed guilty of an infraction and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code, except that a second, and any subsequent violation occurring within a year may be charged as a misdemeanor.

(§ 1, Ord. 991, eff. December 4, 2002, as amended by § 8, Ord. 1161, eff. February 17, 2018)

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Chapter 7
Tobacco Displays

§ 11-7.01. Purpose and findings.

(a) The purpose of this chapter is to regulate self-service displays of tobacco products, thereby restricting the availability of these products to those persons under the age of 18 years.

(b) The City Council of the City of Los Banos finds that use of tobacco products is detrimental to human health; that a large majority of persons who use tobacco products start that use as minors, and; that restricting the availability of tobacco products to minors is a goal of the City.

(§ 1, Ord. 924, eff. June 6, 1997, as amended by § 9, Ord. 1161, eff. February 17, 2018)

§ 11-7.02. Self-service display defined.

For the purpose of this section a "self-service display" shall mean any display of tobacco product merchandise that does not require assistance of the seller, for the buyer to acquire or possess that product.

(§ 1, Ord. 924, eff. June 6, 1997, as amended by § 9, Ord. 1161, eff. February 17, 2018)

§ 11-7.03. Self-service display: Prohibited.

It is unlawful for any person, business, or tobacco retailer to sell, permit to be sold, display, or offer for sale any tobacco product by means of a self-service display.

(§ 1, Ord. 924, eff. June 6, 1997, as amended by § 9, Ord. 1161, eff. February 17, 2018)

§ 11-7.04. Exemption.

(a) Cigarette or tobacco product vending machines located at least fifteen (15′) feet inside any entrance to an on-sale public premises licensed in accordance with Section 23039 of Business and Professions Code, by the Department of Alcoholic Beverage Control are exempt from Section 11-7.03.

(b) Cigarette or tobacco product vending machines or self-service displays that are located in facilities where the person, business, or tobacco retailer ensures that no person younger than 18 years of age is present, or permitted to enter the premises, at any time.

(§ 1, Ord. 924, eff. June 6, 1997, as amended by § 9, Ord. 1161, eff. February 17, 2018)

§ 11-7.05. Punishment.

Violation of Section 11-7.03 is a misdemeanor offense as outlined in Section LBMC 1-2.01.

(§ 1, Ord. 924, eff. June 6, 1997, as amended by § 9, Ord. 1161, eff. February 17, 2018)

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Chapter 8
Shopping Carts Retention And Cleaning

§ 11-8.01. Findings and purpose.

Abandoned shopping carts constitute a nuisance, create potential hazards to the public health and safety and interfere with pedestrian and vehicular traffic within the city. Wrecked, dismantled and/or abandoned shopping carts on public or private property create conditions that reduce property values and promote blight and deterioration within the city's neighborhoods. In addition a program for shopping cart cleaning and sanitizing to protect customers using shopping carts is necessary to protect the public health and safety. The purpose of this chapter is to ensure that measures are taken by shopping cart owners to prevent the removal of shopping carts from store premises and to ensure that measures are put into place for the cleaning and sanitizing of shopping carts. This chapter is based in part on California Business and Professions Code Section 22435 et seq.
(§ 1, Ord. 1055, eff. June 16, 2007, as amended by § 10, Ord. 1161, eff. February 17, 2018, and § 3, Ord. 1185, eff. July 3, 2020)

§ 11-8.02. Definitions.

"City" means the City of Los Banos.

"Owner" means a person or entity that owns one or more shopping carts or a retailer that provides one or more shopping carts for customer use.

"Parking area" means a parking lot or other property provided by a retailer for use by a customer for parking an automobile or other vehicle.

"Premises" means the entire area owned or under the control of an owner, including the parking area or other off-street area.

"Shopping cart" means a basket which is mounted on wheels or a similar device generally used in a retail establishment by a customer for transporting goods of any kind.

"Shopping basket" means a handheld basket or a similar device generally used in a retail establishment by a customer for carrying goods of any kind.

"Cleaning" means removing visible debris, dirt and dust.

"Sanitizing" means a process to reduce contaminants that could affect health such as bacteria and pathogens from surfaces to make them safe for contact.

"Disinfecting" means a process to destroy/kill germs rather than simply reducing them.
(§ 1, Ord. 1055, eff. June 16, 2007, as amended by § 4, Ord. 1185, eff. July 3, 2020)

§ 11-8.03. Mandatory retention measures.

(a) Required Signs on Shopping Carts. Every shopping cart owned or provided by any business establishment in the City shall have a sign permanently affixed to it that contains the following information:

(1) The identity of the owner or business, or both;

(2) Notification of the procedure for authorized removal of the shopping cart from the premises;

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(3) Notice to the public that the unauthorized removal of the shopping cart from the premises or parking area of the business establishment, or the unauthorized possession of the shopping cart, is a violation of State law and a violation of City ordinance; and

(4) A valid telephone number or address for returning the shopping cart.

(b) Required Signs on Property. Signs shall be placed and maintained on the premises near all customer exits and throughout the premises, including parking areas that warn customers that shopping cart removal from the premises is prohibited and constitute a violation of state and local law. Said signs shall be not less than eight (8″) inches by fourteen (14″) inches in size with block lettering containing the following "REMOVAL OF SHOPPING CARTS FROM THE PREMISES IS PROHIBITED BY LAW. California Business and Professions Code Section 22435.2 and Los Banos Municipal Code Section 11-8.05."

(c) As a condition to the issuance of a business license every cart owner shall on or before January 1, 2021, install, operate and maintain an on-site cart retention system approved by the community and Economic Development Director. On-site cart retention system means one or more of the following measures:

(1) Mechanical disabling devices on all shopping carts, which prevent the cart from being removed from the business premises by locking the wheels automatically or otherwise preventing movement of the carts off of the business premises.

(2) An on-site security guard to prevent customers from removing carts from the business premises.

(3) Bollards and/or other barriers around the business premises to prevent cart removal, subject to approval of the City's Fire Chief.

(4) Obtaining a security deposit from customers for the use of shopping carts on the business premises.

(5) Prohibiting the use of shopping carts outside the building of the business premises unless accompanied by an employee of the business.

(6) A contracted retrieval service approved by the Community and Economic Development Director. This measure shall be mandatory.

(7) Any other measure approved by the Director of Community and Economic Development as a means of preventing carts from being removed from the business premises.

(d) Every cart owner shall lock or otherwise secure all shopping carts during hours when the business premises are not open for business; and shall lock or otherwise secure all shopping carts not in service and stored on the premises.

(§ 1, Ord. 1055, eff. June 16, 2007, as amended by § 10, Ord. 1161, eff. February 17, 2018, and § 5, Ord. 1185, eff. July 3, 2020)

§ 11-8.04. Mandatory regular scheduled cleaning and sanitizing of shopping carts and shopping baskets.

(a) Every shopping cart and/or shopping basket owner shall implement measures to maintain

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clean and sanitized shopping carts and shopping baskets.

(b) Clean and sanitized means one or more of the following measures to be employed no less than monthly:

(1) Use of onsite cleaning and/or sanitizing systems; or

(2) Pressure washing and sanitizing; or

(3) Steam cleaning and sanitizing; or

(4) Any other measure approved by the Community and Economic Development Director as a means of cleaning, sanitizing, or eliminating exposure to contaminants that may be found on shopping carts and/or baskets.

(c) Any shopping cart or shopping basket retrieved from off premises shall be cleaned and sanitized prior to the next customer use.

(d) Every shopping cart and/or shopping basket owner shall provide at each customer entrance with prominent signage a cart handle disinfectant wipe dispenser and hand sanitizer dispenser.

(e) The requirements of this section shall be a condition of issuance of a business license.
(§ 7, Ord. 1185, eff. July 3, 2020)

§ 11-8.05. Unauthorized removal or possession of a shopping cart.

It is unlawful for any person to do any of the following, without the written consent of the owner, if a shopping cart has a permanently affixed sign pursuant to Section 11-8.03:

(a) To remove a shopping cart from the premises or parking area of a business establishment with the intent to temporarily or permanently deprive the owner of possession of the shopping cart;

(b) To leave or abandon a shopping cart at a location other than the premises or parking area of the retail establishment, with the intent to temporarily or permanently deprive the owner or retailer of possession of the shopping cart;

(c) To alter, convert, or tamper with a shopping cart, or to remove any part or portion thereof or to remove, obliterate or alter serial numbers on a shopping cart, with the intent to temporarily or permanently deprive the owner or retailer of possession of the shopping cart;

(d) To be in possession of any shopping cart while that shopping cart is not located on the premises or parking lot of a retail establishment, with the intent to temporarily or permanently deprive the owner or retailer of possession of the shopping cart.
(§ 1, Ord. 1055, eff. June 16, 2007, as amended by § 10, Ord. 1161, eff. February 17, 2018, and § 6, Ord. 1185, eff. July 3, 2020)

§ 11-8.06. Notification, impoundment, and disposal.

(a) A shopping cart that has a sign affixed to it in accordance with Section 11-8.03 may be impounded by the city provided that the shopping cart is located outside the premises or parking area of a retail establishment and the shopping cart is not retrieved within three business days from the date the owner of the shopping cart, or his or her agent, receives

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actual notice from the City of the shopping cart's discovery and location. In instances where the location of a shopping cart will impede emergency services, the City is authorized to immediately retrieve the shopping cart from public or private property.

(b) The City may impound a shopping cart that has a sign affixed to it in accordance with Section 11-8.03 without complying with the three day advance notice requirement of subsection (a), provided that the owner of the shopping cart, or his or her agent, is provided actual notice within 24 hours following the impound and that notice informs the owner, or his or her agent, as to the location where the shopping cart may be claimed.

(c) Any shopping cart that is impounded by the City shall be held at a location that is both: reasonably convenient to the owner of the shopping cart and open for business at least six hours of each business day.

(d) If the City does not comply with the three day advance notice requirement of subsection (a), any shopping cart reclaimed by the owner or his or her agent, within three business days following the date of actual notice, shall be released and surrendered to the owner or agent at no charge whatsoever, including the waiver of any impound and storage fees or fines that would otherwise be applicable.

(e) Any shopping cart not reclaimed from the City, within 30 days of receipt of a notice of violation by the owner of the shopping cart may be sold or otherwise disposed of by the entity in possession of the shopping cart. The City may, without notice, retrieve and immediately dispose of any abandoned shopping cart(s) that lack the signs required by this chapter if the owner of the abandoned shopping cart cannot readily be determined from inspection of the shopping cart.

(§ 1, Ord. 1055, eff. June 16, 2007, as amended by § 10, Ord. 1161, eff. February 17, 2018, and § 6, Ord. 1185, eff. July 3, 2020)

§ 11-8.07. Administrative costs and fines.

Any owner of a shopping cart that is impounded in accordance with this chapter shall pay the City's administrative costs for impounding the shopping cart(s) including but not limited to the costs of retrieval and notification. Any owner who fails to retrieve an abandoned shopping cart(s) in accordance with this chapter in excess of three times during a specified six month period shall be subject to a Fifty and No/100ths ($50.00) Dollar fine for each occurrence. An occurrence includes all shopping carts owned by the owner that are impounded by the City in a one-day period.

(§ 1, Ord. 1055, eff. June 16, 2007, as amended by § 10, Ord. 1161, eff. February 17, 2018, and § 6, Ord. 1185, eff. July 3, 2020)

§ 11-8.08. Violation—Enforcement.

Any person who violates the provisions of this chapter is subject to any enforcement procedures permitted by law, including but not limited to: prosecution of a misdemeanor or an infraction, civil action for injunction, administrative enforcement procedures, and revocation of a business license and/or use permit if applicable.

(§ 1, Ord. 1055, eff. June 16, 2007, as amended by § 10, Ord. 1161, eff. February 17, 2018, and §§ 6, 8, Ord. 1185, eff. July 3, 2020)

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Chapter 9
Regulation Of Newsracks And Establishment Of Blinder Racks

§ 11-9.01. Purpose and findings.

The City Council of the City of Los Banos finds that the unrestricted display, and/or maintenance of materials that is harmful to minors as defined in this chapter, in a public place, other than a public place from which minors are excluded, interferes with the public's general welfare and is especially inappropriate to minors. The City Council intends by this chapter to restrict the display and/or maintenance of materials containing harmful matter where minors are not allowed, and to cause concealment of harmful matters in areas where minors are allowed.
(§ 1, Ord. 930, eff. August 15, 1997, as amended by § 11, Ord. 1161, eff. February 17, 2018)

§ 11-9.02. Definitions.

"Newsrack" shall mean any self-service or coin-operated box, container, storage unit or other dispenser installed, used, or maintained for the display or distribution or sale of publications.

"Public right-of-way" shall mean any place of any nature which is dedicated to use by the public for pedestrian travel, and includes, but is not limited to, a sidewalk, curb, parkway, lane, mall, court, park, square, and any other similar public way.

"Roadway" shall mean that part of a public right-of-way that is designated and used primarily for vehicular traffic.

"Blinder rack" for the purposes of this chapter, blinder rack means a display or merchandise rack which covers or conceals portions of the merchandise so as to prevent the casual observer from viewing portions of the merchandise.
(§ 1, Ord. 930, eff. August 15, 1997, as amended by § 11, Ord. 1161, eff. February 17, 2018)

§ 11-9.03. Display of certain matter prohibited.

Publications offered for sale from newsracks placed or maintained on a public right-of-way shall not be displayed or exhibited in a manner which exposes to public view from the public right-of-way or roadway any of the following:

(a) Any statements or words described in explicit sexual acts, sexual organs, or excrement where such statements or words have their purpose or effect sexual arousal, gratification or affront;

(b) Any picture or illustration of genitals, pubic hair, perineum, anuses or anal regions of any person where such picture or illustration has had its purpose or effects sexual arousal, gratification or affront; and

(c) Any picture or illustration depicting explicit sexual acts where such picture illustration has its purpose or effect sexual arousal, gratification or affront.

"Explicit sexual act" as used in this section means depictions of sexual intercourse, oral copulation, anal intercourse, or oral-anal copulation, bestiality, sadism, masochism, or lewd exhibition of genitals, whether any of the above conduct is depicted or described as being performed above or between members of the same or opposite sex or between humans and animals, or other act of sexual arousal, involving any physical contact with a person's genitals, pubic region, pubic hair, perineum, anus or anal region.

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(§ 1, Ord. 930, eff. August 15, 1997, as amended by § 11, Ord. 1161, eff. February 17, 2018)

§ 11-9.04. Display of certain matters prohibited.

No persons shall knowingly display or cause to be displayed, on a public right-of-way or any other place opened to the public where minors are not excluded, any harmful matter as defined in Section313 of the Penal Code and in Section 11-9.03 above unless such matter is displayed in newsracks equipped with the devices commonly known as "blinder racks" affixed in such a manner that the lower two-thirds of the matter is not exposed to view.
(§ 1, Ord. 930, eff. August 15, 1997, as amended by § 11, Ord. 1161, eff. February 17, 2018)

§ 11-9.05. Violations of chapter.

A violation of this chapter with a misdemeanor offense as more particularly described in Los Banos Municipal Code Section 1-2.01.
(§ 1, Ord. 930, eff. August 15, 1997, as amended by § 11, Ord. 1161, eff. February 17, 2018)

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Chapter 10
Card Rooms

§ 11-10.01. Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Card room" shall mean any space, room, or enclosure furnished or equipped with a table used, or intended to be used, as a card table for the playing of cards and similar games, the use of which card room is available to the public, or any portion of the public.

"Card room employees" shall mean dealers, overseers, and others directly connected with the operation and supervision of the card tables but excluding waitresses, bartenders, culinary workers, and others not connected with such operation and supervision.
(§§ 2 and 4, Ord. 349, as amended by § 12, Ord. 1161, eff. February 17, 2018)

§ 11-10.02. Licenses: Required.

It is unlawful for any person, for him or herself, or for any other person, firm, or corporation, to engage in, carry on, maintain, or conduct, or cause to be engaged in, carried on, maintained, or conducted, any card room in the City without first having secured a license so to do in accordance with the provisions of this chapter or without complying with the provisions of this chapter.
(§ 1, Ord. 349, as amended by § 12, Ord. 1161, eff. February 17, 2018)

§ 11-10.03. Licenses: Applications.

An applicant for a card room license shall submit his or her application to the Chief of Police. The application shall be submitted under oath and shall include, among other things, the true names and addresses of all persons financially interested in the business and the past criminal record, if any, of the applicant and of all persons financially interested in the business. The application shall be accompanied by the fingerprints of the applicant and of all persons financially interested in the business.

For the purposes of this section, "persons financially interested" shall include all persons who share in the profits of the business on the basis of gross or net revenue.
(§ 3, Ord. 349, as amended by § 12, Ord. 1161, eff. February 17, 2018)

§ 11-10.04. Licenses: Applications: Fees.

The application for a card room license shall be accompanied by a fee of One Hundred and No/100ths ($100.00) Dollars which shall not be returned in the event the license applied for is refused, revoked, or suspended.
(§ 3, Ord. 349, as amended by § 12, Ord. 1161, eff. February 17, 2018)

§ 11-10.05. Licenses: Applications: Issuance: Qualifications.

Card room licenses may be issued only to citizens of the United States who have resided in the County for at least two years immediately preceding the issuance of such licenses, except for operators of card rooms in operation on June 17, 1964.
(§ 3, Ord. 349, as amended by § 12, Ord. 1161, eff. February 17, 2018)

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§ 11-10.06. Licenses: Applications: Denial: Appeals.

(a) Criteria. The Chief of Police may deny any applicant a license to operate a card room if:

(1) The applicant has previously been convicted of a felony; or

(2) The applicant has previously been convicted of a narcotics violation; or

(3) The applicant is not, in the opinion of the Chief of Police, a person of good moral character.

(b) Appeals. The action of the Chief of Police in denying a card room license on the basis of the applicant not having qualified shall be subject to an appeal to a Board of Appeals consisting of three Council members appointed by the Mayor. Notice of such appeal shall be filed with the City Clerk within 10 days after the denial of the license. Upon failure to file such notice within the 10 day period, the action of the Chief of Police in denying such license shall be final and conclusive.

(§ 3, Ord. 349, as amended by § 1, Ord. 507, eff. August 21, 1974, and § 12, Ord. 1161, eff. February 17, 2018)

§ 11-10.07. Licenses: Terms: Renewal: Fees.

Card room licenses shall be renewed on the first day of each calendar year after they are issued. The fee for renewal shall be One Hundred and No/100ths ($100.00) Dollars.
(§ 3, Ord. 349, as amended by § 12, Ord. 1161, eff. February 17, 2018)

§ 11-10.08. Licenses: Number limited: Nontransferable.

No person shall be granted a license to conduct more than one card room. No card room license shall be assignable or transferable as to either ownership or location.
(As amended by § 12, Ord. 1161, eff. February 17, 2018; § 6, Ord. 349)

§ 11-10.09. Employee work permits: Required.

Card room employees, as defined in subsection (b) of Section 11-10.01 of this chapter, shall obtain work permits from the Chief of Police.
(As amended by § 12, Ord. 1161, eff. February 17, 2018; § 4, Ord. 349)

§ 11-10.10. Employee work permits: Applications.

Applications for the employee work permits required by the provisions of Section 11-10.09 of this chapter shall be submitted under oath and shall contain the past criminal record, if any, of the applicant and such information as may be deemed necessary by the Chief of Police to determine whether the applicant is a proper person to be issued a card room work permit. The application shall be accompanied by the fingerprints of the applicant.
(As amended by § 12, Ord. 1161, eff. February 17, 2018; § 4, Ord. 349)

§ 11-10.11. Employee work permits: Applications: Fees.

Each application for a card room employee work permit shall be accompanied by a fee of Twenty-Five and No/100ths ($25.00) Dollars, which shall not be returned in the event the work permit applied for is refused, revoked, or suspended.

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(As amended by § 12, Ord. 1161, eff. February 17, 2018; § 4, Ord. 349)

§ 11-10.12. Employee work permits: Applications: Issuance: Qualifications.

Card room employee work permits shall be issued only to citizens of the United States who have resided in the County for at least one year immediately preceding the issuance of such work permits, except for employees regularly employed on June 17, 1964.
(As amended by § 12, Ord. 1161, eff. February 17, 2018; § 4, Ord. 349)

§ 11-10.13. Employee work permits: Applications: Denial: Appeals.

(a) Criteria. The Chief of Police may deny any applicant a card room employee work permit if:

(1) The applicant has previously been convicted of a felony; or

(2) The applicant has previously been convicted of a narcotics violation; or

(3) The applicant is not, in the opinion of the Chief of Police, a person of good moral character.

(b) Appeals. The action of the Chief of Police in denying a card room employee work permit on the basis of the applicant not having qualified shall be subject to an appeal to a Board of Appeals consisting of three Council members appointed by the Mayor. Notice of such appeal shall be filed with the City Clerk within 10 days after the denial of the work permit. Upon failure to file such notice within the 10 day period, the action of the Chief of Police in denying such work permit shall be final and conclusive.

(And § 12, Ord. 1161, eff. February 17, 2018; § 4, Ord. 349, as amended by § 2, Ord. 507, eff. August 21, 1974)

§ 11-10.14. Employee work permits: Terms: Renewal: Fees.

Card room employee work permits shall be valid for the remainder of the calendar year in which they are issued. They shall be renewed on the first day of each calendar year after they are issued. The fee for renewal shall be Twenty-Five and No/100ths ($25.00) Dollars.
(As amended by § 12, Ord. 1161, eff. February 17, 2018; § 4, Ord. 349)

§ 11-10.15. Employee work permits: Changes in places of employment.

Only one card room employee work permit shall be required each year even though the permittee may change his or her place of employment within the City.
(As amended by § 12, Ord. 1161, eff. February 17, 2018; § 4, Ord. 349)

§ 11-10.16. Licenses and employee work permits: Suspension and revocation: Appeals.

(a) Criteria. The Chief of Police shall have the right for cause to suspend or revoke any card room license or card room employee work permit issued pursuant to the provisions of this chapter and to take possession of such permits. Any of the grounds upon which the Chief of Police shall refuse to issue an initial card room license or card room employee work permit shall also constitute grounds for such revocation or suspension. In addition, the failure of such licensee or permittee to comply with the provisions of this chapter shall constitute grounds for the revocation or suspension of such license or work permit.

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(b) Appeals. Such action of the Chief of Police shall be subject to an appeal to a Board of Appeals consisting of three Council members appointed by the Mayor. Notice of such appeal shall be filed with the City Clerk within 10 days after such revocation or suspension. Upon failure to file such notice within the 10 day period, the action of the Chief of Police in revoking or suspending the license or work permit shall be final and conclusive.

(As amended by § 12, Ord. 1161, eff. February 17, 2018; § 5, Ord. 349)

§ 11-10.17. Rules and regulations.

It is unlawful for any person to operate a card room in violation of any of the following rules and regulations:

(a) Not more than one card room shall be located at any one address.

(b) No game prohibited by the laws of the State shall be played in any card room.

(c) Not more than six tables shall be permitted in any card room.

(d) Not more than seven players shall be permitted at any one card table.

(e) No minor shall be permitted in any card room.

(f) All card rooms shall be closed at 2:00 a.m. and shall remain closed until 10:00 a.m.

(g) All card rooms shall be open to police inspection during all hours of operation.

(h) Each card table shall have assigned to it a person whose duty it shall be to supervise the game and to ascertain that the game is played strictly in accordance with the provisions of this chapter and the provisions of the Penal Code of the State. Such person may have more than one table under his or her supervision.

(i) No signs or other insignia advertising or relative to card rooms shall be permitted upon the exterior of any premises occupied as a card room.

(j) There shall be posted in every card room, in letters plainly visible from all parts thereof, signs stating that no game prohibited by the laws of the State shall be played in the card room. Such signs shall also contain such other information relating to the provisions of this section as the Chief of Police may require.

(k) No person who is in a state of intoxication shall be permitted in any card room.

(As amended by § 12, Ord. 1161, eff. February 17, 2018; § 7, Ord. 349)

§ 11-10.18. Club permits.

A nonprofit society, club, fraternal, labor, or other organization having adopted bylaws and duly elected directors and members may be granted a card room permit without a fee by the Chief of Police when it appears that the card tables are for the exclusive use of members and guests of the society, club, fraternal, labor, or other organization and no charge is made for any of the facilities.

(As amended by § 12, Ord. 1161, eff. February 17, 2018; § 8, Ord. 349)

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§ 11-10.19. Unlawful games.

The Council hereby declares that it is not the intention of this chapter to permit the licensing of any card room for the playing of any game prohibited by the laws of the State, including, but not limited to, those games enumerated in Section 330 of the Penal Code of the State, which Section 330 includes banking and percentage games.
(As amended by § 12, Ord. 1161, eff. February 17, 2018; § 9, Ord. 349)

§ 11-10.20. Violations: Penalties.

Any person, firm, society, club, or organization violating any of the terms, requirements, regulations, or provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.
(As amended by § 12, Ord. 1161, eff. February 17, 2018; § 10, Ord. 349)

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Chapter 11
Marble Machines

§ 11-11.01. Marble machines defined.

For the purposes of this chapter, unless otherwise apparent from the context, "marble machine" shall mean and include:

(a) Any machine or device designed and/or intended to be operated and/or to be used for amusement purposes and/or playing a game upon the insertion of a coin, or anything representing a coin, which machine does not vend or deliver any prize; or

(b) A mechanical device by which, upon the deposit of a coin, slug, or similar article, the depositor becomes, or may become, entitled to receive merchandise, or representative merchandise, the amount of which varies from time to time and is determined by the mechanical operation of the machine, but the exact amount of which is capable of ascertainment prior to any operation of, or play upon, the machine.

(§ I, Ord. 148, as amended by § 13, Ord. 1161, eff. February 17, 2018)

§ 11-11.02. Licenses: Required.

It is unlawful for any person, either as principal, agent, servant, or employee, to operate, conduct, or maintain within the City any marble machine without having a valid unrevoked license so to do or without complying with the provisions of this chapter.

(§ II, Ord. 148, as amended by § 13, Ord. 1161, eff. February 17, 2018)

§ 11-11.03. Licenses: Applications.

An applicant for the license required by the provisions of this chapter shall file an application therefor with the City Clerk. The application shall be in writing, shall be signed by the applicant, and shall state his or her business address, business or occupation, age, citizenship, and such other information as may be required. The license fee shall be deposited at the time the application is filed.

(§ III, Ord. 148, as amended by § 13, Ord. 1161, eff. February 17, 2018)

§ 11-11.04. Licenses: Applications: Investigations: Issuance.

The application for the license required by the provisions of this chapter shall be referred by the City Clerk to the Chief of Police for investigation and examination and a report to the Council with his or her recommendation. If the Council finds from an examination of the application and such report and such further facts as may be officially brought to its attention that the application is in proper form, the applicant is a person of good moral character, and that the business therein applied for may be carried on without danger to the public health, morals, and safety, the Council shall approve the application and direct the License Collector to issue the license.

(§ III, Ord. 148, as amended by § 13, Ord. 1161, eff. February 17, 2018)

§ 11-11.05. Licenses: Denial.

The Council may, in its sound discretion, and if, in its judgment, the applicant is not a person of good moral character, or the business cannot be carried on without danger to the public peace, health, and safety, deny the application for a license to operate, conduct, or maintain a marble

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machine.
(§ III, Ord. 148, as amended by § 13, Ord. 1161, eff. February 17, 2018)

§ 11-11.06. Licenses: Fees.

The license fee for any person desiring to operate, conduct, lease, or maintain, either as owner, proprietor, lessee, employee, agent, or servant, any marble machine shall be Fifty and No/100ths ($50.00) Dollars per quarter, payable in advance. Upon the payment of such fee, the licensee shall have the privilege of installing marble machines in 10 locations in the City. For each location in excess of 10, the licensee shall pay an additional fee of Five and No/100ths ($5.00) Dollars per quarter, payable in advance, for each additional location. The quarters of the year shall begin on January 1, April 1, July 1, and October 1, of each year.
(§ III, Ord. 148, as amended by § 13, Ord. 1161, eff. February 17, 2018)

§ 11-11.07. Licenses: Revocation and suspension.

(a) Criteria. All licenses issued pursuant to the provisions of this chapter shall be subject to revocation by the Council for the violation of any of the provisions of this chapter or for any cause which appears satisfactory to the Council.

(b) Hearings: Notices. Before such action is taken, a notice to appear before the Council to show cause why such license should not be revoked or suspended shall be served upon the licensee not less than two days before the time fixed for such hearing.

(c) Council Action. The action of the Council shall be conclusive and not subject to review, and all applicants for the licenses required by this chapter shall be deemed to have agreed to the provisions of this section.

(§ V, Ord. 148, as amended by § 13, Ord. 1161, eff. February 17, 2018)

§ 11-11.08. Identification labels.

The License Collector, or his or her deputies, shall securely affix, or cause to be affixed, in a conspicuous place on each marble machine operated by a licensee pursuant to the provisions of this chapter a sticker or label legibly setting forth the name and address of the licensee, the license number, the year for which the license was issued, and the words "City of Los Banos." Such sticker or label shall bear the genuine signature, or a facsimile thereof, of the License Collector.
(§ IV, Ord. 148, as amended by § 13, Ord. 1161, eff. February 17, 2018)

§ 11-11.09. Locations limited.

No marble machine shall be maintained, operated, or conducted, nor kept for such purposes, within any place which is nearer than three hundred (300′) feet from any public or private school or in any place where minors under the age of 18 years are allowed to assemble or congregate.
(§ IV, Ord. 148, as amended by § 13, Ord. 1161, eff. February 17, 2018)

§ 11-11.10. Prohibited machines.

Any device or machine prohibited by any law of the State is hereby prohibited.
(§ I, Ord. 148, as amended by § 13, Ord. 1161, eff. February 17, 2018)

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§ 11-11.11. Exemptions.

The provisions of this chapter shall not apply to any vending machine so designed and so operated as to sell and deliver merchandise for cash payment only.
(§ I, Ord. 148, as amended by § 13, Ord. 1161, eff. February 17, 2018)

§ 11-11.12. Enforcement.

It shall be the duty of the License Collector and the Chief of Police, and their deputies, to enforce the provisions of this chapter. Any marble machine not labeled as set forth in Section 11-11.08 of this chapter, and any machine prohibited by the provisions of this chapter or by State laws, and any machine which is being operated contrary to the provisions of this chapter shall be seized and confiscated.
(§ VI, Ord. 148, as amended by § 13, Ord. 1161, eff. February 17, 2018)

§ 11-11.13. Violations: Penalties.

Any person violating any of the provisions of this chapter, or operating, conducting, or maintaining for operation, either by him or herself, or for another, or by another, any marble machine in violation of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.
(§ VII-A, Ord. 148, as amended by § 13, Ord. 1161, eff. February 17, 2018)

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Chapter 12
Pawnbrokers And Secondhand Dealers

§ 11-12.01. Furniture and household goods defined.

For the purposes of this chapter, unless otherwise apparent from the context, "furniture and household goods" shall mean and include beds, bedding, tables, desks, chairs, stoves, floor coverings, crockery, glassware, and kitchen and cooking utensils.
(§ 5, Ord. 196, as amended by § 14, Ord. 1161, eff. February 17, 2018)

§ 11-12.02. Licenses: Required.

It is unlawful for any person to engage in or conduct, manage, or carry on within the City the business of pawnbroker or secondhand dealer without applying for and receiving a license from the City as set forth in Chapter 1 of this title.
(§ 1, Ord. 196, as amended by § 14, Ord. 1161, eff. February 17, 2018)

§ 11-12.03. Licenses: Taxes.

The license tax for pawnbrokers shall be as set forth in Article 2 of Chapter 1 of this title. The license tax for secondhand dealers shall be as set forth in Article 2 of Chapter 1 of this title.
(§ 1, Ord. 196, as amended by § 14, Ord. 1161, eff. February 17, 2018)

§ 11-12.04. Records.

Every person dealing in secondhand goods, wares, or merchandise, or articles of any description, other than furniture and household goods, either as a pawnbroker or secondhand dealer, shall keep, or cause to be kept, at his or her place of business a well-bound book containing a record of each article pawned, purchased, exchanged, or otherwise taken into possession. Such record shall be legibly entered at the time of the transaction and shall show the hour and day when each article was so received, its exact and complete description, the amount loaned thereon or paid therefor, and the signature and description of the person, with the license number of any automobile he or she is driving, so pawning, selling, exchanging, or otherwise delivering such property. The record of each transaction shall be numbered and a tag corresponding to such number shall be firmly attached to all articles pawned, purchased, exchanged, or otherwise taken into possession.
(§ 2, Ord. 196, as amended by § 14, Ord. 1161, eff. February 17, 2018)

§ 11-12.05. Holding period.

All articles pawned, purchased, exchanged, or otherwise taken into possession by any pawnbroker or secondhand dealer shall be held intact in a particular location in the place of business designated for that purpose for a period of 20 days from the date of receipt of such articles before such articles shall be placed on exhibition, sold, exchanged, removed from the place of business where received, delivered to any person, or otherwise disposed of.
(§ 3, Ord. 196, as amended by § 14, Ord. 1161, eff. February 17, 2018)

§ 11-12.06. Exhibition to officials.

All articles pawned, purchased, exchanged, or otherwise taken into possession by any pawnbroker or secondhand dealer, and the records pertaining thereto, shall, upon demand, be

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exhibited to any sheriff, police officer, constable, or other peace officer and shall not, in any manner, be concealed.
(§ 3, Ord. 196, as amended by § 14, Ord. 1161, eff. February 17, 2018)

§ 11-12.07. Exemptions.

The provisions of this chapter shall not apply to the following:

(a) Any person who buys new or secondhand goods, wares, or merchandise from any dealer licensed under the Sales and Use Tax Law of the State to do business in the State;

(b) Dealers in secondhand automobiles; and

(c) Any person engaged in the business of selling new goods, wares, and merchandise to the general public, which person receives any secondhand articles, goods, wares, or merchandise in part payment of new goods, wares, and/or merchandise, which secondhand merchandise is in the regular course of business.

(§ 4, Ord. 196, as amended by § 14, Ord. 1161, eff. February 17, 2018)

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Chapter 13
Taxicab Permits

Note: Prior ordinance history: Ords. 165, 187, 959 and 1161.

§ 11-13.01. Purpose.

State law requires every City or County to adopt an ordinance or resolution in regards to taxicab transportation services, which include, among others, a policy for entry into the business, establishment of registration rates, and mandatory controlled substance and alcohol testing programs. In October 2017, Assembly Bill 1069 was enacted to modernize the regulation of taxicab transportation services in order for taxicabs to better compete with all for-hire modes of transportation. In September, 2018, Assembly Bill 939 was subsequently enacted imposing additional duties on local governments related to taxicab transportation services. This chapter establishes a permitting process and regulatory structure consistent with the requirements of Assembly Bill 1069 and Assembly Bill 939.
(§ 1, Ord. 1172, eff. August 17, 2019)

§ 11-13.02. Application of chapter.

The permit requirements of this chapter apply to:

(a) Taxicab businesses that are substantially located within the City of Los Banos; and

(b) Taxicab drivers of a taxicab business that is substantially located within the City of Los Banos.

(§ 1, Ord. 1172, eff. August 17, 2019)

§ 11-13.03. Definitions.

For the purposes of this chapter, the following words and phrases are as defined in this section:

"Certificate of inspection" means a City provided form signed by an authorized agent of an automotive repair establishment that is certified by the National Institute for Automotive Service Excellence or a facility registered with the Bureau of Automotive Repair, dated no more than 30 days before the date the application is submitted to the Director and which indicates whether a certain vehicle has met the criteria set forth on the form. Items to be inspected may include condition of exterior, interior and mechanical functions.

"City" means the City of Los Banos.

"Controlled substance and alcohol certificate" means a City provided form signed by the employing taxicab business that attests that each taxicab driver has tested negative for each of the controlled substances specified in Part 40 of Title 49 of the Code of Federal Regulations, before employment and as a condition of permit renewal; in the case of self-employed independent drivers, it means that such test results are directly reported to the Police Chief.

"County" means the County of Merced.

"Director" means the Community and Economic Development Director or the Director's designee.

"Drive a taxicab" means to drive a taxicab that picks up passengers within the City but does not include driving a taxicab that only discharges passengers picked up outside the City or that travels through the City without picking up or discharging passengers, provided the taxicab

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company's principal place of business is not within the City.

"Police Chief" means the Chief of Police of the City, or the Police Chief's designee.

"Prearranged trip" means a trip using an online enabled application, dispatch, or Internet website.

"Substantially located" means a taxicab business that meets either of the following criteria: (1) the primary business address is located within the City; or (2) the total number of prearranged and non-prearranged trips that originate in the City account for the largest share of the taxicab business's total number of trips within the County over the past calendar year as determined annually.

"Taxicab" means every motor vehicle: (1) designed for carrying not more than eight persons, excluding the driver; (2) of a distinct color or commercial appearance used in the business of carrying passengers for hire; and (3) which is hired by the passenger and the destination and route of which are under the control of the passenger being carried. This definition excludes vehicles subject to regulation by the California Public Utilities Commission.

"Taxicab business" means a person, sole proprietorship, company, firm, association, corporation, partnership or other entity that operates a taxi service consisting of one or more taxicabs within the City limits of the City of Los Banos.

"Taxicab driver" means every person that drives a taxicab, whether as an employee, an independent contractor, or a self-employed person.

"Trip data documentation" means documentation as determined by the Director that substantiates that the total number of prearranged and non-prearranged trips that originate within the City account for the largest share of the taxicab business's total number of trips in the County over the previous calendar year.
(§ 1, Ord. 1172, eff. August 17, 2019)

§ 11-13.04. Business license required.

Every taxicab business substantially located within the City must obtain a business license under Section 11-1.103 of this Code. The City will not issue a business license until the required permits have been obtained under this chapter.
(§ 1, Ord. 1172, eff. August 17, 2019)

§ 11-13.05. Taxicab business and taxicab driver permits required—Notice of change in location.

(a) Except as otherwise provided in this chapter, no taxicab business that is substantially located in the City, may operate or permit the operation of a taxicab as a vehicle for hire, unless the taxicab business obtains, and continues to maintain, a current and valid taxicab business permit issued by the City.

(b) Except as otherwise provided in this chapter, no taxicab driver may drive a taxicab for a taxicab business that is substantially located in the City, unless the taxicab driver obtains, and continues to maintain, a current and valid taxicab driver permit issued by the City.

(c) A taxicab business shall notify the City no less than six months prior to changing its substantial location from another jurisdiction to the City in accordance with Government Code Section 53075.52.

(§ 1, Ord. 1172, eff. August 17, 2019)

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§ 11-13.06. Taxicab business permit application.

(a) A taxicab business desiring to obtain a permit must submit a permit application to the Director.

(b) The application must be signed under penalty of perjury and must include all the following:

(1) The name, age, business address, residence of the applicant, if a natural person; or if a corporation, its name, date and place of incorporation, address of its principal place of business and the names of its principal officers, with their respective addresses; or if a partnership, association or unincorporated company, the names of the partners, or the persons comprising the association or company, with the place of business and residence of each partner or person.

(2) The make, model, vehicle identification number and license plate number of each taxicab owned or leased by the taxicab business to be used in the City.

(3) A certificate of inspection for each taxicab to be used in the City.

(4) The street number and exact location from which each vehicle is to be operated.

(5) A schedule of the rates of fares to be charged for carrying passengers. Rates may not exceed the maximum amount, if any, set by resolution of the City Council.

(6) Whether or not the applicant has had any similar permit revoked by any agency or board, City, County or State, and if so, the circumstances of the revocation.

(7) The color scheme, name, monogram or insignia which the applicant proposes to use. The color scheme, name, monogram or insignia to be used upon the taxicab may not conflict with or imitate any color scheme, name, monogram or insignia used by another taxicab business in a manner so as to be misleading, or tend to deceive or defraud the public.

(8) For a taxicab business receiving a permit in 2019 or a new taxicab business thereafter, a primary business address in the City will initially satisfy the trip data documentation requirement. A taxicab business must begin collection of trip data during its first year of operation.

(9) A valid Department of Motor Vehicles registration for each taxicab to be used in the City showing that each vehicle is registered as a commercial vehicle.

(10) A controlled substance and alcohol certificate for each taxicab driver; however, in the case of a self-employed, independent driver, the test results will be reported directly to the Police Chief.

(11) Certificate of insurance and endorsements as required by this chapter.

(12) Such further information as the Director or Police Chief may require.

(13) The permit fee in an amount set by resolution of the City Council.

(§ 1, Ord. 1172, eff. August 17, 2019)

§ 11-13.07. Taxicab business permit—Issuance/denial—Duration—Transferability.

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(a) Upon receipt of an application for a taxicab business permit, the Director will forward the application to the Police Chief. The Police Chief will investigate and advise the Director whether a taxicab business permit may be issued if the Police Chief finds that the applicant has complied with all the applicable requirements of this chapter. If the Police Chief or Director finds that all applicable requirements have not been satisfied, then the permit may be denied.

(b) A taxicab business permit issued pursuant to this chapter remains in effect for one calendar year, unless revoked or renewed.

(c) A taxicab business permit may not be transferred.

(d) A taxicab business permit does not constitute a permit to drive a taxicab. Any person who wishes to drive a taxicab must also obtain a taxicab driver permit.

(§ 1, Ord. 1172, eff. August 17, 2019)

§ 11-13.08. Taxicab driver permit application.

(a) A taxicab driver desiring to obtain a permit must submit a permit application to the Director.

(b) The application must be signed under penalty of perjury and must include all the following:

(1) A letter from a prospective taxicab business substantially located in the City offering employment to the applicant as a taxicab driver, whether as an independent contractor or as an employee; a letter from a taxicab business substantially located in the City stating that the applicant is employed as a taxicab driver, whether as an independent contractor or as an employee; or a written statement from the applicant that he or she seeks to be a self-employed taxicab driver substantially located in the City.

(2) Written proof of a negative controlled substance and alcohol test in accordance with the provisions of Section 11-13.090.

(3) The name, date of birth, address, and telephone number of the applicant.

(4) The names and addresses of the applicant's employers during the preceding three years.

(5) A statement or proof that the applicant has not been convicted of reckless driving, driving under the influence or a hit and run offense, within in the past five years.

(6) Proof that the applicant holds a valid Class 0 or Class 3 driver's license, a copy of which will be made by the City.

(7) Two photographs of the applicant at least two (2") inches by two (2") inches taken within four months preceding the date of the application.

(8) The business license or permit history of the applicant during the preceding 10 years, including whether such applicant has ever had any license or permit issued by any agency or board, City, County or State revoked or suspended, or has had any professional or vocational license or permit revoked or suspended and the reason (s) for the revocation (s).

(9) All criminal arrests and statement of the dates, places, and disposition of any

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convictions from such arrests.

(10) Completed, within 30 days of the application, City provided Live Scan request form signed by Live Scan operator.

(11) Such additional information as the Director or Police Chief may require.

(12) The permit fee in an amount set by resolution of the City Council.

(§ 1, Ord. 1172, eff. August 17, 2019)

§ 11-13.09. Controlled substance and alcohol testing program.

(a) Every taxicab driver permit applicant either initial or renewal, must pass, with negative results, a controlled substance and alcohol test, in accordance with Government Code Section 53075.5(b)(3), as may be amended from time to time. The results from a controlled substance and alcohol test for an applicant that is a self-employed independent driver must be reported directly to the Police Chief and made part of the application, and the Police Chief will notify the taxicab business of record of any positive results. All other results must be reported directly to the employing taxicab business, who must immediately notify the Police Chief of positive results. As used in this section, a negative test for alcohol means an alcohol screening test showing a breath alcohol concentration of less than 0.02 percent.

(b) Testing procedures must be substantially as in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, except that the driver must show a valid California driver's license at the time and place of testing, and except as provided otherwise in Government Code Section 53075.5(b)(3).

(c) The controlled substance and alcohol test may be taken no more than 30 days before the date the application is filed for a new permit.

(d) If any taxicab driver permit holder or applicant has taken a controlled substance or alcohol test with positive results, the taxicab business must immediately report such results to the Director.

(e) The taxicab business or self-employed independent driver will be responsible for all costs of the tests.

(f) The test results are confidential and will not be released without the consent of the tested driver or applicant, except as authorized by State or Federal law, or required by a court order.

(g) No evidence derived from a positive test result under this section will be admissible in a criminal prosecution concerning unlawful possession, sale, or distribution of controlled substances.

(h) The City will provide the applicant with a list of testing providers certified pursuant to Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations that are in or near the City and known to the City.

(§ 1, Ord. 1172, eff. August 17, 2019)

§ 11-13.10. Taxicab driver permit—Issuance/denial.

After reviewing the taxicab driver permit application, the Director will forward the application

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to the Police Chief. The Police Chief will investigate, conduct a background check, and inform the Director that a driver permit may be granted if the Police Chief finds that the applicant has complied with all the applicable requirements of this chapter. If the Police Chief or Director finds that any of the applicable requirements of this chapter have not been satisfied by the applicant, the application may be denied.
(§ 1, Ord. 1172, eff. August 17, 2019)

§ 11-13.11. Notice to applicants.

(a) The Director will give written notice to the applicant for a taxicab driver permit or a taxicab business permit that the application is granted or denied. If the application is denied, the Director will include in such notice a statement of the grounds on which the application is denied.

(b) A taxicab driver permit will include the name of the permittee, a photograph of the permittee, the name of the employer, a statement that the permit is subject to the conditions imposed by Section 11-13.120 and the requirement that the permittee return the permit to the Director upon termination of the permittee's employment.

(c) A taxicab business permit will include the name of the permittee and a statement that the permit is subject to the conditions imposed by Section 11-13.120.
(§ 1, Ord. 1172, eff. August 17, 2019)

§ 11-13.12. Conditions of taxicab business permit.

Every person or entity issued a taxicab business permit shall comply with the following conditions:

(a) Display on the exterior of each taxicab the name or trademark of the person under whose authority the taxicab is being operated.

(b) Display on the left hand, bottom corner of the rear window, the City-issued decal for the current calendar year.

(c) Display on both exterior sides, exterior front, and exterior rear of each vehicle the taxicab business City-assigned taxicab number.

(d) Display on both exterior sides and exterior rear of each taxicab the dispatch phone number of the taxicab business.

(e) Affix to each vehicle a top light to identify the vehicle as a taxicab.

(f) Display in the interior of each taxicab the sign required by California Vehicle Code Section 27908.

(g) Adhere to the conditions set forth below regarding registration of taxicab service fares, fees and rates:

(1) The taxicab business may set fares or charge a flat rate. The taxicab business may use any type of device or technology approved by the Division of Measurement Standards to calculate fares, including the use of Global Positioning System metering, provided that the device or technology complies with Section 12500.5 of the Business and Professions Code and with all regulations established pursuant to Section 12107 of

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the Business and Professions Code. If fares are calculated by meter, the meter must be sealed, visible to passengers at all times, and currently registered and inspected by a County of Merced Weights and Measures official.

(2) The taxicab business must disclose fares, fees, or rates to the customer. A taxicab business may satisfy this requirement by disclosing fares, fees, or rates on its Internet website, mobile telephone application, or telephone orders upon request by the customer.

(3) The taxicab business must notify the passenger of the applicable rate prior to the passenger accepting the ride for walk-up rides and street hails. The rate may be provided on the exterior of the vehicle, within an application of a mobile telephone, device, or other Internet-connected device, or be clearly visible in either print or electronic form inside the taxicab.

(4) A taxicab business may not prejudice, disadvantage, or require different rates or provide different service to a person because of race, national origin, religion, color, ancestry, physical disability, medical condition, occupation, marital status or change in marital status, sex, or any characteristic listed or defined in Section 11135 of the Government Code.

(5) Collect from taxicab passengers only the amounts disclosed to the customer, plus any tip that the passenger offers.

(6) Upon request give a receipt to any passenger after the driver has received full payment for a fare.

(7) Notify the Director of any changes in rates or fares prior to such change taking effect.

(h) Obtain for each taxicab and keep in force during the term of the permit, public liability and bodily injury insurance as required by Section 11-13.160 of this chapter. Submit to the Director a current certificate of insurance.

(i) Obtain and keep in force during the term of the permit, worker's compensation insurance, covering all employees of the permittee. Submit to the Director a current certificate of insurance.

(j) Possess a valid City business license.

(k) Maintain each taxicab in safe operating condition, good repair, clean and sanitary condition, and in compliance with the California Vehicle Code.

(l) Participate in the pull-notice program pursuant to Section 1808.1 of the Vehicle Code to regularly check the driving records of all taxicab drivers.

(m) Maintain a safety education and training program in effect for all taxicab drivers.

(n) Maintain a disabled access education and training program to instruct its taxicab drivers on compliance with the Federal Americans with Disabilities Act of 1990 and amendments thereto, and state disability rights laws, including making clear that it is illegal to decline to serve a person with a disability or who has a service animal.

(o) Obtain and submit to the Director a report no less than every 12 months from the Department of Motor Vehicles for each employed taxicab driver. The taxicab business

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must verify that each employee's driver's license has not been suspended or revoked, the employee's traffic violation point count, and whether the employee has been convicted of a violation of California Vehicle Code Section 23152 or 23153.

(p) Obtain and submit to the Director a current report showing a prospective taxicab driver's current public record as recorded by the Department of Motor Vehicles. For purposes of this subsection, a report is current if it was issued less than 30 days prior to the date the taxicab business employs the taxicab driver.

(q) Notify the Director immediately when any vehicle not described in the application for the permit is placed in service as a taxicab and submit the information about the vehicle and the certificate of inspection required by the application form.

(r) Notify the Director immediately on termination of a taxicab driver's employment. The taxicab driver permit will become void upon termination of the driver's employment.

(s) Require that each taxicab driver have a valid California driver's license and a valid City-issued taxicab driver permit.

(t) Comply with any other reasonable conditions imposed by the Director or Police Chief.

(§ 1, Ord. 1172, eff. August 17, 2019)

§ 11-13.13. Conditions of taxicab driver permit.

Every person who is issued a taxicab driver permit shall comply with the following conditions:

(a) Display the driver's photo permit in the taxicab in a place conspicuous from the passenger area.

(b) Take the most direct route possible which will carry the passenger safely and expeditiously to his or her destination.

(c) Grant the person engaging the taxicab exclusive right to the full and complete use of the passenger compartment.

(d) Immediately report a lost or stolen permit to the Director.

(e) Not allow any person to use or duplicate their permit. If a permit is found to be used by another individual, it will be considered a violation of this chapter unless the permit was previously reported as lost or stolen as provided in this section.

(f) If the taxicab driver is self-employed, comply with all the conditions of the taxicab business permit set forth in Section 11-13.120.

(g) Return the permit to the Director immediately upon termination of employment or self-employment. A taxicab driver permit will become void upon termination of employment or self-employment.

(h) Comply with any other reasonable permit condition imposed by the Director or the Police Chief.

(§ 1, Ord. 1172, eff. August 17, 2019)

§ 11-13.14. Annual permit renewal.

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(a) Taxicab driver and taxicab business permits will continue in effect for the remainder of the calendar year in which they are issued, unless revoked or modified as provided in Section 11-13.150; provided, however, that taxicab driver permits will automatically become void on termination of employment or self-employment as a taxicab driver. A taxicab driver or taxicab business permit issued in the last quarter of a calendar year will continue in effect for the remainder of the calendar year in which it is issued, and for the next calendar year.

(b) Permittees must submit to the Director applications to renew taxicab driver and taxicab business permits for following calendar years, together with fees for the renewal and any changes in the information provided in the initial application or a previous renewal application. In addition, an applicant for renewal of a taxicab business permit must submit evidence that required insurance will be in effect for the new calendar year, a new certificate of inspection for each taxicab, and new trip data documentation for the prior calendar year. In addition, an applicant for renewal of a taxicab driver permit must submit proof of a negative test for controlled substances and alcohol as required by the City's controlled substance and alcohol certification program, a new photograph, and provide a document issued by the Department of Motor Vehicles, dated no more than 10 days before the application is submitted, showing that the applicant holds a valid, current California driver's license.

(c) The Director will refer to the Police Chief completed applications for renewal of taxicab driver and taxicab business permits. The Police Chief and the Director will process and grant or deny the applications for renewal as provided in Sections 11-13.070—11-13.110.

(d) Applications for renewal of taxicab driver and taxicab business permit must be submitted by December 1 of each year to allow sufficient time for processing before the current permit expires on December 31.

(§ 1, Ord. 1172, eff. August 17, 2019)

§ 11-13.15. Permit—Suspension/ modification/revocation.

(a) A taxicab business permit or taxicab driver permit may be revoked or suspended or additional conditions imposed for failure of the permittee to comply with applicable laws, regulations and conditions, based on matters occurring after the permit is issued or on matters not considered at the time of issuance of the permit that would have authorized denial of the permit or the imposition of conditions on the permit.

(b) The Police Chief may file with the Director a written request for revocation, suspension or modification of a taxicab business permit or taxicab driver permit, stating facts showing that the permittee has not complied with applicable laws, regulations or permit conditions, has had a subsequent arrest, or poses a danger to public safety, and recommending that the permit be revoked or suspended or in what respect the permit should be conditioned.

(c) On receiving the request, the Director must mail to the permittee a notice that the permit is recommended for revocation, suspension or conditioning in a specific manner and stating the reasons for that recommendation. The notice must inform the permittee that the recommendation will be adopted, and the permittee will be deemed to concur with the recommendation if the permittee does not make a written request for a hearing in the manner provided in Section 11-13.190 of this chapter.

(§ 1, Ord. 1172, eff. August 17, 2019)

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§ 11-13.16. Insurance required.

(a) It is unlawful for a taxicab business or taxicab driver to operate a taxicab unless there is in full force and effect a commercial automobile insurance policy of insurance in form as the City Attorney deems proper, executed by an insurance carrier company authorized to conduct business in the State of California and with an A.M. Best rating of at least A:VII or better, whereby the taxicab business and taxicab driver of each of the taxicabs operated under the permit are insured against liability for damage to property and for injury to or death of any person as a result of the ownership, operation or other use of such taxicab vehicle.

(b) The minimum liability limits upon each taxicab vehicle shall not be less than One Million and No/100ths ($1,000,000.00) Dollars combined single limit for bodily injury to or death of any persons and for damages to or destruction of property in any one accident. Such policy of insurance shall contain an endorsement providing that the policy shall not be canceled or materially modified until notice in writing has been given to the City, at least 30 days immediately prior to the time such cancellation becomes effective. Further, such policy of insurance shall name the City, its officers, agents and employees as additional insured by separate endorsement. Any deviations from these requirements must be approved in writing by the City manager.

(c) Additionally, a taxicab business and taxicab driver shall indemnify, defend and hold harmless the City, its officers, agents and employees from claims arising from or alleged to arise from the negligence of the taxicab business or taxicab driver.

(§ 1, Ord. 1172, eff. August 17, 2019)

§ 11-13.17. Schedule of fares.

(a) The City Council may by resolution set the maximum amount of fares to be charged by a taxicab business.

(b) If the City Council has adopted a maximum fare schedule, no taxicab business or taxicab driver may impose a charge for the use of such taxicab other than that specified in the schedule of fares on file with the City Clerk.

(c) A taxicab business may file a written application with the City Clerk requesting a hearing before the City Council to increase the maximum fares. Such hearing will be scheduled no less than 15 days and no more than 60 days from the date of the application. The application must contain the applicant's reasons and justification for the increase.

(§ 1, Ord. 1172, eff. August 17, 2019)

§ 11-13.18. Stands.

(a) Designation. The Council may, by resolution, locate and designate taxicab stands which, when so established, shall be appropriately designated "Taxis Only."

(b) Use. It is unlawful for the owner, driver, or operator of any taxicab to permit such taxicab to remain parked, while awaiting employment, except in a regularly established taxicab stand; provided, however, taxicabs may park in any available parking space when actually engaged in loading or unloading passengers.

(§ 1, Ord. 1172, eff. August 17, 2019)

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§ 11-13.19. Right to inspections.

All taxicab permittees, drivers and other employees must submit taxicab vehicles, vehicle registration, proof of insurance, schedule of rates, meter calibration results, driver permits, and proof of alcohol and drug compliance records to the Director or Chief of Police or designee upon request. Any taxi found to be in an unsafe condition must be taken out of service immediately, and stay out of service until repaired.

All deficiencies found shall be corrected in the time frame given by the inspecting official.

Taxi service is a form of public transportation and as such it is a reflection on the local community. Therefore the appearance and cleanliness of all local taxis is a matter of public concern. Taxicabs that are found to be unkempt, aesthetically unpleasing or offensive shall be cleaned or modified to the satisfaction of the Director or Chief of Police. Failure to comply may lead to license revocation.
(§ 1, Ord. 1172, eff. August 17, 2019)

§ 11-13.20. Violations—Penalties.

(a) It is unlawful and a public nuisance to intentionally violate any of the provisions of this chapter. Violation of this chapter may be charged as either an infraction or a misdemeanor. Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code Section 36901.

(b) In addition to any other remedy or penalty set forth in this Chapter or this Code, administrative penalties may be imposed pursuant to applicable provisions of Chapter 11 Title 4 of this Code against any responsible party, in violation of any of the provisions of this chapter. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 11 Title 4 of this Code.

(c) The minimum fine for operating without a permit from the City in which the taxicab business is substantially located shall be Five Thousand and No/100ths ($5,000.00.00) Dollars per Government Code 53075.5(h)(9)(i)(2).

(d) Remedies under this chapter are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.
(§ 1, Ord. 1172, eff. August 17, 2019)

§ 11-13.21. Appeals.

(a) Except where an appeals or hearing procedure is otherwise set forth in this chapter, a decision or action of the Director or Police Chief may be appealed by filing a written notice of appeal with the City Clerk, setting forth the specific grounds thereof.

(b) Notice of such appeal shall be filed with the City Clerk within 14 calendar days after the date written notice of such action appealed from was mailed or personally delivered to the appellant.

(c) The City Clerk shall forthwith set a date for hearing before City Manager or City Manager's

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designee and shall give the appellant at least five calendar days' notice of the time and place of said hearing.

(d) At such hearing the appellant shall show cause on the grounds specified in the notice of appeal why the action excepted to should not be approved. The City Manager or City Manager's designee, may continue the hearing from time to time. The findings on the appeal shall be final and conclusive in the matter.

(§ 1, Ord. 1172, eff. August 17, 2019)

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Chapter 14
Junk Yards

§ 11-14.01. Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Junk" shall mean any and all secondhand and used machinery and scrap iron, including automobiles, tools, implements or parts or portions thereof and any and all secondhand or used furniture or other personal property or parts or portions thereof, other than livestock.

"Junk yard" shall mean and include any yard, plot, space, enclosure, building, or any other place where junk is collected, stored, gathered together, or kept.
(§§ 1 and 2, Ord. 211, as amended by § 16, Ord. 1161, eff. February 17, 2018)

§ 11-14.02. Premises: Fences and walls.

It is unlawful for any person to carry on, operate, maintain, or conduct a junk yard in the City unless such business is carried on, operated, maintained, or conducted entirely inside an enclosed building or unless the premises on which such business is carried on, operated, maintained, or conducted are entirely enclosed by a solid fence or wall at least six (6′) feet in height, constructed in a solid and substantial manner of first-class material and approved workmanship. Such fence or wall shall be maintained in a neat, substantial, and safe condition. Gates for access to such premises shall swing inwardly, and such gates shall be kept closed when the premises are not open for business.
(§ 4, Ord. 211, as amended by § 16, Ord. 1161, eff. February 17, 2018)

§ 11-14.03. Height of piled junk.

No junk shall be piled or be permitted to be piled in excess of the height of the fence or wall enclosing any junk yard.
(§ 4, Ord. 211, as amended by § 16, Ord. 1161, eff. February 17, 2018)

§ 11-14.04. Draining motor vehicles.

All gas, oil, or other inflammable liquid shall be drained or removed from any unregistered motor vehicle located on the premises of any junk yard.
(§ 4, Ord. 211, as amended by § 16, Ord. 1161, eff. February 17, 2018)

§ 11-14.05. Inspections: Access.

The premises of any junk yard shall be so arranged that reasonable inspections or access to all parts of the premises can be made at any time by the proper fire, health, police, and building authorities.
(§ 4, Ord. 211, as amended by § 16, Ord. 1161, eff. February 17, 2018)

§ 11-14.06. Exemptions.

The provisions of this chapter shall not apply to the following:

(a) Secondhand furniture merchants;

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(b) Secondhand car dealers or merchants in connection with automobiles and motor vehicle sales agencies but not carried on and conducted in conjunction with a junk yard; and

(c) Persons engaged in the business of selling new automobiles, tires, batteries, or other equipment taking in part payment used articles of the same kind and thereafter selling or disposing of the same.

(§ 3, Ord. 211, as amended by § 16, Ord. 1161, eff. February 17, 2018)

§ 11-14.07. Violations: Penalties.

It is unlawful for any person to violate any provision or to fail to comply with any requirement of this chapter. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code.

(§ 5, Ord. 211, as amended by § 16, Ord. 1161, eff. February 17, 2018)

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Chapter 15
Adult Entertainment Businesses

ARTICLE 1
GENERAL PROVISIONS

§ 11-15.101. Legislative purpose.

It is the purpose of this chapter to regulate adult oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the City. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.
(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 17, Ord. 1161, eff. February 17, 2018)

§ 11-15.102. Definitions.

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

Adult entertainment businesses. The term "adult entertainment businesses" shall mean any one of the following:

(1) Adult arcade. The term "adult arcade" as used in this chapter, shall mean an establishment where, for any form of consideration, one or more still or motion picture projectors, or similar machines, for viewing by five or fewer persons each are used to show films, computer generated images, motion pictures, video cassettes, slides or other photographic reproductions 30% or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

(2) Adult bookstore. The term "adult bookstore" as used in this chapter, shall mean an establishment that has 30% or more of its stock in books, magazines, periodicals, or other printed matter, or of photographs, films, motion pictures, video cassettes, slides, tapes, records, or other form of visual or audio representations which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities and/or specified anatomical areas.

(3) Adult cabaret. The term "adult cabaret" as used in this chapter, shall mean a nightclub, restaurant, or similar business establishment which: (1) regularly features live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities; and/or (2) shows films, computer generated images, motion pictures, video cassettes, slides, or other photographic reproductions, 30% or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

(4) Adult hotel/motel. The term "adult hotel/motel" as used in this chapter, shall mean a hotel

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or motel or similar business establishment offering public accommodations for any form of consideration which: (1) provides patrons with closed-circuit television transmissions, films, computer generated images, motion pictures, video cassettes, slides or other photographic reproductions, 30% or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; and (2) rents, leases, or lets any room for less than a six hour period, or rents, leases, or lets any room more than twice in a 24 hour period.

(5) Adult motion picture theater. The term "adult motion picture theater" as used in this chapter, shall mean a business establishment where, for any form of consideration, films, computer generated images, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and 30% or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

(6) Adult theater. The term "adult theater" as used in this chapter, shall mean a theater, concert hall, auditorium, or similar establishment which, for any form of consideration regularly features live performances which are distinguished or characterized by an emphasis on the display of specified anatomical areas or specified sexual activities.

(7) Escort bureau. The term "escort bureau" as used in this chapter, shall mean a business which, for pecuniary compensation, consideration, hire or reward furnishes or offers to furnish escorts.

(8) Modeling studio. The term "modeling studio" as used in this chapter shall mean a business which provides for pecuniary compensation, monetary or other consideration, hire or reward, figure models who, for the purposes of sexual stimulation of patrons, display "specified anatomical areas" to be observed, sketched, photographed, painted, sculpted or otherwise depicted by persons paying such consideration. "Modeling studio" does not include schools maintained pursuant to standards set by the State of California Board of Education. "Modeling studio" further does not include a studio or similar facility owned, operated, or maintained by an individual artist or group of artists, and which does not provide, permit, or make available "specified sexual activities."

Adult entertainment business operator. The term "adult entertainment business operator" (hereinafter "operator") as used in this chapter, shall mean a person who supervises, manages, inspects, directs, organizes, controls, or in any other way is responsible for or in charge of the premises of an adult entertainment business or the conduct or activities occurring on the premises thereof.

Applicant. The term "applicant" as used in this chapter, shall mean a person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of an "adult entertainment business."

Bar. The term "bar" as used in this chapter, shall mean any commercial establishment licensed by the State of California Department of Alcoholic Beverage Control to serve alcoholic beverages on the premises.

Distinguished or characterized by an emphasis upon. The term "distinguished or characterized by an emphasis upon" as used in this chapter, shall mean and refer to the dominant or essential theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon" the depiction or description

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of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or predominant character and theme are the depiction of the enumerated sexual activities or anatomical areas. See Pringle v. City of Covina, 115 Cal.App.3 151 (1981).

Escort. The term "escort" as used in this chapter, shall mean a person who, for pecuniary compensation, monetary or other consideration, hire or reward: (1) escorts or accompanies others to or about social affairs, entertainment or places of amusement; or (2) keeps company with others about any place or public resort or within any private quarters; or (3) who agrees or offers to privately model lingerie or to privately perform a striptease for another person; or (4) who agrees to provide any service which is distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities.

Figure model. The term "figure model" as used in this chapter, shall mean any person who, for pecuniary compensation, consideration, hire or reward, poses in a modeling studio to be observed, sketched, painted, drawn, sculpted, photographed, or otherwise depicted.

Health officer. The term "health officer" as used in this chapter, shall mean the health officer of the City of Los Banos or duly authorized representative.

Nudity or a state of nudity. The term "nudity or a state of nudity" as used in this chapter, shall mean the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state.

Operate an adult entertainment business. The term "operate an adult entertainment business" as used in this chapter, shall mean the supervising, managing, inspecting, directing, organizing, controlling, or in any way being responsible for or in charge of the conduct of activities of an adult entertainment business or activities within an adult entertainment business.

Permittee. The term "permittee" as used in this chapter, shall mean the person to whom an adult entertainment business permit is issued.

Person. The term "person" as used in this chapter, shall mean any individual, partnership, copartnership, firm, association, joint stock company, corporation, or combination of the above in whatever form or character.

Police Chief. The term "Police Chief" as used in this chapter, shall mean the Police Chief of the City of Los Banos or the authorized representatives thereof.

Regularly features. The term "regularly features" as used in this chapter, with respect to an adult theater or adult cabaret means a regular and substantial course of conduct. The fact that live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities occurs on two or more occasions within a 30 day period; three or more occasions within a 60 day period; or four or more occasions within a 180 day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct.

Semi-nude. The term "semi-nude" as used in this chapter, shall mean a state of dress in which clothing covers no more than the genitals, pubic region, buttocks, areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Specified anatomical areas. The term "specified anatomical areas" as used in this chapter, shall mean and include any of the following:

(1) Less than completely and opaquely covered human: (i) genitals or pubic region; (ii) buttocks; and (iii) female breast below a point immediately above the top of the areola; and

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(2) Human male genitals in a discernible turgid state, even if completely and opaquely covered;

(3) Any device, costume, or covering that stimulates any of the body parts included in subsections (1) or (2) of this definition.

Specified sexual activities. The term "specified sexual activities" as used in this chapter, shall mean and include any of the following whether performed directly or indirectly through clothing or other coverings:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;

(3) Masturbation, actual or simulated; and

(4) Excretory functions as part of or in connection with any of the other activities described in subsections (1) through (3) of this subsection.

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 17, Ord. 1161, eff. February 17, 2018)

§ 11-15.103. Permits required.

(a) It is unlawful for any person to engage in, or conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City of Los Banos, the operation of an adult entertainment business unless the person first obtains and continues to maintain in full force and effect a permit from the City of Los Banos as herein required (adult entertainment business regulatory permit).

(b) It is unlawful for any person to engage in or participate in any live performance depicting specified anatomical areas or involving specified sexual activities in an adult entertainment business unless the person first obtains and continues in full force and effect a permit from the City of Los Banos as herein required (adult entertainment performer permit).

(c) It is unlawful for any person to act as an escort, figure model, or to take any other position of employment with an escort bureau or modeling studio in the City of Los Banos unless the person first obtains and continues to maintain in full force and effect a permit from the City of Los Banos as herein required (escort permit, figure model permit).

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 17, Ord. 1161, eff. February 17, 2018)

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ARTICLE 2
APPLICATIONS AND PERMITS

§ 11-15.201. Adult entertainment business regulatory permit required.

Every person who proposes to maintain, operate or conduct an adult entertainment business in the City of Los Banos shall file an application with the Police Chief upon a form provided by the City of Los Banos and shall pay a filing fee, as established by resolution adopted by the City Council from time to time, which shall not be refundable.
(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 18, Ord. 1161, eff. February 17, 2018)

§ 11-15.202. Applications.

(a) Adult entertainment business regulatory permits are nontransferable except in accordance with Section 11-15.205. Therefore, all applications shall include the following information:

(1) If the applicant is an individual, the individual shall state his or her legal name, including any aliases, address, and submit satisfactory written proof that he or she is at least 18 years of age.

(2) If the applicant is a partnership, the partners shall state the partnership's complete name, address, the names of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement, if any.

(3) If the applicant is a corporation, the corporation shall provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of the State of California, the names and capacity of all officers and directors, the name of the registered corporate agent, and the address of the registered office for service of process.

(b) If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, an officer of the business entity or an individual with a 10% or greater interest in the business entity shall sign the application.

(c) If the applicant intends to operate the adult entertainment business under a name other than that of the applicant, the applicant shall file the fictitious name of the adult business and show proof of registration of the fictitious name.

(d) A description of the type of adult entertainment business for which the permit is requested and the proposed address where the adult business will operate, plus the names and addresses of the owners and lessors of the adult entertainment business site.

(e) Fingerprints on a form provided by the Police Department for the purpose of establishing identification or criminal record.

(f) Color photograph clearly showing the applicant's face.

(g) Business, occupation, or employment history of the applicant for five years immediately preceding the date of application.

(h) The address to which notice of action on the application is to be mailed.

(i) The names of all employees required by Section 11-15.206 to obtain an adult entertainment

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performer license (for ongoing reporting requirements, see Section 11-15.206).

(j) A sketch or diagram showing the interior configuration of the premises including a statement of the total floor area occupied by the adult entertainment business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6″) inches.

(k) A certificate and straight line drawing prepared within 30 days prior to application depicting the building and the portion thereof to be occupied by the adult entertainment business; and

(1) The property line of any other adult entertainment business within five hundred (500′) feet of the primary entrance of the adult entertainment business for which a permit is requested; and

(2) The property lines of any church, school, park, and residential zone or use within three hundred (300′) feet of the primary entrance of the adult entertainment business.

(l) A diagram of the off-street parking areas and premises entries of the adult entertainment business showing the location of the lighting system required by Section 11-15.301(c).

(m) Such other information as may be deemed necessary by the City.

(n) If the Police Chief determines that the applicant has completed the application improperly, the Police Chief shall promptly notify the applicant of such fact and on request of the applicant, grant the applicant an extension of time of 10 days or less to complete the application properly. In addition, the applicant may request an extension, not to exceed 10 days, of the time for the Police Chief to act on the application. The time period for granting or denying a permit shall be stayed during the period in which the applicant is granted an extension of time.

(o) The fact that an applicant possesses other types of State or City permits or licenses does not exempt the applicant from the requirement of obtaining an adult entertainment business regulatory permit.

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 18, Ord. 1161, eff. February 17, 2018)

§ 11-15.203. Investigation and action on application.

(a) Upon receipt of a completed application, payment of the application and permit fees, the Police Chief shall immediately stamp the application as received and promptly investigate the information contained in the application to determine whether the applicant shall be issued an adult entertainment business regulatory permit.

(b) Within 30 days after receipt of the fingerprint results, the Police Chief shall complete the investigation, grant or deny the application in accordance with the provisions of this section, and so notify the applicant as follows:

(1) The Police Chief shall write or stamp "Granted" or "Denied" on the application, date and sign such notation.

(2) If the application is denied, the Police Chief shall attach to the application a statement of the reasons for denial.

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(3) If the application is granted, the Police Chief shall attach to the application an adult entertainment business regulatory permit.

(4) The application as granted or denied and the permit, if any, shall be placed in the United States mail, first class postage paid, addressed to the applicant at the address stated in the application.

(c) The Police Chief shall grant the application and issue the adult entertainment business regulatory permit upon the findings that the proposed business meets the locational criteria of Section 9-5.103; and that the applicant has met all of the development and performance standards and requirements of Section 11-15.301, unless the application is denied for one or more of the reasons set forth in Section 11-15.204. The permittee shall post the permit conspicuously in the adult entertainment business premises.

(d) If the Police Chief grants the application or if the Police Chief neither grants nor denies the application within 30 days after fingerprint results are received, it is stamped as received (except as provided in Section 11-15.202(n)), the applicant may begin operating the adult entertainment business for which the permit was sought, subject to strict compliance with the development and performance standards and requirements of Section 11-15.301.

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 18, Ord. 1161, eff. February 17, 2018)

§ 11-15.204. Permit denial.

The Police Chief shall deny the application for any of the following reasons:

(a) The building, structure, equipment or location used by the business for which an adult entertainment business regulatory permit is required do not comply with the requirements and standards of the health, zoning, fire, and safety laws of the City and the State of California, or with the locational or development and performance standards and requirements of these regulations.

(b) The applicant, his or her employee, agent, partner, director, officer, shareholder or manager has knowingly made any false, misleading, or fraudulent statement of material fact in the application for an adult entertainment business regulatory permit.

(c) An applicant is under 18 years of age.

(d) The required application fee has not been paid.

(e) The applicant has been convicted of any of the offenses enumerated in Section 11-15.207(d)(5) or convicted of an offense outside the State of California that would have constituted any of the described offenses if committed within the State of California. A permit may be issued to any person convicted of the described crimes if the conviction occurred more than five years prior to the date of the application. Troubled business history in same or similar business.

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 18, Ord. 1161, eff. February 17, 2018)

§ 11-15.205. Permit renewal.

Each adult entertainment business regulator permit shall expire one year from the date of issuance, and may be renewed only by filing with the Police Chief a written request for renewal, accompanied by the annual permit fee and a copy of the permit to be renewed. The request for

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renewal shall be made at least 30 days before the expiration date of the permit. When made less than 30 days before the expiration date, the expiration of the permit will not be stayed. Applications for renewal shall be acted upon on as provided herein for action upon applications for permits.
(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 18, Ord. 1161, eff. February 17, 2018)

§ 11-15.206. Transfer of adult entertainment regulatory permits.

(a) A permittee shall not operate an adult entertainment business under the authority of an adult entertainment business regulatory permit at any place other than the address of the adult entertainment business stated in the application for the permit.

(b) A permittee shall not transfer ownership or control of an adult entertainment business or transfer an adult entertainment business regulatory permit to another person unless and until the transferee obtains an amendment to the permit from the Police Chief stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the Police Chief in accordance with Sections 11-15.201 and 11-15.202, accompanies the application with a transfer fee in an amount set by resolution of the City Council, and the Police Chief determines in accordance with Section 11-15.203 that the transferee would be entitled to the issuance of an original permit.

(c) No permit may be transferred when the Police Chief has notified the permittee that the permit has been or may be suspended or revoked.

(d) Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void, and the permit shall be deemed revoked.
(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 18, Ord. 1161, eff. February 17, 2018)

§ 11-15.207. Adult entertainment performer permit.

(a) No person shall engage in or participate in any live performance depicting specified anatomical areas or involving specified sexual activities whether performed in an adult entertainment business establishment or not, without a valid adult entertainment business performer permit issued by the City. All persons who have been issued an adult entertainment business regulatory permit shall promptly supplement the information provided as part of the application for the permit required by Section 11-15.201 with the names of all performers required to obtain an adult entertainment performer permit within 30 days of the change in the information originally submitted. Failure to submit such changes shall be grounds for suspension of the adult entertainment business regulatory permit.

(b) The Police Chief shall grant, deny, and renew adult entertainment performer permits.

(c) The application for a permit shall be made on a form provided by the Police Chief. An original and two copies of the completed and sworn permit application shall be filed with the Police Chief.

(d) The completed application shall contain the following information and be accompanied by the following documents:

(1) The applicant's legal name and any other names (including "stage names" and aliases) used by the applicant;

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(2) Age, date, and place of birth;

(3) Height, weight, hair, and eye color;

(4) Present residence address and telephone number;

(5) Whether the applicant has ever been convicted of:

(i) Any of the offenses set forth in Sections 314, 315, 316, 266a, 266b, 266c, 266e, 266g, 266h, 266i, 290PC, 647(a), 647(b), 647(d), and 11590W and I of the California Penal Code as those sections now exist or may hereafter be amended or renumbered,

(ii) The equivalent of the aforesaid offenses outside the State of California;

(6) Whether such person is or has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other jurisdiction to engage in prostitution in such other jurisdiction. If any person mentioned in this subsection has ever been licensed or registered as a prostitute or otherwise authorized by the laws of any State to engage in prostitution, a statement shall be submitted giving the place of such registration, licensing, or legal authorization, and the inclusive dates during which such person was so licensed, registered, or authorized to engage in prostitution;

(7) State driver's license or identification number;

(8) Satisfactory written proof that the applicant is at least 18 years of age;

(9) The applicant's fingerprints on a form provided by the Police Department, and a color photograph clearly showing the applicant's face. Any fees for the photographs and fingerprints shall be paid by the applicant;

(10) If the application is made for the purpose of renewing a license, the applicant shall attach a copy of the license to be renewed.

(e) The completed application shall be accompanied by a nonrefundable application fee. The amount of the fee shall be set by resolution of the City Council.

(f) Upon receipt of an application and payment of the application fee, the Police Chief shall immediately stamp the application as received and promptly investigate the application.

(g) If the Police Chief determines that the applicant has completed the application improperly, the Police Chief shall promptly notify the applicant of such fact and grant the applicant an extension of time of not more than 10 days to complete the application properly. In addition, the applicant may request an extension, not to exceed 10 days of the time for the City Manager to act on the application. The time period for granting or denying a permit shall be stayed during the period in which the applicant is granted an extension of time.

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 18, Ord. 1161, eff. February 17, 2018)

§ 11-15.208. Investigation and action on application.

(a) Within five days after receipt of the fingerprint results, the Police Chief shall grant or deny the application and so notify the applicant as follows:

(1) The Police Chief shall write or stamp "Granted" or "Denied" on the application and

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date and sign such notation.

(2) If the application is denied, the Police Chief shall attach to the application a statement of the reasons for denial.

(3) If the application is granted, the Police Chief shall attach to the application an adult entertainment performer permit.

(4) The application as granted or denied and the permit, if any, shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the residence address in the application.

(b) The Police Chief shall grant the application and issue the permit unless the application is denied for one or more of the reasons set forth in Section 11-15.209.

(c) If the Police Chief grants the application or if the Police Chief neither grants nor denies the application within five days after receipt of fingerprint results (except as provided in Section 11-15.207), the applicant may begin performing in the capacity for which the license was sought.

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 18, Ord. 1161, eff. February 17, 2018)

§ 11-15.209. Permit denial.

The Police Chief shall deny the application for any of the following reasons:

(1) The applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a permit or in any report or document required to be filed with the application;

(2) The applicant is under 18 years of age;

(3) The adult entertainment performer permit is to be used for performing in a business prohibited by state or City law;

(4) The applicant has been convicted of any of the offenses enumerated in Section 11-15.207(d)(5) or convicted of an offense outside the State of California that would have constituted any of the described offenses if committed within the State of California. A permit may be issued to any person convicted of the described crimes if the conviction occurred more than five years prior to the date of the application.

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 18, Ord. 1161, eff. February 17, 2018)

§ 11-15.210. Permit renewal.

Each adult entertainment business performer permit shall expire one year from date of issuance and may be renewed only by filing with the Police Chief a written request for renewal, accompanied by the application fee and a copy of the permit to be renewed. The request for renewal shall be made at least 30 days before the expiration date of the permit. When made less than 30 days before the expiration date, the expiration of the permit will not be stayed. Applications for renewal shall be acted upon on as provided herein for applications for permits.

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 18, Ord. 1161, eff. February 17, 2018)

§ 11-15.211. Suspension or revocation of adult entertainment business regulatory permits

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and adult entertainment performer permits.

An adult entertainment business regulatory permit or adult entertainment performer permit may be suspended or revoked in accordance with the procedures and standards of this section.

(a) On determining that grounds for permit revocation exist, the Police Chief shall furnish written notice of the proposed suspension or revocation to the permittee. Such notice shall set forth the time and place of a hearing and the ground or grounds upon which the hearing is based, the pertinent Code sections, and a brief statement of the factual matters in support thereof. The notice shall be mailed, postage paid, addressed to the last known address of the permittee or shall be delivered to the permittee personally at least 10 days prior to the hearing date. Hearings shall be conducted in accordance with procedures established by the Police Chief but at a minimum shall include the following:

(1) All parties involved shall have a right to offer testimonial, documentary, and tangible evidence bearing on the issues; may be represented by counsel; and shall have the right to confront and cross examine witnesses. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness. The Police Chief's decision may be appealed in accordance with Section 11-15.212.

(b) A permittee may be subject to suspension or revocation of his or her permit, or be subject to other appropriate disciplinary action, for any of the following causes arising from the acts or omissions of the permittee, or an employee, agent, partner, director, stockholder, or manager or an adult entertainment business:

(1) In the case of a permittee of an adult entertainment business regulatory permit only, the building, structure, equipment, or location used by the adult entertainment business fails to comply with all applicable building, fire, electrical, plumbing, health, and zoning requirements of the Los Banos Municipal Code. All applicable State and Federal requirements of a similar nature which are customarily enforced by the City, and all provisions of these regulations and this Code relating to adult entertainment businesses, including the adult entertainment business and development performance standards contained in Section 11-15.301.

(2) The permittee has knowingly made any false, misleading, or fraudulent statement of material facts in the application for a permit, or in any report or record required to be filed with the City.

(3) The permittee, employee, agent, partner, director, stockholder, or manager of an adult entertainment business has knowingly allowed or permitted, and has failed to make a reasonable effort to prevent the occurrence of any of the following on the premises of the adult entertainment business, or in the case of an adult entertainment performer, the permittee has engaged in one of the activities described below whether on the premises of an adult entertainment business or not:

(i) Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation;

(ii) Use of the establishment as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation or masturbation openly occur;

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(iii) Any conduct constituting a criminal offense which requires registration under Section 290 of the California Penal Code;

(iv) The occurrence of acts of lewdness, assignation, or prostitution including any conduct constituting violations of Sections 315, 316, or 318 or Subdivision "b" of Section 647 of the California Penal Code;

(v) Any act constituting a violation of provisions in the California Penal Code relating to obscene matter or distribution of harmful matter to minors, including but not limited to Sections 311 through 313.4;

(vi) Any act prohibited by this chapter.

(4) Failure to abide by any disciplinary action previously imposed by an appropriate City official.

(c) After holding the hearing in accordance with the provisions of this section, if the Police Chief finds and determines that there are grounds for disciplinary action, based upon the severity of the violation, the Police Chief shall impose one of the following:

(1) A warning;

(2) Suspension of the permit for a specified period not to exceed six months;

(3) Revocation of the permit.

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 18, Ord. 1161, eff. February 17, 2018)

§ 11-15.212. Appeal of denial: Suspension or revocation.

After denial of an application for an adult entertainment business regulatory permit or an adult entertainment business performer permit, or after denial of renewal of a permit, or suspension or revocation of a permit, the applicant or person to whom the permit was granted may seek review of such administrative action by the City Council in accordance with the provisions of Section 11-15.502 of the Los Banos Municipal Code. If the denial, suspension, or revocation is affirmed on review, the applicant, permittee may seek prompt judicial reviews of such administrative action pursuant to California Code of Civil Procedure Section 1094.5. The court shall promptly review the action taken by the City Council.

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 18, Ord. 1161, eff. February 17, 2018)

§ 11-15.213. Additional permits required.

(a) No person shall act as an "escort" unless an escort permit is first obtained.

(b) No person shall act as a "figure model" in a modeling studio unless a figure model permit is first obtained. The issuance of a business license pursuant to Chapter 11-1 of this title shall not authorize acting as an "escort" or as a "figure model" in a modeling studio until the necessary regulatory permit has been lawfully granted.

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 18, Ord. 1161, eff. February 17, 2018)

§ 11-15.214. Application for escort or figure model permit.

(a) An applicant for an "escort" or "figure model" permit shall make an application under penalty of perjury to the Police Chief or authorized representative upon a form provided by

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the City of Los Banos. A nonrefundable fee, as established by resolution adopted by the City Council from time to time, shall be paid to the City of Los Banos to reimburse the City for the cost of the investigation. A copy of the receipt issued by the City of Los Banos finance department shall accompany the application. The permit fee required under this section is in addition to any other license or permit fee required by the Los Banos Municipal Code.

(b) The application for permit does not authorize the applicant to act as an "escort" or as a "figure model" until such permit has been granted.

(c) Every application submitted to the Police Chief shall include the following information:

(1) The applicant's full name, any other names used, date of birth, California driver's license number or California identification number, social security number, present resident address, telephone number, sex, height, weight, color of hair, and color of eyes;

(2) Previous two residence addresses of the applicant and the inclusive dates at each address;

(3) The applicant's business, occupation, and employment history for five years preceding the date of application and inclusive dates of same;

(4) The permit history of the applicant; whether such person ever had any permit or license issued to him or her by any other public entity in this State; the date of issuance of any such permit or license; whether any such permit or license has ever been revoked or suspended; and if any such license or permit has been revoked or suspended, the reason therefor;

(5) All convictions for any crimes involving conduct which requires registration under any State law similar to and including California Penal Code Section 290, or of conduct which is a violation of the provisions of any State laws similar to and including California Penal Code Sections243.4, 261, 261.5, 262, 266a, 266b, 266c, 266d, 266e, 266f, 266g,266h, 266i, 266j, 267, 309, 311.2, 311.3, 311.4, 311.5, 311.6, 311.10,311.11, 313.1, 314, 315, 316, 318, 647(a), 647(b), 647(d), or 647.6;

(6) Any offense requiring registration under the provisions of Section11590 of the California Health and Safety Code; or any felony offense involving the possession, possession for sale, sale, transportation, furnishing, giving away, of a controlled substance specified in Section11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code, or as those sections may hereafter be amended or renumbered;

(7) Whether such person is or has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other jurisdiction to engage in prostitution in such other jurisdiction. If any person mentioned in this subsection has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other State to engage in prostitution, a statement shall be submitted citing the place of such registration, licensing or legal authorization, and the inclusive dates during which such person was so licensed, registered, or authorized to engage in prostitution;

(8) Acceptable written proof that the applicant is at least 18 years of age;

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(9) A complete set of fingerprints acceptable to the Police Chief;

(10) The applicant shall make him or herself or herself available to the City of Los Banos police department in order to be photographed;

(11) Authorization for the City of Los Banos, its agents, and employees to seek information and conduct an investigation into the truth of the statements set forth in the application.

(d) Upon receipt of an application and payment of the application fee, the Police Chief shall immediately stamp the application as received and promptly investigate the application.

(e) If the Police Chief determines that the applicant has completed the application improperly, the Police Chief shall promptly notify the applicant of such fact and grant the applicant an extension of time of not more than 10 days to complete the application properly. The time period for granting or denying a permit shall be stayed during the period in which the applicant is granted an extension of time.

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 18, Ord. 1161, eff. February 17, 2018)

§ 11-15.215. Issuance of permits.

(a) Within five days after receipt of the complete application and fingerprint results, the Police Chief shall grant or deny the application and so notify the applicant as follows:

(1) The Police Chief shall write or stamp "Granted" or "Denied" on the application and date and sign such notation;

(2) If the application is denied, the Police Chief shall attach to the application a statement of the reasons for denial;

(3) If the application is granted, the Police Chief shall attach to the application the applicable escort permit or figure model permit;

(4) The application as granted or denied and the permit, if any, shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the residence address in the application.

(b) The Police Chief shall grant the application and issue the permit unless the application is denied for one or more of the reasons set forth in Section 11-15.216.

(c) If the Police Chief grants the application or if the Police Chief neither grants or denies the application within five days after receipt of the fingerprint results (except as provided in Section 11-15.213), the applicant may begin performing in the capacity for which the license was sought.

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 18, Ord. 1161, eff. February 17, 2018)

§ 11-15.216. Permit denial.

(a) The Police Chief shall deny the application for any of the following reasons:

(1) The applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a permit or in any report or document required to be filed with the application;

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(2) The applicant is under 18 years of age;

(3) That the applicant has had an "escort" or "figure model" permit denied or revoked for cause by this City within the last five years;

(4) The applicant has been convicted of any of the offenses enumerated in Section 11-15.207(d)(5) or convicted of an offense outside the State of California that would have constituted any of the described offenses if committed within the State of California. A permit may be issued to any person convicted of the described crimes if the conviction occurred more than five years prior to the date of the application;

(5) That the applicant has not paid the required fee to the City of Los Banos.

(b) Any refusal to issue a permit pursuant to this section or the suspensions, or revocation of a permit under the provisions of this section is appealable to the City Council in accordance with the provisions of Section 11-15.507 of the City of Los Banos Municipal Code. After the denial of any such appeal, the applicant may seek prompt judicial review of such administrative section in any court of competent jurisdiction pursuant to California Code of Civil Procedure Section 1094.5. The court shall promptly review the action taken by the City Council.

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 18, Ord. 1161, eff. February 17, 2018)

§ 11-15.217. Escort model and figure model permit renewal.

Each escort permit or figure model permit shall expire one year from date of issuance and may be renewed only by filing with the Police Chief a written request for renewal, accompanied by the application fee and a copy of the permit to be renewed. The request for renewal shall be made at least 30 days before the expiration date of the permit. When made less than 30 days before the expiration date, the expiration of the permit will not be stayed. Applications for renewal shall be acted upon as proved herein for applications for permits.

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 18, Ord. 1161, eff. February 17, 2018)

§ 11-15.218. Violation: Penalty.

Any person who violates the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be subject to punishment in a manner as provided by law.

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 18, Ord. 1161, eff. February 17, 2018)

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ARTICLE 3
FACILITIES AND EMPLOYEES

§ 11-15.301. Adult entertainment business development and performance standards.

(a) Maximum occupancy load, fire exits, aisles, and fire equipment shall be regulated, designed, and provided in accordance with the fire department and building regulations and standards adopted by the City of Los Banos.

(b) No adult entertainment business shall be operated in any manner that permits the observation of any material or activities depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" from any public way or from any location outside the building or area of such establishment. This provision shall apply to any display, decoration, sign, show window or other opening. No exterior door or window on the premises shall be propped or kept open at any time while the business is open, and any exterior windows shall be covered with opaque coverings at all times.

(c) All off-street parking area premises entries of the sexually oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot candle of light on the parking surface and/or walkways. The required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.

(d) The premises within which the adult entertainment business is located shall provide sufficient sound absorbing insulation so that noise generated inside the premises shall not be audible anywhere on any adjacent property or public right-of-way or within any other building or other separate unit within the same building.

(e) Except for those businesses also regulated by the State of California Department of Alcoholic Beverage Control, an adult entertainment business shall be open for business only between the hours of 8:00 a.m. and midnight on any particular day.

(f) The building entrance to an adult entertainment business shall be clearly and legibly posted with a notice indicating that persons under 18 years of age are precluded from entering the premises. The notice shall be constructed and posted to the satisfaction of the community development director or designee. No person under the age of 18 years shall be permitted within the premises at any time.

(g) All indoor areas of the adult entertainment business within which patrons are permitted, except for restrooms, shall be open to view by the management at all times.

(h) The adult entertainment business shall provide and maintain separate restroom facilities for male patrons and employees, and female patrons and employees. Male patrons and employees shall be prohibited from using the rest room(s) for females, and female patrons and employees shall be prohibited from using the rest room(s) for males, except to carry out duties of repair, maintenance, and cleaning of the rest room facilities. The rest rooms shall be free from all adult material. Restrooms shall not contain television monitors or other motion picture or video projection, recording or reproduction equipment. The foregoing provisions of this paragraph shall not apply to an adult entertainment business

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which deals exclusively with sale or rental of adult material which is not used or consumed on the premises, such as an adult bookstore or adult video store, and which does not provide rest room facilities to its patrons or the general public.

(i) The following additional requirements shall pertain to adult entertainment businesses providing live entertainment depicting specified anatomical areas or involving specified sexual activities, except for businesses regulated by the State of California Department of Beverage Control:

(1) No person shall perform live entertainment for patrons of an adult entertainment business except upon a stage at least eighteen (18″) inches above the level of the floor which is separated by a distance of at least ten (10′) feet from the nearest area occupied by patrons, and no patron shall be permitted within ten (10′) feet of the stage while the stage is occupied by an entertainer. "Entertainer" shall mean any person who is an employee or independent contractor of the adult entertainment business, or any person who, with or without any compensation or other form of consideration, performs live entertainment for patrons of an adult entertainment business.

(2) The adult entertainment business shall provide separate dressing rooms for entertainers which are exclusively dedicated to the entertainers' use.

(3) The adult entertainment business shall provide an entrance/exit for entertainers which is separate from the entrance used by patrons.

(4) The adult entertainment business shall provide access for entertainers between the stage and the dressing rooms which is completely separated from the patrons. If such separate access is not physically feasible, the adult business shall provide a minimum three (3') foot wide walk aisle for entertainers between the dressing room area and the stage, with a railing, fence, or other barrier separating the patrons and the entertainers capable of (and which actually results in) preventing any physical contact between patrons and entertainers.

(5) No entertainer, either before, during or after performances, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during or after performances by such entertainer. This subsection shall only apply to physical contact on the premises of the adult entertainment business.

(6) Fixed rail(s) at least thirty (30″) inches in height shall be maintained establishing the separations between entertainers and patrons required by this subsection.

(7) No patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any patron.

(8) No owner or other person with managerial control over an adult entertainment business (as that term is defined in this chapter) shall permit any person on the premises of the adult oriented business to engage in a live showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque coverage, and/or the female breast with less than a fully opaque coverage, and/or the female breast with less than a fully opaque coverage over any part of the nipple or areola and/or covered male genitals in a discernibly turgid state. This provision may not be complied with applying an opaque covering simulating the appearance of the specified anatomical part required to be covered.

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(j) Adult entertainment businesses shall employ security guards in order to maintain the public peace and safety, based upon the following standards:

(1) Adult entertainment businesses featuring live entertainment shall provide at least one security guard at all times while the business is open. If the occupancy limit of the premises is greater than 35 persons, an additional security guard shall be on duty.

(2) Security guards for other adult entertainment businesses may be required if it is determined by the Police Chief that their presence is necessary in order to prevent any of the conduct listed in Section 11-15.210(b)(3) from occurring on the premises.

(3) Security guards shall be charged with preventing violations of law and enforcing compliance by patrons of the requirements of these regulations. Security guards shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public and shall be duly licensed as a security guard as required by applicable provisions of State law. No security guard required pursuant to this subsection shall act as a door person, ticket seller, ticket taker, admittance person, or sole occupant of the manager's station while acting as a security guard.

The foregoing applicable requirements of this section shall be deemed conditions of adult entertainment business regulatory permit approvals and failure to comply with every such requirement shall be grounds for revocation of the permit issued pursuant to these regulations.

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 19, Ord. 1161, eff. February 17, 2018)

§ 11-15.302. Register and permit number of employees.

Every permittee of an "adult entertainment business" which provides live entertainment depicting specified anatomical areas or involving specified sexual activities must maintain a register of all persons so performing on the premises and their permit numbers. Such register shall be available to inspection during regular business hours by any police officer of the City or health officer as designated by the City.
(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 19, Ord. 1161, eff. February 17, 2018)

§ 11-15.303. Display of permit and identification cards.

(a) Every "adult entertainment business" shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for such "adult entertainment business" in a conspicuous place so that the same may be readily seen by all persons entering the "adult entertainment business."

(b) The Police Chief shall provide each adult entertainment business performer required to have a permit pursuant to the chapter with an identification card containing the name, address, photograph, and permit number of such performer.

(c) The Police Chief shall provide each "escort" or "figure model" granted a permit with an identification card containing their name, address, photograph, and permit number of the "escort" or "figure model."

(d) An "escort" shall carry such card at all times while providing escort services.

(e) A "figure model" shall have such card available for inspection at all times during the hours

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of operation of the model studio.

(f) An adult entertainment business performer shall have such card available for inspection at all times during which such person is on the premises of the adult entertainment business.

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 19, Ord. 1161, eff. February 17, 2018)

§ 11-15.304. Employment of and services rendered to persons under the age of 18 years prohibited.

(a) It is unlawful for any permittee, operator, or other person in charge of any "adult entertainment business" to employ any person who is not at least 18 years of age.

(b) It is unlawful for any permittee, operator, or other person in charge of any adult oriented business, to permit to enter, or remain within the adult oriented business, any person who is not at least 18 years of age.

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 19, Ord. 1161, eff. February 17, 2018)

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ARTICLE 4
MISCELLANEOUS PROVISIONS

§ 11-15.401. Inspection.

An applicant or permittee shall permit representatives of the Police Department, Health Department, Fire Department, Planning Division, or other City departments or agencies to inspect the premises of an adult entertainment business for the purpose of insuring compliance with the law and the development and performance standards applicable to adult entertainment businesses at any time it is occupied or opened for business. A person who operates an adult entertainment business or his or her agent or employee is in violation of the provisions of this section if he/she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.
(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 20, Ord. 1161, eff. February 17, 2018)

§ 11-15.402. Regulations nonexclusive.

The provisions of this article regulating adult entertainment businesses are not intended to be exclusive and compliance therewith shall not excuse noncompliance with any other regulations pertaining to the operation of businesses as adopted by the City Council of the City of Los Banos.
(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 20, Ord. 1161, eff. February 17, 2018)

§ 11-15.403. Employment of persons without permits unlawful.

(a) It is unlawful for an owner, operator, manager, or permittee in charge of, or in control of an "adult entertainment business" which provides live entertainment depicting specified anatomical areas or involving specified sexual activities to allow any person to perform such entertainment who is not in possession of a valid, unrevoked adult entertainment business performer permit.

(b) No permittee or operator of an escort service shall allow or permit a person to act as an "escort" for such service unless said person possesses a valid escort permit under the provisions of this article. It shall be the responsibility of the permittee and the operator to ensure that each such person employed as an "escort" shall first have obtained a valid permit pursuant to this article.

(c) No permittee or operator of a model studio shall allow or permit a person to act as a "figure model" for such studio unless the person possesses a valid figure model permit under the provisions of this article. It shall be the responsibility of the permittee and the operator to ensure that each such person employed as a "figure model" shall have first obtained a valid permit pursuant to this article.
(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 20, Ord. 1161, eff. February 17, 2018)

§ 11-15.404. Time limit for filing application for permit.

All persons who possess an outstanding business license heretofore issued for the operation of an "adult entertainment business" and all persons required by this chapter to obtain an adult entertainment business performer permit, or an escort permit, or a figure model permit must apply for and obtain such a permit within 90 days of the effective date of this chapter. Failure to do so and continued operation of an "adult entertainment business" or continued employment as an "escort" or "figure model" or the continued performances depicting specified anatomical

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areas or specified sexual activities after such time without a permit shall constitute a violation of this chapter.
(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 20, Ord. 1161, eff. February 17, 2018)

§ 11-15.405. Certain conduct in bars prohibited.

The City Council of the City of Los Banos finds that barroom nudity is a direct cause of increased demand for police services in and about such establishments, and finds further that the activities commonly engaged in by both employees and patrons of such establishments are inimical to the public welfare in that nudity in such establishments has been demonstrated to increase the occurrence of illegal activity in and occurring around such establishments. Accordingly, the following acts or conduct on the premises of any bar are deemed contrary to the public interest and welfare and the best interests of the community and, therefore:

(a) No bar owner or operator or an employee thereof shall permit any person on the premises to display or expose his or her genitals, pubic hair, buttocks, anal region, or any portion of the female breast at or below the areola thereof;

(b) No bar owner or operator or employee therefor shall permit any person on the premises to perform "specified sexual activities" as defined in Section 11-15.109.
(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 20, Ord. 1161, eff. February 17, 2018)

§ 11-15.406. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.
(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 20, Ord. 1161, eff. February 17, 2018)

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ARTICLE 5
APPEALS

§ 11-15.501. Right to appeal.

Except as otherwise specifically provided in this Code, any person excepting to the denial, suspension, or revocation of a permit applied for or held by him or her pursuant to any of the provisions of this Code, or to any administrative decision made by any official of the City pursuant to any of the provisions of this Code, may appeal in writing to the City Council by filing with the City Clerk a written notice of such appeal, setting forth the specific grounds thereof.
(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 21, Ord. 1161, eff. February 17, 2018)

§ 11-15.502. Filing appeal.

A notice of appeal must be filed with the City Clerk within the following time limits:

(a) When written notice of the action or decision, from which the appeal is taken, is required to be given, a notice of appeal must be filed with the City Clerk within 15 days of such notice being given.

(b) When written notice of the action or decision, from which the appeal is taken, is not required or given, a notice of appeal must be filed with the City Clerk within 30 days after the date of the action or decision.

(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 21, Ord. 1161, eff. February 17, 2018)

§ 11-15.503. Setting hearing.

Whenever a notice of appeal is filed with the City Clerk in proper form and with any fee that may be required, the City Clerk shall set the matter for hearing before the City Council within 30 days after the date of the filing of the notice of appeal with the City Clerk. The City Clerk shall give written notice of the time and place of the hearing to the appellant and any other persons requesting notice not less than 10 days prior to such hearing.
(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 21, Ord. 1161, eff. February 17, 2018)

§ 11-15.504. Hearings.

At such hearing, the appellant shall show cause on the ground specified in the notice of the appeal why the action expected to should not be sustained. The City Council may continue the hearing from time to time. The City Council shall render its decision by resolution not more than 40 days after the close of the hearing and its decision in the matter shall be final and conclusive.
(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 21, Ord. 1161, eff. February 17, 2018)

§ 11-15.505. Notice.

A written notice shall be considered as having been given whenever it has been either personally delivered or deposited in the United States mail, postage prepaid, and addressed to the person entitled to receive such notice.
(§ 1, Ord. 919, eff. March 19, 1997, as amended by § 21, Ord. 1161, eff. February 17, 2018)

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Chapter 16
Massage Establishments And Therapists

ARTICLE 1
GENERAL PROVISIONS

§ 11-16.101. Purpose—Authority.

It is the purpose and intent of this chapter to provide for the orderly regulation of massage therapists and massage establishments, in the interest of the public health, safety and welfare. The City wishes both to recognize the practice of massage as a valid professional field and to discourage prostitution and other unlawful activity which otherwise may become associated with some massage establishments.

This chapter relies upon the State certification process of the California Massage Therapy Council under California Business and Professions Code Section 4600 et seq.

In addition, this chapter provides certain minimum standards for the operation of massage establishments, their managing employees, and massage therapists and practitioners.

This chapter is adopted under the authority of Government Code Sections 51030 through 51034, Government Code Section 37101, Business and Professions Code section 16000, and California Constitution Article XI, Section 7.
(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.102. Definitions.

For purposes of this chapter, unless the context clearly indicates otherwise, certain words and phrases shall have the meaning given to them in this section:

"Applicant" means any person who applies for a license as required by this chapter. In the event the applicant is a non-natural person (e.g., a corporation), the term applicant shall also include the responsible person legally authorized to act on behalf of the applicant and, submit an application to the City pursuant to this chapter.

"California Massage Therapy Council" or "CAMTC" means the California Massage Therapy Council created under Business and Professions Code Section 4602.

"Certified massage practitioner" or "practitioner" means a person who is currently certified as a massage practitioner by the CAMTC pursuant to Business and Professions Code Section 4604.2. A certified massage practitioner or practitioner shall comply with the requirements of this chapter, and the provisions of the Massage Therapy Act under California Business and Professions Code Section4600 et seq.

"Certified massage therapist" or "therapist" means a person who is currently certified as a massage therapist by the CAMTC pursuant to Business and Professions Code Section 4604. A Certified massage therapist or therapist shall comply with the requirements of this chapter, and the provisions of the Massage Therapy Act under California Business and Professions Code Section 4600 et seq.

"Director" means the Community and Economic Development Director or any other person the City Manager may designate to administer the Massage permitting program.

"Exempt massage therapist" or "city permitted massage therapist" means a massage therapist

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who has as of January 1, 2018 a valid City issued massage therapist permit and or valid City issued business license and who on or before June 1, 2018 applied to the City and was granted an exemption to the State certification requirement. An exempt therapist or City permitted therapist shall comply with the requirements of this chapter, and the provisions of the Massage Therapy Act under California Business and Professions Code Section4600 et seq., except for the State certification requirements.

"Massage" or "massage therapy" means any method of treating the external parts of the body for remedial, health, or hygienic purposes for any form of compensation by means of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating, of the external parts of the body with hands or other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances; or with or without such supplementary aids as rubbing alcohol, liniments, antiseptic, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice; or by baths, including but not limited to Turkish, Russian, Swedish, Japanese, vapor, shower, electric tub, sponge, mineral, mud, fermentation or any other type of bath.

"Massage establishment" means a fixed location where certified massage therapists, certified massage practitioners or exempt therapists practice massage, excluding those locations where massage is performed on an outcall basis, as provided in Business and Professions Code Section 4601(f). The following are not considered massage establishments under this chapter: a hospital, nursing home, sanitarium, physiotherapy establishment, office of a licensed medical professional, or other State licensed physical or mental health professional or facility; nor athletic clubs, health club, or fitness facilities, when the giving of massage is an incidental function of the business.

"Outcall massage service" means a business which provides massage at a location designated by the client or the massage therapist, practitioner, or exempt therapist other than at a massage establishment.

"Owner" means an individual natural person, firm, corporation, association, organization, partnership, limited liability company, business trust, corporation or company that owns, has an equity interest in, or shares a percentage of massage therapy proceeds with, a massage establishment.
(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.103. Exemptions.

The provisions of this chapter shall not apply to the following classes of individuals or businesses while engaged in the performance of their duties:

(a) Physicians, surgeons, nurses, chiropractors, osteopaths, acupuncturists, podiatrists, physical therapists, who are duly licensed to practice their respective professions, in the State of California under the provisions of Division 2 (commencing with Section 500) of the Business and Professions Code.

(b) Persons operating or employed at hospitals, nursing homes, sanitariums, or any other health facility duly licensed by the State of California.

(c) 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.

(d) Persons operating or employed at athletic clubs or fitness facilities, where such facility is

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designed and equipped for indoor sports, exercise, or physical education, and where massage services are provided at such facilities and incidental to the function of the business; however any person performing massage at such facilities shall be CAMTC certified massage therapist, CAMTC certified massage practitioner, or an Exempt massage therapist or City permitted massage therapist as defined in this chapter.

(e) 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, so long as the barber, cosmetologist or esthetician limits any massages he/she performs in the course of his/her professional duties to the neck, face and/or scalp, hands or feet of the clients when that massage is accessory to and within the scope of the barber's, cosmetologist's, and esthetician's State license.

(f) Enrolled students of a school of massage when they are performing massage within the City as part of a formal supervised internship or training wherein the student receives school credit, operated by the school, without receiving any form of compensation, including tips, on the premises of a massage establishment duly authorized to operate in the City.

(g) Persons performing a therapeutic modality for which the State does not offer licenses or certification under the provisions of Division 2 (commencing with Section 500) of the Business and Professions Code and the modality is performed with minimal touching and the client remains fully clothed at all times, such as Reiki, Reflexology, Rolfing or the Bowen Technique.

(§ 1, Ord. 1162, eff. March 7, 2018)

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ARTICLE 2
MASSAGE THERAPISTS

§ 11-16.201. CAMTC certification required: Business license.

(a) Except as otherwise provided in this chapter, no person may practice or perform massage or massage therapy in the City without having a valid and unexpired CAMTC certification pursuant to Business and Professions Code Section 4604, 4604.1, or 4604.2.

(b) An independent contractor performing massages in the City shall have a valid and current City issued business license.

(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.202. Exemption from CAMTC certification.

(a) A massage therapist or practitioner who has as of January 1, 2018 a valid City issued massage therapist permit and or valid City issued business license shall be exempt from the State certification requirements of this chapter, if on or before May 1, 2018 he or she applies with the City and is granted an exemption to the State certification requirement by the Director based upon the following criteria:

(1) The massage therapist or practitioner who as of January 1, 2018 has practiced or performed massage in the City pursuant to a valid City issued massage therapist permit and or valid City issued business license;

(2) The massage therapist or practitioner has completed one of the following requirements:

(A) Five hundred hours of instruction in a massage specialty and therapeutic approach at a recognized school of massage;

(B) Two hundred fifty hours of such instruction and an additional 500 documented hours of practical experience in a massage specialty and therapeutic approach in one or a combination of the following: (i) a primary office of and under the direct supervision of a medical professional licensed by the State of California; specifically, a physician, surgeon, chiropractor, osteopath, physical therapist, or nurse, while such medical professional is performing activities encompassed by such license and is physically on the premises where the massage therapy is being administered, (ii) continuing education classes or seminars in the field of massage therapy offered by a recognized school of massage, and (iii) as a permitted massage therapist trainee working under direct supervision of a permitted massage therapist; or

(C) Has passed an independently prepared and administered national certification exam which has been recognized by objective standards to fairly evaluate professional level, skill, safety, and competence as determined by the National Commission for Certifying Agencies (NCCA).

(3) The massage therapist or practitioner has not been convicted of committing any act punishable as a sexually related crime or being required to register pursuant to the Sex Offender Registration Act (Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1 of the Penal Code); or is not required to register as a sex offender in another

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State; or has not been convicted of violating subdivision (b) of Section647 of the Penal Code.

(4) That the massage therapist or practitioner has not violated any provision of this chapter or any similar ordinance, law, rule, or regulation of another public agency which regulates the operation of massage establishments or massage therapists or practitioners.

(5) Certificate from a physician licensed to practice in the State of California stating that the massage therapist or practitioner has tested negative for tuberculosis. If the massage therapist or practitioner has tested positive, the therapist or practitioner must submit documentation from a physician licensed to practice in the State of California that the tuberculosis is not in an active State and the massage therapist or practitioner is asymptomatic.

(b) A massage therapist or practitioner who qualifies and receives an exemption from the State certification requirement shall obtain a City issued massage therapist permit pursuant to this chapter and shall comply with the applicable requirements of this chapter.

(c) The Director shall make a determination to approve, conditionally approve or deny the exemption within a reasonable period of time after submittal of a complete application. Upon the approval of an application for an exemption from the State certification requirement, the Director shall issue a massage therapist permit to the applicant within 10 business days of approval.

(d) The Director may issue a City issued massage therapist permit upon such conditions he or she deems necessary to adequately protect members of the public in their patronage or dealings with the Exempt massage therapist or to reduce the incidence, detect the commission, or identify perpetrators of crime. Such conditions may be imposed at the time a City issued massage therapist permit is initially issued, upon renewal of the permit, or at any time during the term of the permit.

(e) On determining that grounds for denial of an initial application exist, the Director shall furnish written notice of the proposed denial to the applicant stating the reasons therefor, and serving the notice and a copy of this chapter or any otherwise applicable code sections, upon the applicant, in person or by regular mail. The applicant shall be given an opportunity to appear and meet with the Director contest the proposed decision to deny the application and to show cause why the application should not be denied.

(f) After holding the meeting described in subsection (e) herein, or if the applicant does not request a meeting, upon determining that there are sufficient grounds, the Director shall:

(1) Approve the application;

(2) Conditionally approve the application;

(3) Deny the application.

(g) The decision of the Director shall become effective 14 days following the date of service (either by regular mail or personally) upon the applicant of the notice of decision.

(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.203. City permitted massage therapist permit renewal.

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(a) A City permitted massage therapist who qualifies and receives an exemption under Section 11-16.202 shall file an annual renewal application on the required form provided by the Director for a City issued massage therapist permit. Failure to annually renew the massage therapist permit shall invalidate the exemption to the State certification requirement for the City permitted massage therapist. The Director shall make a determination to approve, conditionally approve or deny the renewal application.

(b) The Director may deny the renewal application for a City issued massage therapist permit for any of the following reasons:

(1) If the City permitted massage therapist made a material misstatement or omission in the application or in a previous application. If the Director finds substantial evidence that an application contains a knowing or intentional material misstatement or omission;

(2) The City permitted massage therapist violated any provision of this chapter and the permit was previously suspended or revoked for any violation of this chapter;

(3) The City permitted massage therapist violated any provision of this chapter on more than one occasion; provided, that the City permitted massage therapist received timely notice of each violation;

(4) The City permitted massage therapist has been convicted of or pled guilty or no contest to committing any act punishable as a sexually related crime or being required to register pursuant to the Sex Offender Registration Act (Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1 of the Penal Code); or is required to register as a sex offender in another State, or has been convicted of violating subdivision (b) of section 647 of the Penal Code;

(5) The City permitted massage therapist has committed any of the acts described in subdivision (a) of Section 4609 of the Business and Professions Code.

(c) On determining that grounds for denial of a renewal application exist, the Director shall furnish written notice of the proposed denial to the applicant stating the reasons therefor, and serving the notice and a copy of this chapter or any otherwise applicable code sections, upon the applicant, in person or by regular mail. The applicant shall be given an opportunity to appear and meet with the Director contest the proposed decision to deny the application and to show cause why the application should not be denied.

(d) After holding the meeting described in subsection (c) herein, or if the applicant does not request a meeting, upon determining that there are sufficient grounds, the Director shall:

(1) Approve the application;

(2) Conditionally approve the application;

(3) Deny the application.

(e) The decision of the Director shall become effective 14 days following the date of service (by mail or personally) upon the applicant of the notice of decision.

(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.204. City permitted massage therapist: Suspension: Revocation.

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(a) The Director may suspend or revoke a City issued massage therapist permit for any of the following reasons:

(1) The City permitted massage therapist consumed non prescribed controlled substances in a massage establishment;

(2) Any of the grounds for denial of the City issued massage therapist permit would apply;

(3) The City permitted massage therapist performed, solicited or in any way made available any service that is not a legitimate, recognized massage service;

(4) The City permitted massage therapist provided and/or continues to provide massage in a manner that poses a danger to the health and safety of clients or the public; or

(5) The City permitted massage therapist failed to correct a violation of this chapter after notification from the Director.

(b) On determining that grounds for revocation or suspension exist, the Director shall furnish written notice of the proposed revocation or suspension to the permittee stating the reasons therefor, and serving the notice and a copy of this chapter or any otherwise applicable code sections, upon the permittee, in person or by regular mail. The permittee shall be given an opportunity to appear and meet with the Director contest the proposed decision to suspend or revoke the permit and to show cause why the permit should not be suspended or revoked.

(c) After holding the meeting described in subsection (b) herein, or if the applicant does not request a meeting, upon determining that there are sufficient grounds, the Director shall:

(1) Issue a warning;

(2) Impose reasonable conditions on the permit;

(3) Suspend the permit for a specified period not to exceed six months;

(4) Revoke the permit.

(d) The decision of the Director shall become effective 14 days following the date of service (either by regular mail or personally) upon the applicant of the notice of decision.

(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.205. Registration requirement.

(a) On or before May 1, 2018, a massage therapist, practitioner, or a City permitted massage therapist shall, prior to performing massage in the City, and annually thereafter, register with the Community and Economic Development Department prior to providing massage services. The registration application shall include, at a minimum, the following information: name, address, telephone number(s), place(s) of employment, whether the applicant intends to engage in "outcall massage" and evidence of certification from the CAMTC or a City issued therapist permit. The massage therapist, practitioner, or a City permitted massage therapist shall notify the Community and Economic Development Department within 10 days of any change in the information provided, except a certified massage therapist or certified massage practitioner shall immediately notify the Community and Economic Development Department if CAMTC suspends or revokes the

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registrant's certification or takes other disciplinary action against the massage therapist or practitioner.

(b) Prior to any new employee or independent contractor performing massage at a massage establishment, a massage establishment shall provide the Director with an updated list stating the number of massage therapists or practitioners or exempt therapists, performing massage at the establishment, the full name, date of birth, current address, and telephone number of each person who performs or will perform massage at the establishment, the identification number and expiration date of each therapist's CAMTC certificate or City issued massage therapists permit.

(§ 1, Ord. 1162, eff. March 7, 2018)

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ARTICLE 3
REGULATION OF MASSAGE ESTABLISHMENTS

§ 11-16.301. Massage establishment permit.

(a) Except as otherwise provided in this chapter, no person may own or operate a massage establishment in the City unless the owner obtains, and continues to maintain, a current and valid massage establishment permit issued by the City.

(b) Any owner operating a massage establishment as of the effective date of this ordinance shall apply for a massage establishment permit on or before May 1, 2018, and may temporarily continue to operate subject to the provisions of this chapter until a massage establishment permit is either issued or denied by the City.

(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.302. Massage establishment permit application procedure.

(a) The owner of a proposed massage establishment shall be the only person eligible to obtain a massage establishment permit for such business. The owner shall not be eligible to obtain a massage establishment permit unless the owner is at least 18 years of age. A separate permit is required for each massage establishment location.

(b) The following shall be submitted to the Community and Economic Development Department at the time of application for a massage establishment permit:

(1) A completed application form signed by: (i) the applicant; and (ii) either the record owner of the property or the lessor of the premises (if the business premises are leased to the applicant business) where the massage establishment is to be conducted. The application shall include the applicant's full legal name and contact information, the address where the applicant desires to do business, and such other information as the Community and Economic Development Department may reasonably require.

(2) Background Check. Each applicant shall submit the following:

(A) Information related to the applicant's business, occupation and employment history for the 10 years preceding the date of application, and the inclusive dates of same.

(B) The name and address of any massage business or other like establishment owned or operated by the applicant, the name of all partners and co-owners in each business, and a detailed description of any discipline, suspension or revocation for each such business.

(C) A description of any other business located in the City of Los Banos even if not massage related, that is owned or operated by the applicant.

(D) A description regarding any felony or misdemeanor convictions of the applicant and all owners within the last five years, any outstanding warrants for arrest and any pending criminal case.

(E) The applicant's fingerprints on a form provided by the Police Department. Any fees for the fingerprints and LiveScan shall be paid by the applicant.

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(3) Two color photographs, taken within six months prior to the date of the application, that clearly show the applicant's face. Any fees for the photographs shall be paid by the applicant.

(4) A written description of the proposed massage establishment and how it will satisfy the requirements of this chapter.

(5) The register of massage therapists and practitioners required by Section 11-16.310 herein.

(6) A statement signed by the applicant certifying under penalty of perjury that all of the information submitted in connection with the application is true and correct.

(7) A nonrefundable application fee in an amount set by resolution of the City Council.

(c) The Director may request such other additional information and/or documentation as deemed necessary to determine whether the proposed business operations and premises comply with applicable local, State or Federal laws.

(d) Upon submittal of a complete application and payment of all applicable fees, the massage establishment permit application shall be reviewed by the Director and may be reviewed by any City department or any governmental agency deemed necessary by the Director, to determine if the business operations and premises to be occupied meet the requirements of Federal, State, or local laws. The Director may also refer to any governmental agency any information submitted by persons subject to the provisions of this chapter in connection with the conduct of a business regulated, or supervised, or otherwise the concern of any such agency, including agencies concerned with health regulations, zoning conformance, fire safety, police considerations or any other safeguard of the public interest. City personnel may investigate and inspect the premises of the business for the purpose of assuring that the premises comply with all applicable local and State laws.

(e) The Director shall make a determination to approve, conditionally approve or deny the massage establishment permit within a reasonable period of time after submittal of a complete application.

(f) Upon the approval of an application for a massage establishment permit and payment of the required fees, the Director shall issue a massage establishment permit to the applicant within 10 business days of approval.

(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.303. Massage establishment permit conditions of approval.

(a) The Director may issue a massage establishment permit upon such conditions relating to the method or manner of operation of the business as he or she deems necessary to adequately protect members of the public in their patronage or dealings with the business or to reduce the incidence, detect the commission, or identify perpetrators of crime. Such conditions may be imposed at the time a massage establishment permit is initially issued, upon renewal of the permit, or at any time during the term of the permit. The conditions may include, but are not limited to, the following:

(1) No permittee, or any employee or independent contractor of a massage establishment, shall engage in, or allow, any of the acts prohibited by California Business and

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Professions Code Section 4609. A violation of that section shall be considered a violation of this chapter. A violation by an employee or independent contractor shall be deemed a violation by the massage establishment.

(2) Every massage establishment shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for such business. The permit shall be displayed in a conspicuous place so that it may be readily seen by all persons entering the massage establishment.

(3) If an individual's CAMTC certification or City issued permit is suspended or revoked or if the individual is not CAMTC certified (excepting an exempt therapist), the massage establishment may not allow that person to provide massage services, including outcall massage services, at or through the massage establishment business.

(4) The massage establishment must notify the City immediately upon the establishment's notice of any disciplinary action taken by the CAMTC regarding one of the establishment's certified massage therapists or massage practitioners and submit a copy of any notice or order.

(5) Any act or omission of anyone providing massage at the establishment's location, whether as an employee or an independent contractor, which constitutes a violation of this chapter shall also be deemed to be an act or omission of the massage establishment.

(6) Compliance with all Federal, State and local laws, and the requirements of this chapter.

(7) The permittee shall have a valid and current City issued business license.

(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.304. Massage establishment permit nontransferable.

(a) No person shall operate a massage establishment under the authority of a massage establishment permit at any place other than the address of the massage establishment stated in the application for the permit. The Director may approve a change of location, provided the massage establishment complies with all ordinances and regulations of the City.

(b) No massage establishment permit issued pursuant to this chapter shall be transferable to any other person or entity.

(c) Any attempt to transfer a massage establishment permit is hereby declared invalid and the permit shall automatically become void effective the date of such attempted transfer.

(d) Nothing in this section shall prevent the Director from approving a second massage establishment permit for a single location provided that the holder of the massage establishment permit previously approved for such location consents in writing to the automatic expiration of such previously approved permit upon the effective date of such second permit.

(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.305. Term of massage establishment permit: Renewal.

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(a) A massage establishment permit issued under this chapter shall be valid for one year from the date of issuance unless suspended or revoked.

(b) A holder of a massage establishment permit issued under this chapter shall submit an application for renewal no later than 30 calendar days prior to the expiration of the permit issued for such establishment. The renewal application shall be submitted together with a nonrefundable renewal fee in an amount established by resolution of the City Council. Applications for renewal of a massage establishment permit shall be processed in accordance with the procedures governing initial applications.

(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.306. Grounds for denial of a massage establishment permit.

(a) The Director shall deny an initial application for a massage establishment permit or an application for renewal of a massage establishment permit on any of the following grounds:

(1) That the applicant, massage establishment, permittee, responsible person and/or owners of the massage business, have engaged in unlawful activity, or been convicted of any of the following offenses or convicted of an offense outside the State that would have constituted any of the following offenses if committed within the State:

(A) Penal Code Section 266i, 315, 316, 318 or 647(b) of the State or that the massage personnel or the owners of a massage establishment are required to register under Penal Code Section 290,

(B) Any felony offense involving the sale of a controlled substance specified in the Health and Safety Code Section 11054, 11055, 11056, 11057 or11058,

(C) Any crime or unlawful activity, on the basis of which the Chief of Police reasonably concludes that by reason of the nature of the crime or activity, the applicant's operation of a massage establishment would pose a risk of harm to the public;

(2) That the applicant/responsible person, owners and/or employees of the massage business have engaged in unprofessional conduct, including but not limited to, personal conduct or operation of a business resulting in denial of a license or permit, revocation, suspension, restriction, or any other disciplinary action taken against an applicant, permittee, licensee, responsible person, owner and/or employee by the City, by the State, by any other governmental agency, or by CAMTC;

(3) That the massage establishment is not operated in a manner, or housed within a building, which complies with all City, State, Federal or otherwise applicable, codes, rules, regulations or laws, or CAMTC rules or regulations;

(4) That the applicant failed to provide information in connection with the application requested by the City, preventing the Director or the Chief of Police from making his or her determination as to suitability to conduct work at the business;

(5) That the applicant does not meet the qualifications necessary for issuance of a massage establishment license as required by this Code;

(6) That statements made in the application or any information submitted supplementary to the application are incorrect or untrue;

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(7) That the responsible person is under the age of 18 years of age;

(8) That, based on specific facts identified by the Director, the Director reasonably concludes that the operation of the proposed massage establishment would pose a risk to the public, that the applicant would not conduct the business in a law abiding or professional manner, and/or that the operation of the proposed business would subject patrons of the business to a risk of harm or criminal, deceitful or otherwise unethical practices;

(9) That another massage establishment is or was operating at that same location and any of the following are true:

(A) The other business's massage establishment permit is suspended or was revoked or denied renewal for cause within the previous five years,

(B) The Director has served a notice of suspension, revocation, or denial of renewal regarding the other business's massage establishment license within the previous 15 days, or

(C) An appeal from a notice of suspension, revocation, or denial of renewal is pending;

(10) The applicant is found to have committed a crime involving moral turpitude that is substantially related to the business activity for which the massage establishment permit is being sought;

(11) The business or the activities or conduct of the business at the proposed fixed location is prohibited by any provision of this Code or any local, State or Federal law, statute, rule or regulation;

(12) The applicant has been convicted of or pled guilty or no contest to committing any act punishable as a sexually related crime or being required to register pursuant to the Sex Offender Registration Act (Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1 of the Penal Code); or is required to register as a sex offender in another State; or has been convicted of violating subdivision (b) of Section647 of the Penal Code; or

(13) The prescribed fees for the application or renewal have not been paid.

(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.307. Process for denial of a massage establishment permit.

(a) On determining that grounds for denial of an initial application or a renewal exist, the Director shall furnish written notice of the proposed denial to the applicant stating the reasons therefor, and serving the notice and a copy of this chapter or any otherwise applicable code sections, upon the applicant, in person or by regular mail. The applicant shall be given an opportunity to appear and meet with the Director contest the proposed decision to deny the application for the massage establishment permit and to show cause why the application for the massage establishment permit should not be denied.

(b) After holding the meeting described in subsection (a) herein, or if the applicant does not request a meeting, upon determining that there are sufficient grounds, the Director shall:

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(1) Approve the application;

(2) Conditionally approve the application;

(3) Deny the application.

(c) The decision of the Director shall become effective 14 days following the date of service (either by regular mail or personally) upon the applicant of the notice of decision. If the applicant files an appeal within the time and manner prescribed, the permit (in the case of a renewal) shall remain in effect until the appeal is finally determined.

(d) After an establishment permit has been denied, no re-application for an establishment permit will be accepted within one year of the date of final determination from any person, applicant, owner, operator, manager, massage therapist, or any other person or persons, partnership, or corporation who was listed on an establishment permit or application unless the Director determines that the reason for denial has been cured and no longer exists.

(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.308. Suspension or revocation of a permit.

The Director may revoke or suspend a massage establishment permit on any of the following grounds:

(a) That pursuant to Section 11-16.306, grounds for denial of an initial application for a massage establishment permit exist, including, but not limited to, untrue statements made in the application or conviction of a crime that would inhibit the person's ability to conduct the business in a law abiding manner; or

(b) The business has operated in a manner, or is housed on premises or within a building which violates or is in violation of any City, State, Federal, or otherwise applicable codes, rules, regulations or laws, or CAMTC rules or regulations, including, but not limited to, violations by the responsible person or employees; or

(c) The permittee has violated one or more conditions imposed upon the permit.

(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.309. Process for revocation or suspension.

(a) On determining that grounds for permit suspension or revocation exist, the Director shall furnish written notice of the proposed suspension or revocation to the permittee stating the reasons therefor, and serving the notice and a copy of this chapter or any otherwise applicable code sections, upon the holder of the permit, in person or by regular mail. The permittee shall be given an opportunity to appear and meet with the Director contest the proposed decision to suspend or revoke the massage establishment permit and to show cause why the massage establishment permit should not be revoked or denied.

(b) After holding the meeting described in subsection (a) herein, or if the applicant does not request a meeting, upon determining that there are sufficient grounds, the Director shall:

(1) Issue a warning;

(2) Impose reasonable conditions on the permit;

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(3) Suspend the permit for a specified period not to exceed six months;

(4) Revoke the permit.

(c) The decision of the Director shall become effective 14 days following the date of service (either by regular mail or personally) upon the permittee of the notice of decision. If the permittee files an appeal within the time and manner prescribed, the permit shall remain in effect until the appeal is finally determined. If the Director finds that it is necessary in order to protect against a serious and immediate threat to the health, safety or welfare of the public caused by exercise of the permit the revocation or suspension shall take effect immediately upon service of the notice.

(d) After an establishment permit has been revoked, no re-application for an establishment permit will be accepted within one year of the date of final determination from any person, applicant, owner, operator, manager, massage therapist, or any other person or persons, partnership, or corporation who was listed on an establishment permit or application unless the Director determines that the reason for revocation has been cured and no longer exists.

(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.310. Record keeping.

The holder of a massage establishment permit shall maintain a register of all certified massage therapists, certified massage practitioners and exempt therapists providing massage at the establishment, including independent contractors, and each such person's State certificate number, home address, date of hiring, and whether the massage therapist or massage practitioner will be performing outcall massages. An amended copy of the register shall be provided to the Director within five days of the date of hiring, commencement of services, or termination of services by each massage therapist or massage practitioner or exempt therapist at the establishment. Such filings shall be accompanied by a statement, signed by the owner, that all of the information in the register is true and correct.

(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.311. Operating requirements.

A massage establishment, the owner and operator of a massage establishment, registered massage therapist, or practitioner, and City permitted therapist shall conduct the massage establishment business in a safe and sanitary manner, and shall comply with the following requirements:

(a) Compliance with Codes. Comply with all applicable building, fire, safety, health, electrical, plumbing, mechanical, heating and ventilating, sanitation, and other laws applicable to the premises.

(b) Maintenance of Permits. A copy of the establishment permit and each exempt massage therapist's permit or CAMTC certificate shall be posted in a conspicuous place on the establishment premises in such a manner that can be easily seen by persons entering the establishment. A passport-size photograph of the permittee or certificate holder shall be affixed to each massage therapist's permit or certificate.

(c) Posting of Services Offered. A list of all services available, the price thereof, and the length of time of each service shall be posted or available in a conspicuous place in such a manner that it can be easily viewed by persons entering the massage establishment. No services,

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other than those set forth on the list, shall be provided.

(d) Payment. All payments for massage services, including gratuities or tips, shall be made at a designated reception area exclusively. At least one sign, with lettering not less than one-half inch in height, shall be posted in a conspicuous place in such a manner that it can be easily seen by persons entering the establishment stating, "All payments for massage services, including gratuities or tips, shall be made in the designated reception area exclusively." This provision shall not apply to one-room massage establishments that do not have a reception area.

(e) Alcohol and Marijuana Prohibited. No alcoholic beverages or marijuana shall be sold, served, furnished, kept, or possessed in any part of a massage establishment. The owner, operator, and managing employee shall be responsible to ensure that no person possesses alcoholic beverages or marijuana inside the massage establishment.

(f) Payroll and Other Written Records. Every massage establishment shall maintain payroll and written records of all business transactions. The written records shall include at a minimum the type of service provided, the date and hour the service is provided, and the name of the massage therapist administering the service. These records shall be kept on the premises and shall be open to inspection by officials charged with enforcement of this chapter, including the Director or his or her designee. These records shall be retained for a period of at least two years.

(g) Advertising. No services shall be offered in signs, posters, flyers, newspapers or other printed advertisements, or in verbal or recorded announcements or messages, other than those lawfully permitted and posted as required in subsection (b) of this section. Photographs, drawings, written or verbal statements used in any advertising shall not explicitly or implicitly communicate that services offered are for the purpose of sexual stimulation or gratification.

(h) Compliance with SB 577. Massage establishments and massage therapists shall comply with the requirements of Business and Professions Code Sections 2053.5 and 2053.6 pertaining to disclosure and acknowledgment that massage services are not being provided by a licensed physician, are not licensed services by the State, the qualifications of the person providing the massage services, and those other matters as set forth in the statutes.

(i) Compliance with AB 1147. Massage establishments and massage therapists shall comply with the requirements of the Massage Therapy Act, Chapter 10.5 (commencing with Section 4600) of Division 2 of the California Business and Professions Code.

(j) Prohibition Against Residence; Sleeping Quarters. No person(s) shall reside either on a temporary or permanent basis on or within the premises of a massage establishment. Sleeping quarters shall not be provided on the premises to any person, owner, employee, and or independent contractor.

(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.312. Inspections.

The City may inspect the premises at the time of permitting a massage establishment, and may make periodic, reasonable inspections of the establishment during normal business hours to assure compliance with CAMTC requirements, this chapter and applicable fire, health and safety requirements. If any violations are found, the City shall notify the holder of the massage

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establishment permit in writing. The City may give the establishment 10 days to correct the violation(s), or, if the violation(s) presents a danger to public health or safety, close the establishment until the violation(s) is corrected.
(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.313. Hours of operation.

No massage establishment and no registered massage therapist or practitioner, or City permitted massage therapist may provide massage service between the hours of 10:00 p.m. and 7:00 a.m. Clients and visitors shall be excluded from a massage establishment during those hours.
(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.314. Department coordination with CAMTC.

The Community and Economic Development Department shall coordinate with CAMTC, including maintaining a list of certified therapists and practitioners practicing in the City, maintaining a list of massage establishments operating in the City, receiving notices and information from CAMTC, and notifying CAMTC of any arrest or conviction of Penal Code section 647 or other act punishable as a sexually related crime.
(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.315. Property owner responsibility.

Any place where lewdness, or prostitution occurs is a public nuisance which may be abated and permanently enjoined, and for which the City may recover damages from the property owner, as well as from the person conducting or maintaining the nuisance.

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ARTICLE 4
OUTCALL: OFF-PREMISES: MOBILE MASSAGE

§ 11-16.401. Outcall: Off-Premises requirements.

(a) All massage therapists, practitioners, or exempt therapists who perform outcall massage services within the City limits shall have a CAMTC certificate, or a City issued massage therapist permit. Outcall massage therapists shall maintain their certificates or permits upon their persons or within their immediate reach at all times while performing massage in the City and shall display these upon the request of any City official.

(b) Outcall massage services shall not be provided at any location owned, leased, rented or under the control of the massage therapist, practitioner, exempt massage therapist including residential dwellings and business offices, unless that location is licensed as a massage establishment or is otherwise exempted as provided in this chapter.

(c) No outcall massage shall be performed in a hotel or motel room or facility designed and operated primarily for transient occupancy or in the private residence of the massage therapist, practitioner, or exempt therapist. A massage therapist, practitioner, or exempt therapist is permitted to provide outcall massage services at a private residence only between the hours of 8:00 a.m. and 10:00 p.m.

(d) All massage therapists, practitioners, exempt therapists who perform outcall massage services within the City limits shall have a CAMTC certificate, or a City issued therapist permit. Outcall massage therapists, practitioners, or exempt therapists shall maintain their certificates or permits upon their persons or within their immediate reach at all times while performing massage in the City and shall display these upon the request of any City official.

(e) No person shall establish or operate an outcall massage service which maintains or operates a facility at which massages are given or are made available to clients within City limits, or whose principal place of business is located within City limits, without obtaining and maintaining in effect a massage establishment permit.

(f) The owner and/or operator of a business at which off-premises massage therapy is conducted is not required to obtain a massage establishment license pursuant to this chapter, as long as the primary purpose of the business is not massage therapy. The business shall not be required to remain closed during the particular hours provided in this chapter; however, massage therapy shall only occur during the regular business hours of that business.

(g) The Director, with input from any other department of the City, or any other appropriate agency or entity, shall be vested with discretion in determining the primary purpose of the business. If the Director determines a business is operating as a massage establishment, notice of such determination and notice of the requirement to obtain a massage establishment license shall be sent to the business.

(h) Massage therapists, practitioners, exempt therapists may volunteer their massage services at special events, charitable events, or non-profit events that have obtained required permits from the City.

(§ 1, Ord. 1162, eff. March 7, 2018)

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ARTICLE 5
ENFORCEMENT AND REMEDIES

§ 11-16.501. Violation: Penalties.

(a) It is unlawful and a public nuisance to intentionally violate any of the provisions of this chapter. Violation of this chapter may be charged as either an infraction or a misdemeanor. Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code Section 36901.

(b) In addition to any other remedy or penalty set forth in this chapter or this Code, administrative penalties may be imposed pursuant to applicable provisions of Chapter 11 Title 4 of this Code against any responsible party, in violation of any of the provisions of this chapter. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 11 Title 4 of this Code.

(c) Remedies under this chapter are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.502. Continuing violations.

Each and every day, or fractional part of a day, shall constitute a separate violation of the provisions of this chapter.

(§ 1, Ord. 1162, eff. March 7, 2018)

§ 11-16.503. Enforcement authority/entry to inspect.

(a) The Director shall have authority to enforce each of the provisions of this chapter. The Los Banos Police Department-Code Enforcement Division and other City departments shall render assistance in the enforcement of this chapter as may be necessary. The City Attorney is authorized to file a complaint against any persons found in violation of this chapter.

(b) The Director, Code Enforcement Officer, Fire Inspector, and other City officers empowered to enforce the provision of this chapter, shall have the power and authority to enter into a massage establishment, at any reasonable time, during normal business hours to assure compliance with CAMTC requirements, this chapter and applicable fire, health and safety requirements.

(§ 1, Ord. 1162, eff. March 7, 2018)

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ARTICLE 6
APPEALS

§ 11-16.601. Appeals.

(a) Except where an appeals or hearing procedure is otherwise set forth in this chapter, a decision or action of the Director may be appealed by filing a written notice of appeal with the City Clerk, setting forth the specific grounds thereof.

(b) Notice of such appeal shall be filed with the City Clerk within 14 calendar days after the date written notice of such action appealed from was mailed or personally delivered to the appellant.

(c) The City Clerk shall forthwith set a date for hearing before City Manager or City Manager's designee and shall give the appellant at least five calendar days' notice of the time and place of said hearing.

(d) At such hearing the appellant shall show cause on the grounds specified in the notice of appeal why the action excepted to should not be approved. The City Manager or City Manager's designee, may continue the hearing from time to time. The findings on the appeal shall be final and conclusive in the matter.

(§ 1, Ord. 1162, eff. March 7, 2018)

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Statutory References

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Title SR

STATUTORY REFERENCES FOR CALIFORNIA CITIES

The statutory references listed below refer the code user to state statutes applicable to California cities. They are current through February 2026. (NOTE: The list of references includes references applicable to cities, generally; certain references may be applicable solely to chartered cities and others may not be applicable to chartered cities.)

§ SR.010. General Provisions.

Subject	Reference
Accessory dwelling units	Gov't Code § 66310 et seq.
Administrative fines and penalties	Gov't Code § 53069.4
Alternative forms of government	Gov't Code § 34851 et seq.
Authority to adopt, amend, revise or repeal city charters	Cal. Const. Art. XI, § 3 et seq.
Citations for infractions and misdemeanors	Penal Code §§ 853.5 – 853.85
Classifications of cities	Gov't Code §§ 34100 – 34102
Code adoption	Gov't Code §§ 50022.1 – 50022.10
Conflict of interest code	Gov't Code § 87100 et seq.
Elections	Gov't Code §§ 34050 and 36503 and Elec. Code §§ 1301, 9200 et seq., and 10100 et seq.
Expedited judicial review of First Amendment cases	Code of Civ. Proc. § 1094.8
False petitions	Gov't Code § 34093
General powers	Gov't Code § 37100 et seq. and Cal. Const. Art. XI, § 7
Imprisonment	Gov't Code §§ 36901, 36903 – 36904
Initiative and referendum	Cal. Const. Art. XI, § 7.5 and Elec. Code §§ 9200 et seq., and 9235 et seq.
Judicial review of city decisions	Code of Civ. Proc. § 1094.6
Ordinances	Gov't Code § 36900 et seq.
Penalties for ordinance violations	Gov't Code § 36900 et seq.
Police power	Cal. Const. Art. XI, § 7
Procedure for enactment or revision of city charters	Gov't Code § 34450 et seq.

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§ SR.020. Administration and Personnel.

Subject	Reference
Chief of police	Gov't Code § 41601 et seq.
City assessor	Gov't Code § 41201 et seq.
City attorney	Gov't Code § 41801 et seq.
City clerk	Gov't Code § 40801 et seq.
City manager	Gov't Code §§ 34851 – 34859
City officers generally	Gov't Code § 36501
City records	Gov't Code §§ 34090 – 34090.7
City treasurer	Gov't Code § 41001 et seq.
Election of legislative body by districts	Gov't Code § 34870 et seq.
Elective mayor	Gov't Code §§ 34900 – 34906
Fire department	Gov't Code § 38611
Legislative body	Gov't Code § 36801 et seq.
Local emergencies	Gov't Code §§ 8630 – 8634
Local planning agencies	Gov't Code § 65100 et seq.
Mayor	Gov't Code §§ 36801 – 36803 and 40601 et seq.
Meetings ("Ralph M. Brown Act")	Gov't Code § 54950 et seq.
Peace officer standards and training	Penal Code § 13500 et seq.
Personnel system	Gov't Code § 45000 et seq.
Retirement systems	Gov't Code §§ 45300 et seq., and 53060.1
The California Emergency Services Act	Gov't Code § 8550 et seq.

§ SR.030. Revenue and Finance.

Subject	Reference
Bradley-Burns Bill of Rights	Rev. & Tax. Code §§ 7221—7226
Bradley-Burns Uniform Local Sales and Use Tax Law	Rev. & Tax. Code § 7200 et seq., and Gov't Code § 37101
Chartered city special assessment procedure	Gov't Code § 43240
Claims against public entities	Gov't Code § 900 et seq.
Contracting by local agencies ("Local Agency Public Construction Act")	Pub. Cont. Code § 20100 et seq.
Development fees	Gov't Code § 66000 et seq.

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Subject	Reference
Financial powers	Gov't Code § 37200 et seq.
Fiscal year in chartered cities	Gov't Code §§ 43120 and 43122
Graffiti prevention tax	Rev. & Tax. Code §§ 7287—7287.10
Local agency service fees and charges	Gov't Code § 66012 et seq.
Property tax assessment, levy and collection	Gov't Code § 43000 et seq.
Public works and public purchases	Gov't Code § 4000 et seq.
Special gas tax street improvement fund	Sts. & High. Code § 2113
The Documentary Transfer Tax Act	Rev. & Tax. Code § 11901 et seq.
Transfer of tax function to county	Gov't Code § 51500 et seq.
Transient occupancy tax	Rev. & Tax. Code §§ 7280—7283.51
Unclaimed property	Civ. Code § 2080 et seq.
Uniform Public Construction Cost Accounting Act	Pub. Cont. Code § 22000 et seq.

§ SR.040. Business Licenses, Taxes and Regulations.

Subject	Reference
Alcoholic beverages—Local authority	Bus. & Prof. Code §§ 23790 – 23791
Authority to license businesses	Gov't Code § 37101 and Bus. & Prof. Code § 16000 et seq.
Automatic checkout systems	Civ. Code § 7100 et seq.
Bingo	Penal Code § 326.5
Charitable solicitations	Bus. & Prof. Code § 17510 et seq.
Commercial filming	Gov't Code § 65850.1
Community antenna television systems	Gov't Code § 53066 et seq.
Gambling Control Act	Bus. & Prof. Code § 19800 et seq.
Massage parlors	Gov't Code § 51030 et seq.
Pet Boarding facilities	Health & Safety Code § 122380 et seq.
Private Investigator Act	Bus. & Prof. Code § 7512 et seq.
Taxicabs and vehicles for hire	Veh. Code §§ 16500 et seq., 21100(b) and 21112 and Gov't Code § 53075 et seq.

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§ SR.050. Animals.

Subject	Reference
Animals generally	Food & Agric. Code § 16301 et seq.
Cruelty to animals	Penal Code § 596 et seq.
Dangerous and vicious dogs	Food & Agric. Code § 31601 et seq.
Dogs and dog licenses	Gov't Code § 38792 and Food & Agric. Code § 30501 et seq.
Rabies control	Health & Safety Code § 121575 et seq.

§ SR.060. Health and Safety.

Subject	Reference
Delinquent garbage fees	Gov't Code §§ 38790.1 and 25831
Fire prevention	Health & Safety Code § 13000 et seq.
Fireworks (permits)	Health & Safety Code § 12640 et seq.
Fireworks (State Fireworks Law)	Health & Safety Code § 12500 et seq.
Garbage and refuse collection and disposal	Pub. Res. Code § 49000 et seq., and Gov't Code § 38790
Graffiti abatement	Gov't Code §§ 38772 and 53069.3
Hospitals	Gov't Code § 37600 et seq.
Littering	Penal Code § 374 et seq.
Local control of cannabis	Bus. & Prof. Code § 26200 et seq.
Medical cannabis ordinances	Health & Safety Code § 11362.83
Military equipment	Gov't Code § 7070 et seq.
Noise control	Health & Safety Code § 46000 et seq. and Gov't Code § 65302(f)
Nuisance abatement	Gov't Code § 38771 et seq., and Penal Code §§ 370, 372 and 373a
Oil and Gas, Health Protection Zones	Pub. Res. Code § 3280 et seq.
Single-user restrooms	Health & Safety Code § 118600
Weed and rubbish abatement	Gov't Code § 39501 et seq.

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§ SR.070. Public Peace, Morals and Welfare.

Subject	Reference
Crimes against property	Penal Code § 450 et seq.
Crimes against public health and safety	Penal Code § 369a et seq.
Crimes against public justice	Penal Code § 92 et seq.
Crimes against the person	Penal Code § 187 et seq.
Crimes against the public peace	Penal Code § 403 et seq.
Crimes involving sexual assault and against public decency	Penal Code § 261 et seq.
Criminal storage of firearms	Penal Code25100 et seq.
Minors	Penal Code §§ 853.6a, 858(b); Welf. & Inst. Code Div. 2 § 100 et seq., 742.10 et seq. (graffiti)
Weapons	Penal Code §§ 12001 et seq., 16000 et seq., 17500 et seq., and 19910 et seq.

§ SR.080. Vehicles and Traffic.

Subject	Reference
Autonomous vehicles	Veh. Code §§ 38750—38755
Bicycles, electric bicycles, pedicabs (definitions)	Veh. Code § 231 et seq., 21100(h), 21206 and 39000 et seq.
Bicycles	Veh. Code §§ 21100 et seq., 21200 et seq., and 39000 et seq.
Curb markings	Veh. Code § 21458
Establishment of crosswalks	Veh. Code § 21106
Local traffic rules and regulations	Veh. Code § 21100 et seq.
One-way street designations	Veh. Code § 21657
Pedestrian rights and duties	Veh. Code § 21949 et seq.
Penalties	Veh. Code § 40000.1 et seq.
Speed limits	Veh. Code § 22348 et seq.
Stopping, standing, and parking	Veh. Code § 22500 et seq.
Through highways	Veh. Code §§ 21101(b), 21353 and 21354
Traffic control devices	Veh. Code § 21350 et seq.
Traffic signs, signals and markings	Veh. Code § 21350 et seq.
Turning movements	Veh. Code § 22100 et seq.

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Subject	Reference
Vehicle weight limits	Veh. Code § 35700 et seq.
Violations	Veh. Code § 40000.1 et seq.

§ SR.090. Streets, Sidewalks and Public Places.

Subject	Reference
Advertising displays; signs	Gov't Code §§ 38774 and 65850(b); Bus. & Prof. Code § 5200 et seq.
Constructions of sidewalks and curbs	Sts. & High. Code § 5870 et seq.
Improvement Act of 1911	Sts. & High. Code § 5000 et seq.
Landscaping and Lighting Act of 1972	Sts. & High. Code § 22500 et seq.
Municipal parks	Pub. Res. Code § 5181 et seq.
Obstructions and encroachments of public ways	Gov't Code § 38775
Tree Planting Act of 1931	Sts. & High. Code § 22000 et seq.
Underground utility districts	Sts. & High. Code § 5896.1 et seq. and Gov't Code § 38793

§ SR.100. Public Services.

Subject	Reference
Connection fees	Gov't Code § 66013
Inventory of known lead user service line	Health & Safety Code § 116885
Municipal sewers	Gov't Code § 38900 et seq., and Health & Safety Code § 5470 et seq.
Municipal water systems	Gov't Code § 38730 et seq.
Water wells	Water Code § 13700 et seq.

§ SR.110. Buildings and Construction.

Subject	Reference
Adoption of construction codes	Health & Safety Code §§ 17922, 17958 and 17958.5
Authority to regulate buildings and construction	Gov't Code §§ 38601(b) and 38660
Inspection warrants	Code of Civ. Proc. § 1822.50 et seq.

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Subject	Reference
Manufactured housing and mobilehomes	Health & Safety Code §§ 18000 et seq., 18200 et seq.
Signs	Gov't Code §§ 38774 and 65850(b); and Bus. & Prof. Code § 5200 et seq.
State Housing Law	Health & Safety Code § 17910 et seq.

§ SR.120. Subdivisions.

Subject	Reference
Subdivision Map Act	Gov't Code § 66410 et seq.

§ SR.130. Zoning.

Subject	Reference
Family day care homes	Health & Safety Code § 1597.30 et seq.
Local authority to regulate land use	Gov't Code § 65850
Local planning generally ("Planning and Zoning Law")	Gov't Code § 65000 et seq.
Local zoning administration	Gov't Code § 65900 et seq.
Open-space zoning	Gov't Code § 65910 et seq.
Zoning fees and charges	Gov't Code § 66014

§ SR.140. Environment.

Subject	Reference
Drought tolerant landscaping	Gov't Code § 53087.7
Online resource center—Municipal stormwater permit compliance	Water Code § 13383.9
Short-lived climate pollutants	Health & Safety Code § 39730.5 et seq., and Pub. Res. Code § 42652 et seq.
The California Environmental Quality Act	Pub. Res. Code § 21000 et seq.
The California Noise Control Act of 1973	Health & Safety Code § 46000 et seq., and Gov't Code § 65302(f)
Wildfire mitigation (electric utilities and electrical cooperatives)	Pub. Util. Code § 8387

Tables

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Title OL

TABLE 1 - ORDINANCE LIST AND DISPOSITION TABLE

§ OL.010. Disposition of ordinances.

Ordinances listed as "Special" are special in nature with limited application and have not been included in the text of this Code. See Table 2 of this Appendix.

Ord. No.	Disposition (Numbers Indicate Sections of Code)
1	2-4.01
2	Repealed
3	Repealed
4	Repealed
5	Repealed
6	Repealed
7	Repealed
8	Repealed
9	Repealed
10	Repealed
11	Repealed
12	5-6.01—5-6.04
13	Repealed
14	Repealed
15	Repealed
16	Repealed
17	Repealed
18	Repealed
19	Repealed
20	Repealed
21	Repealed
22	Repealed
23	Repealed
24	Repealed
25	Repealed
26	Repealed

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
27	Special
28	Repealed
29	Repealed
30	Repealed
31	Special
32	Special
33	Repealed
34	Special
35	Special
36	Special
37	Special
38	Repealed
39	Repealed
40	Repealed
41	Special
42	Repealed
43	Repealed
44	Repealed
45	Repealed
46	Repealed
47	Not Adopted
48	Repealed
49	Repealed
50	Repealed
51	Repealed
52	Repealed
53	Repealed
54	Repealed
55	Repealed
56	Special
57	Repealed
58	Special
59	Repealed

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
60	Repealed
61	Repealed
62	Repealed
63	Repealed
64	Special
65	Repealed
66	Repealed
67	Repealed
68	Repealed
69	Repealed
70	Special
71	Repealed
72	Special
73	Special
74	Repealed
75	Repealed
76	Repealed
77	Repealed
78	Repealed
79	Repealed
80	Repealed
81	Special
82	Repealed
83	Repealed
84	Repealed
85	Repealed
86	Repealed
87	Special
88	Repealed
89	Repealed
90	Repealed
91	Repealed
92	Repealed

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
93	Repealed
94	Repealed
95	2-3.201—2-3.208
96	Special
97	Repealed
98	Repealed
99	Special
100	Repealed
101	Special
102	Repealed
103	Repealed
104	Not Adopted
105	Repealed
106	Repealed
107	Repealed
108	Repealed
109	Repealed
110	Repealed
111	Repealed
112	Repealed
113	Not Adopted
114	Repealed
115	Repealed
116	Repealed
117	Repealed
118	Special
119	Repealed
120	Repealed
121	Repealed
122	Repealed
123	Repealed
124	Repealed
125	Repealed

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
126	Repealed
127	Special
128	Repealed
129	Repealed
130	Special
131	Repealed
132	Repealed
133	Special
134	Special
135	Repealed
136	Repealed
137	Repealed by 1163
138	Special
139	Special
140	Repealed
141	Repealed
142	Repealed
143	Repealed
144	Repealed
145	2-1.101—2-1.103
146	5-2.01—5-2.03
147	Repealed
148	3-6.01—3-6.13
149	3-4.401—3-4.403
150	Repealed
151	Special
152	Repealed
153	Repealed by 1163
154	Repealed
155	Special
156	Repealed
157	Repealed
158	Repealed

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
159	Special
160	Repealed
161	Repealed
162	Repealed
163	Repealed
164	3-4.201—3-4.204
165	4-4.01—4-4.09
166	3-4.301, 3-4.302
167	Special
168	Special
169	Repealed
170	6-4.01—6-4.15
171	6-3.01—6-3.18
172	6-2.01—6-2.06
173	Special
174	Special
175	Special
176	Not Adopted
177	Not Adopted
178	Repealed
179	Special
179	Repealed
180	Special
181	Repealed
182	Repealed
183	Repealed
184	Special
185	Special
186	6-7.01—6-7.25, 6-7.27—6-7.33
187	4-4.06
188	Repealed
189	Repealed
190	Repealed

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
191	Repealed
192	Repealed
193	Not Adopted
194	Repealed
195	Repealed
196	3-7.01, 3-7.02, 3-7.04—3-7.07
197	Repealed
198	Repealed by 1163
199	Special
200	Suspended
201	Repealed
202	Suspended
203	Repealed
204	Repealed
205	6-3.17
206	6-3.06
207	Special
208	Special
209	Repealed
210	Repealed
211	5-4.01—5-4.07
212	Repealed
213	Special
214	Repealed
215	Special
216	Repealed
217	Repealed
218	Repealed
219	Special
220	2-1.102
221	Repealed
222	Repealed
223	Special

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
224	Repealed
225	Repealed
226	Special
227	Not Adopted
228	Repealed
229	Repealed
230	Repealed
231	Special
232	Suspended
233	Special
233A	3-12.01—3.12.08
234	Suspended
235	Repealed
236	Repealed
237	Repealed
238	Repealed
239	2-2.201—2-2.208
240	Not Adopted
241	6-7.26
242	Repealed
243	Repealed
244	Special
245	Repealed
246	3-10.01—3-10.10
247	Special
248	2-3.301—2-3.313
249	Repealed
250	4-1.01—4-1.09
251	Repealed
252	6-6.01—6-6.03
253	Repealed
254	2-3.101—2-3.130
255	Repealed

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
256	Repealed
257	Repealed
258	Repealed
259	Repealed
260	Repealed
261	Repealed
262	Special
263	4-1.02—4-1.04, 4-1.06
264	Repealed
265	Repealed
266	Repealed
267	Repealed
268	Repealed
269	Repealed
270	Special
271	Repealed
272	Repealed
273	3-4.101—3-4.103, 6-5.01—6-5.10
274	Repealed
275	Repealed
276	Repealed
277	Repealed
278	Repealed
279	Repealed
280	Special
281	Repealed
282	Special
283	Special
284	Special
285	3-12.02, 3-12.04, 3-12.05
286	Repealed
287	Repealed
288	Repealed

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
289	8-2.01—8-2.20
290	Special
291	8-10.01
292	6-7.04
293	Special
294	Special
295	Repealed
296	Special
297	Special
298	Repealed
299	Repealed
300	Repealed
301	Repealed
302	Repealed
303	Special
304	Repealed
305	Repealed
306	Special
307	Repealed
308	Special
309	Special
310	Repealed
311	Special
312	Repealed
313	Repealed
314	Repealed
315	Not Adopted
316	Repealed
317	Special
318	Special
318A	Repealed
319	Special
320	Repealed

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
321	Special
322	Repealed
323	Repealed
324	Repealed
325	Special
326	Special
327	Special
328	Special
329	Repealed
330	Repealed
331	Repealed
332	Not Adopted
333	Special
334	Special
335	Repealed
336	Special
337	Repealed
338	Special
339	2-3.401, 2-3.402
340	Special
341	9-2.101—9-2.202, 9-2.301—9-2.1202
342	9-3.101—9-3.1802, 9-3.1866, 9-3.1808—9-3.2307, 9-3.2401—9-3.2506
343	Special
344	Special
345	9-3.608, 9-3.710
346	Repealed
347	Special
348	Special
349	3-3.01—3-3.20
350	Special
351	Repealed
352	Repealed
353	6-7.03

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
354	3-13.01—3-13.12
355	Special
356	Repealed
357	Repealed
358	Special
359	Repealed
360	Special
361	Repealed
362	Special
363	Special
364	9-3.1710, 9-3.1802, 9-3.2201—9-3.2209
365	Not Adopted
366	Special
367	Repealed
368	Repealed
369	9-1.01—9-1.19
370	2-2.101—2-2.106
371	Repealed
372	Not Adopted
373	3-13.04, Special
374	Special
375	Special
376	Repealed
377	5-5.01—5-5.04
378	Special
379	2-1.201—2-1.206
380	Repealed
381	9-3.2204, 9-3.2207—9-3.2209
382	Repealed
383	3-9.01—3-9.03
384	Special
385	7-1.01—7-1.21
386	Repealed

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
387	Special
388	Repealed
389	Repealed
390	3-2.01—3-2.16
391	3-5.01—3-5.12
392	3-11.01—3-11.11
393	Repealed
394	Special
395	Repealed
396	Repealed
397	5-1.01—5-1.12
398	2-2.202
399	2-2.203
400	Special
401	Repealed
402	Special
403	4-2.01—4-2.09
404	5-3.01—5-3.09
405	1-5.01—1-5.06
406	2-5.01—2-5.05
407	4-5.01—4-5.03
408	Special
409	Repealed
410	Special
411	Special
412	Repealed
413	Repealed
414	Repealed
415	Repealed
416	8-9.01—8-9.08
417	9-3.1003, 9-3.1103, 9-3.2104
418	Special
419	Special

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
420	7-3.01—7-3.12
421	9-2.602
422	Special
423	Special
424	Special
425	Special
426	Special
427	Special
428	7-2.01—7-2.12
429	9-3.1103
430	8-1.01, 8-1.02, 8-3.01, 8-3.02, 8-5.01—8-5.03, 8-6.01, 8-6.02, 8-7.01, 8-7.02
431	8-8.01—8-8.17
432	8-4.01—8-4.05
433	4-3.01—4-3.07
434	Special
435	Special
436	Special
437	3-13.03
438	Special
439	Repealed
440	Repealed
441	Repealed
442	Repealed
443	Repealed
444	Special
445	Special
446	Special
447	Special
448	Special
449	Special
450	Repealed
451	Special
452	2-2.302

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
453	3-12.04
454	3-12.02, 3-12.04, 3-12.05
455	9-4.101—9-4.103
456	Special
457	Special
458	Special
459	2-2.101—2-2.115
460	Special
461	Special
462	Repealed
463	Special
464	Repealed
465	Special
466	Repealed
467	Special
468	Special
469	Repealed
470	Special
471	Repealed by 1163
472	2-2.202
473	8-8.01—8-8.07
474	8-4.01—8-4.04
475	6-7.18
476	6-7.20
477	3-13.03
478	2-2.102
479	6-8.01—6-8.04
480	6-3.01—6-3.21
481	Repealed
482	2-3.109
483	Repealed
484	2-2.302, 2-2.305
485	3-12.01—3-12.19

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
486	8-1.01, 8-7.01
487	Repealed
488	Repealed
489	Repealed by 1163
490	Repealed
491	Repealed
492	Repealed
493	2-2.102
494	9-3.301, 9-3.2601—9-3.2603
495	Special
496	Repealed
497	6-5.02
498	6-7.18
499	6-1.313
500	3-12.01—3-12.19
501	Repealed
502	Repealed
503	3-12.01—3-12.19
504	Special
505	2-2.501—2-2.508
506	3-10.07
507	3-3.06, 3-3.13
508	Not Adopted
509	Special
510	2-2.305
511	Repealed
512	3-12.01—3-12.19
513	Special
514	Special
515	9-3.1203
516	4-1.04, 4-1.06
517	Repealed
518	Special

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
519	6-7.14
520	Special
521	4-6.01—4-6.19
522	Repealed
523	Repealed
524	Special
525	Special
526	Special
527	Not Adopted
528	8-9.10
529	8-9.09
530	7-1.10
531	Repealed
532	8-4.01—8-4.05
533	Special
534	Special
535	8-9.09
536	5-7.01
537	Repealed
538	8-6.01
539	Repealed
540	Special
541	Special
542	9-3.803, 9-3.809
543	Repealed
544	Repealed
545	Special
546	Special
547	Special
548	8-4.06
549	Special
550	2-2.102, 2-2.104
551	Special

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
552	5-8.01—5-8.11
553	9-3.2307
554	9-2.1301—9-2.1305
555	Special
556	8-1.01, 8-3.01, 8-6.01, 8-7.01, 8-8.01—8-8.06, 8-11.01—8-11.06, 8-12.01—8-12.04, 9-3.1707
557	Repealed
558	4-3.01—4-3.08
559	Special
560	Repealed
561	Special
562	Repealed
563	Special
564	2-3.106
565	Repealed
566	Special
567	Repealed
568	Special
569	Special
570	Repealed
571	Special
572	Special
573	7-1.10
574	Special
575	9-2.1010
576	Repealed
577	Special
578	6-3.22
579	Special
580	Special
581	Special
582	Special
583	Special

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
584	8-11.07
585	Special
586	Repealed
587	Special
588	Special
589	Special
590	5-8.05
591	Special
592	Special
593	Special
594	Repealed
595	Repealed
596	Repealed
597	Special
598	Special
599	Special
600	6-7.18
601	Repealed
602	Special
603	Special
604	Repealed
605	2-1.102
606	Repealed
607	Special
608	Repealed
609	Repealed
610	Special
611	Repealed
612	6-3.16
613	3-13.03, 3-13.15
614	3-12.02
615	6-5.01—6-5.11
616	6-5.02, 6-5.03

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
617	6-7.04, 6-7.08, 6-7.17, 6-7.18
618	6-7.18, 6-7.34
619	9-2.605
620	9-2.606
621	9-2.604, 9-2.804, 9-2.906, 9-2.1004
622	2-2.110, 8-13.01—8-13.03
623	Special
624	Repealed
625	6-6.03
626	Special
627	Special
628	Special
629	9-2.404
630	Repealed
631	Special
632	Repealed
633	Repealed
634	Special
635	Repealed
636	Repealed
637	Special
638	Repealed
639	Repealed
640	Special
641	6-7.05, Special
642	Repealed
643	Special
644	Repealed
645	Special
646	Special
647	Repealed
648	Repealed
649	Special

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
650	Special
651	Repealed
652	Special
653	9-3.1609, 9-3.1614
654	Special
655	Repealed
656	Special
657	7-1.10
658	Special
659	Special
660	2-5.01
661	9-3.1606—9-3.1615, 9-3.1617
662	9-2.509
663	6-7.04
664	Special
665	2-2.601—2-2.607
666	3-13.16
667	2-2.106
668	4-3.09—4-3.11
669	Special
670	Repealed
671	Repealed
672	9-1.01—9-1.13
673	9-3.401, 9-3.402, 9-3.404—9-3.414
674	Repealed
675	Special
676	Special
677	Special
678	2-2.209
679	Special
680	Repealed
681	Special
682	Repealed

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
683	Special
684	3-13.02, 3-13.06, 3-13.08, 3-13.16
685	Special
686	3-13.02, 3-13.06, 3-13.08, 3-13.16
687	Special
688	Special
689	8-1.01
690	8-12.03
691	8-4.01—8-4.04
692	3-14.01—3-14.03
693	Special
694	9-2.604
695	Special
696	Special
697	Repealed
698	Special
699	9-3.306
700	Repealed
701	Special
702	Special
703	Special
704	Repealed
705	Repealed
706	Special
707	Special
708	Special
709	6-7.03, 6-7.04, 6-7.14, 6-7.15, 6-7.18, 6-7.23, Special
710	Special
711	Repealed
712	9-3.1705
713	Special
714	9-3.502
715	Special

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
716	Special
717	Special
718	Special
719	Repealed
720	Special
721	3-12.13
722	2-2.106
723	Repealed
724	Special
725	Special
726	Special
727	Special
728	Special
729	6-7.20
730	7-3.07—7-3.09
731	Special
732	7-2.11, 8-10.01, 9-2.506, 9-2.508, 9-2.511, 9-2.512, 9-2.602, 9-2.701, 9-2.702, 9-2.808, 9-2.901, 9-2.1011
733	9-3.1003, 9-3.1102, 9-3.1103, 9-3.2213, 9-3.2214
734	Special
735	Special
736	5-3.08
737	9-3.1724
738	Special
739	Special
740	2-1.101, 2-2.106, 2-2.209
741	Special
742	Repealed
743	9-2.805
744	Repealed
745	Special
746	9-2.1401—9-2.1421
747	Special

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
748	4-3.09, 9-3.1003
749	9-2.226, 9-2.1501—9-2.1507
750	8-8.01
751	8-1.01
752	8-4.01—8-4.04
753	8-7.01
754	Special
755	Special
756	Repealed
757	6-5.01—6-5.04, 6-5.06
758	Special
759	6-3.12—6-3.14, 6-7.01, 6-7.07—6-7.09, 6-7.12, 6-7.13, 6-7.17, 6-7.19, 6-7.25, 7-2.04, 8-2.01, 8-2.07, 8-2.10, 8-2.11, 8-2.13—8-2.16, 8-2.18, 8-2.19
760	Special
761	9-3.2388
762	4-1.04, 4-1.06, 4-1.09—4-1.11
763	4-7.01—4-7.06
764	Repealed
765	Special
766	Special
767	Special
768	Repealed
769	9-2.1601—9-2.1619
770	9-3.2003, 9-3.2004, 9-3.2701—9-3.2712
771	8-9.01—8-9.10, 9-3.1304, 9-3.2801—9-3.2881
772	Repealed
773	9-2.404
774	Special
775	Repealed
776	Repealed
777	2-1.101, 2-2.106, 2-2.209
778	Repealed
779	Repealed

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
780	8-1.01, 8-4.01, 8-6.01, 8-7.01, 8-8.01
781	9-2.1701—9-2.1706
782	Repealed
783	Repealed
784	9-2.303
785	Special
786	Special
787	9-3.2103
788	4-6.01—4-6.25, 5-1.01—5-1.12
789	2-3.201—2-3.212
790	3-13.03
791	Special
792	Special
793	Repealed
794	Repealed
795	2-1.203
796	Repealed
797	9-3.1725
798	Repealed
799	Repealed
800	Repealed
801	Special
802	Repealed
803	Repealed
804	4-3.09
805	Special
806	6-5.12
807	2-3.201—2-3.213
808	2-3.201—2-3.213
809	Special
810	Repealed
811	9-2.303
812	Special

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
813	Repealed
814	Special
815	Repealed
816	Special
817	Special
818	Repealed
819	5-5.01, 5-5.02, 5-5.03
820	Special
821	Special
822	8-1.01, 8-7.01, 8-8.01
823	Repealed
824	Special
825	Repealed
826	Special
827	Repealed
828	Repealed
829	Special
830	Special
831	Repealed
832	Repealed
833	Repealed
834	Special
835	9-2.802, 9-2.1002
836	2-2.106
837	Repealed
838	Rescinded
839	Repealed
840	Repealed
841	Special
842	6-5.01, 6-5.03
843	4-3.01—4-3.16
844	9-2.1601—9-2.1619
845	Repealed

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
846	Special
847	Repealed
848	Special
849	Repealed
850	Special
851	Repealed
852	9-3.2838
853	3-15.01
854	4-3.17, 4-3.18
855	2-2.209
856	8-3.01, 8-6.01
857	Repealed
858	Repealed
859	Special
860	4-5.01—4-5.31
861	Repealed
862	Repealed
863	10-2.01—10-2.11
864	3-10.06, 3-10.07, 3-10.08
865	3-15.01—3-15.14
866	3-13.16
867	Repealed
868	Repealed
869	9-3.1003, 9-3.1202, 9-3.1203, 9-3.1303
870	4-5.02
871	Repealed
872	Special
873	Repealed
874	Repealed
875	9-2.904, 9-2.1006
876	Special
877	5-7.02
878	6-9.01—6-9.06

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
879	Special
880	Special
881	8-11.06, 9-3.509, 9-3.609, 9-3.709, 9-3.1707
882	Repealed
883	Special
884	2-3.301—2-3.313
885	Repealed
886	3-13.03
887	2-1.102
888	Repealed
889	Special
890	4-5.03, 4-5.05, 4-5.06
891	Number not used
892	Number not used
893	Number not used
894	Number not used
895	4-3.01, 8-1.01, 8-3.01, 8-4.01, 8-6.01, 8-7.01, 8-8.01, 8-11.01
896	Special
897	3-1.105, 3-1.109, 3-1.110
898	4-7.01—4-7.06
899	Repealed
900	Special
901	Repealed
902	3-10.11
903	Special
904	9-2.809
905	9-3.2103, 9-3.2103.1
906	Repealed
907	9-3.2103.1
908	9-3.509, 9-3.609, 9-3.709
909	Repealed
910	Repealed
911	Repealed

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
912	Repealed
913	7-2.03
914	9-3.306, 9-3.307, 9-3.503, 9-3.603, 9-3.703, 9-3.1003
915	9-3.2204, 9-3.2215, 9-3.2216, 9-3.2217, 9-3.503.1, 9-3.603.1, 9-3.703.1
916	9-3.1901—9-3.1912
917	9-3.502, 9-3.503.1, 9-3.602, 9-3.603.1, 9-3.702, 9-3.703.1, 9-3.704, 9-3.802, 9-3.803, 9-3.1102, 9-3.1104, 9-3.1727
918	4-6.03, 6-3.23
919	6-10.1.01—6-10.1.03, 6-10.2.01—6-10.2.18, 6-10.3.01—6-10.3.04, 6-10.4.01—6-10.4.06, 6-10.5.01—6-10.5.05, 9-3.1203, 9-3.1303, 9-5.101—9-5.105
920	Repealed by 1162
921	4-8.01—4-8.09
922	Repealed
923	Repealed
924	5-9.01—5-9.05
925	4-5.05
926	9-2.607, 9-2.608
927	4-5.32, 4-5.33
928	Special
929	Special
930	6-12.01—6-12.05
931	Repealed
932	Special
933	9-3.2201—9-3.2230
934	4-6.03, 9-3.2823
935	9-3.1725
936	4-9.01—4-9.16
937	9-3.2801, 9-3.2821, 9-3.2823, 9-3.2831, 9-3.2834—9-3.2838, 9-3.2871
938	4-9.05
939	Repealed
940	Special
941	4-10.01—4-10.05

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
942	Special
943	4-5.27
944	3-10.07
945	Repealed
946	5-7.02
947	4-3.01—4-3.18
948	4-12.01—4-12.08
949	4-11.01—4-11.14
950	4-6.01—4-6.37
951	8-1.01, 8-1.03, 8-3.01, 8-4.01, 8-6.01, 8-7.01, 8-8.01, 8-8.07, 8-11.01, 8-11.04, 8-11.05, 8-11.07, 8-12.01, 8-12.02, 8-12.03, 8-12.04
952	2-2.106
953	Repealed
954	9-2.605—9-2.609, 9-2.1301—9-2.1303, 9-2.1305, 9-2.1609, 9-2.1701—9-2.1702
955	2-2.507
956	Repealer
957	Repealed
958	9-3.3201—9-3.3205
959	4-4.05, 4-4.09—4-4.12
960	Repealed
961	Special
962	Repealed
963	Repealed
964	Repealed
965	Not adopted
966	Repealed
967	Repealed
968	Repealed
969	Repealed
970	Repealed
971	Repealed
972	Special

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
973	Special
974	Special
975	Special
976	Special
977	Special
978	Special
979	4-11.01
980	Repealed
981	Special
982	Special
983	Special
984	Special
985	9-3.1728
986	Special
987	Special
988	Repealed
989	2-2.507
990	4-5.05
991	3-17.01—3-17.06
992	Repealed
993	Repealed
994	Repealed
995	Repealed
996	4-3.01, 4-3.20, 4-3.07—4-3.18
997	8-1.04—8-1.10, 8-4.01, 8-4.07, 8-7.01, 8-7.03, 8-8.01, 8-8.08, 8-11.01, 8-12.05
998	[Unused]
999	Repealed
1000	Special
1001	Repealed
1002	Special
1003	Not adopted
1004	Special
1005	2-1.202—2-1.204

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
1006	5-1.02—5-1.13
1007	4-11.01, 9-3.2021—9-3.2026, 9-3.3301—9-3.3307
1008	4-5.40, 4-11.01
1009	Repealed
1010	Special
1011	Repealed
1012	Repealed
1013	Repealed
1014	Special
1015	Repealed
1016	9-2.603
1017	Special
1018	Repealed
1019	Special
1020	3-12.1.01—3-12.1.24
1021	Repealed
1022	2-2.202
1023	Repealed
1024	Special
1025	4-3.16.1—4-3.16.13
1026	Special
1027	9-3.3401—9-3.3417
1028	9-3.3501—9-3.3509
1029	4-6.03
1030	Special
1031	3-18
1032	Special
1033	Special
1034	1-2.07
1035	9-3.3001—9-3.3006
1036	4-3.19
1037	Repealed by 1163
1038	9-3.2871

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
1039	9-3.2871
1040	Repealed
1041	Special
1042	Repealed
1043	Special
1044	Special
1045	6-3.1.01—6-3.1.12
1046	Repealed
1047	Repealed
1048	Repealed
1049	9-3.1912
1050	9-2.610—9-2.613
1051	Number not used
1052	Number not used
1053	4-11.01, 5-7.02, 5-7.03
1054	4-11.01
1055	4-13.01—4-13.07
1056	Special
1057	Repealed
1058	4-3.12
1059	10-2.01—10-2.13, 10-3.100—10-3.140
1060	Special
1061	Not adopted
1062	9-2.1601—9-2.1618
1063	Special
1064	Special
1065	8-1.01—8-1.10, 8-8.01—8-8.04, 8-11.01—8-11.05, 8-12.01—8-12.04
1066	4-3.01—4-3.20
1067	3-16.010—3-16.110
1068	3-10.010—3-10.500
1069	2-2.101—2-2.117, 2-2.201—2-2.210, 2-2.301—2-2.311, 2-2.501—2-2.512, 2-2.601—2-2.612
1070	4-11.01, 5-10.01—5-10.09

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
1071	9-3.1725
1072	4-14B.010—4-14B.060
1073	3-18.01—3-18.15
1074	Repealed
1075	Special
1076	Not adopted
1077	Not adopted
1078	Repealed
1079	Not adopted
1080	Not adopted
1081	Not adopted
1082	Not adopted
1083	Not adopted
1084	Not adopted
1085	5-5.05, 10-1.01—10-1.35
1086	3-18.01—3-18.15
1087	3-19.01—3-19.08
1088	3-12.1.09(d)
1089	9-3.2823, 9-3.2831, 9-3.2832, 9-3.2834—9-3.2837
1090	10-2.01—10-2.10
1091	10-1.09
1092	4-11.01—4-11.20
1093	Repealed
1094	6-13.101—6-13.124
1095	9-3.201—9-3.1802, 9-3.1806, 9-3.1808—9-3.3206, 9-3.3208—9-3.3409, 9-3.3601—9-3.3703, 9-3.3901—9-3.3903
1096	Special
1097	9-3.1601—9-3.1605, 9-3.2811, 9-3.2813—9-3.2816, 9-3.3101—9-3.3103
1098	8-1.01—8-1.17, 8-1.19
1099	4-3.01, 4-3.07, 4-3.08
1100	3-8.01—3-8.16
1101	9-3.603, 9-3.703, 9-3.803

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
1102	9-2.102, 9-2.202, 9-2.303, 9-2.304, 9-2.402—9-2.404, 9-2.501, 9-2.504, 9-2.505, 9-2.508—9-2.513, 9-2.601—9-2.603, 9-2.607—9-2.613, 9-2.701, 9-2.702, 9-2.802—9-2.806, 9-2.907, 9-2.908, 9-2.1002—9-2.1005, 9-2.1007,9-2.1008, 9-2.1010, 9-2.1011, 9-2.1101, 9-2.1305, 9-2.1501, 9-2.1502, 9-2.1504, 9-2.1505, 9-2.1601, 9-2.1603, 9-2.1604, 9-2.1606, 9-2.1610, 9-2.1615
1103	Special
1104	Special
1105	3-18
1106	Special
1107	Special
1108	9-3.201, 9-3.3901—9-3.3907
1109	Special
1110	2-3.102—2-3.112, 2-3.114, 2-3.116—2-3.121, 2-3.124—2-3.129
1111	Special
1112	Special
1113	2-2.101—2-2.312, 2-2.501—2-2.512
1114	3-12.1.09
1115	Special
1116	8-1.01, 8-1.04—8-1.07, 8-1.09—8-1.13, 8-1.15, 8-1.18
1117	4-3.01, 4-3.07
1118	Special
1119	9-3.201, 9-3.810, 9-3.1007, 9-3.1108, 9-3.1207, 9-3.1307, 9-3.1410, 9-3.1509, 9-3.2301—9-3.2330
1120	10-2.03.10(a)(2)
1121	Special
1122	Special
1123	2-2.101, 2-2.102 [2-1.101, 2-1.102]
1124	Special
1125	Special
1126	9-3.4001—9-3.4010
1127	Special
1128	Special
1129	Special

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
1130	9-3.3601—9-3.3612
1131	2-1.101, 2-1.102, 2-1.201—2-1.203, 2-1.301—2-1.306
1132	Special
1133	8-6.01—8-6.06
1134	9-3.4101—9-3.4115
1135	9-3.4201—9-3.4209
1136	9-3.4301—9-3.4309
1137	9-3.202, 9-3.2308, 9-3.2311, 9-3.2312(d), 9-3.2321(a), 9-3.2330—9-3.2332, 9-3.2504, 9-3.2602, 9-3.3610(b)(4), (c), 9-3.3907(b)(4), (c), 9-3.4008
1138	4-3.07
1139	Number not used
1140	Number not used
1141	Number not used
1142	Repealed
1143	Special
1144	9-3.3801—9-3.3810
1145	(Not approved)
1146	(Not approved)
1147	(Not approved)
1148	Special
1149	4-3.01, 4-3.07
1150	8-1.01, 8-1.04—8-1.07, 8-1.09—8-1.13, 8-1.15
1151	2-2.110
1152	9-3.3501—9-3.3508
1153	6-1.101—6-1.9007
1154	Special
1155	Special
1156	9-6.01—9-6.10
1157	9-3.4111
1158	9-3.2805(v), 9-3.2806(f), 9-3.2818, 9-3.2819(j), 9-3.2819.1, 9-3.2822.1
1159	Repealed by 1162
1160	Repealed by 1162
1161	11-2.01—11-15.505

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
1162	11-16.101—11-16.601
1163	11-1.101—11-1.601
1164	9-3.4401—9-3.4408
1165	9-3.2013—9-3.2029
1166	3-12.2.01—3-12.2.17
1167	Special
1168	3-16.030, 3-16.040, 3-16.080
1169	Special
1170	9-3.3001—9-3.3010
1171	9-3.3606(a)(4), 9-3.4500—9-3.4600
1172	11-13.01—11-13.21
1173	Special
1174	9-3.201, 9-3.603(h), 9-3.703(g), 9-3.1103(l), 9-3.1203(p), 9-3.1303(d), 9-3.1603(c), 9-3.3701—9-3.3704
1175	9-3.3401—9-3.3415
1176	2-2.203—2-2.206, 2-2.211
1177	Special
1178	9-2.614
1179	8-1.01, 8-1.04—8-1.07, 8-1.09, 8-1.13, 8-1.15
1180	4-3.01, 4-3.07
1181	9-3.4601—9-3.4608
1182	9-3.201, 9-3.502, 9-3.602, 9-3.603, 9-3.702, 9-3.802, 9-3.803, 9-3.902, 9-3.1502, 9-3.4701, 9-3.4801
1183	Special
1184	Special
1185	11-8.01, 11-8.02, 11-08.03, 11-8.04—11-8.09
1186	Repealer
1187	Special
1188	9-3.201, 9-3.502, 9-3.602, 9-3.603, 9-3.702, 9-3.703, 9-3.802, 9-3.902
1189	9-3.201, 9-3.502, 9-3.602, 9-3.603, 9-3.702, 9-3.703, 9-3.802, 9-3.803, 9-3.902, 9-3.903, 9-3.1003, 9-3.1103, 9-3.1203, 9-3.1303, 9-3.3702, 9-3.3703
1190	9-3.3001—9-3.3010
1191	2-1.201—2-1.203

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Ord. No.	Disposition (Numbers Indicate Sections of Code)
1192	2-2.210
1193	Special
1194	6-3.2.01—6-3.2.10
1195	Repealer
1196	4-12.010—4-12.060
1197	Special
1198	Special
1199	8-1.01, 8-1.03—8-1.07, 8-1.09—8-1.15
1200	4-3.01, 4-3.07
1201	9-3.201, 9-3.2314, 9-3.2335—9-3.2337
1202	2-3.126

Ord. No.	Adoption Date	Subject	Disposition	Supp. No.
1203	11/15/2023	Zoning Map Amendment	Special	
1204	3/6/2024	Amends Administration: Commissions and Boards: Los Banos Airport Advisory Commission	Ttl 2 Ch. 5	
1205	11/20/2024	Public Welfare, Morals, and Conduct: Unpermitted Public Camping and Public Storage of Personal Property in Public Areas	Ttl 5 Ch. 11	1
1206	2/19/2025	Amends Administration: Officers and Employees: City Manager	Ttl 2 Ch. 3 Art. 1	1
1207	3/5/2025	Pre-Zoning Approximately 170 Acres	Special	1
1208	6/18/2025	Second Amendment to Development Agreement	Special	2
1209	9/17/2025	Amends Planning and Zoning: Mobile Food Vending	Ttl. 9 Ch. 3 Art. 36	2
1210	10/15/2025	Amends Finance: Contracting for Public Works Projects	Ttl. 3 Ch. 16	2
1211	11/19/2025	Amends Public Safety: Fire Prevention Code	Ttl. 4 Ch. 3	2
1212	11/19/2025	Amends Building Regulations: Building Codes	Ttl. 8 Ch. 1	2

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Ord. No.	Adoption Date	Subject	Disposition	Supp. No.
1213	11/19/2025	Amends Planning and Zoning: Adds Regional Housing Needs Assessment Overlay District	Ttl. 9 Ch. 3 Art. 49	2
1214	2/18/2026	Development Agreement	Special	2
1215	7/1/2026	Amends Administration: City Council	Ttl. 2 Ch. 1	2
1216	6/3/2026	Amends Planning and Zoning: Accessory Dwelling Units	Ttl. 9 Ch. 3 Art. 30	2
1217	9/2/2026	Amends Public Safety: Military Equipment Use	Ttl. 4 Ch. 12	2

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Title SOE

TABLE 2 - SPECIAL ORDINANCES NOT CODIFIED BUT TO REMAIN IN EFFECT

§ SOE.010. Special ordinances not codified but to remain in effect.

Ord. No.	Short Title	Date
27	Calling a General Election	-
31	Repealing Ordinance No. 26 Establishing a Datum Plane and Designating Bench Marks	11-5-08
32	Establishing a Datum Plane and Elevations and Grades of Streets, Alleys, and Sewers and Designating Bench Marks	11-5-08
34	Calling a Special Bond Election for a Sewer System	2-17-09
35	Issuing Bonds for a Sewer System	4-21-09
36	Calling a Special Bond Election for a Sewer System	5-19-09
37	Issuing Bonds for a Sewer System	7-21-09
41	Calling a General Election	2-2-10
56	Amending Section 9 of Ordinance No. 37 Relating to the Issuance of Bonds for a Sewer System	1-3-12
58	Calling a General Election	2-27-12
64	Calling a Special Bond Election for Purchasing a Water System and Water Rights	10-22-12
70	Calling a General Election	2-18-14
72	Declaring the Intention to Call a Special Election Relating to the Control of Public Utilities	6-3-14
73	Calling a Special Election Relating to the Control of Public Utilities	7-1-14
81	Granting a Franchise to the Pacific Telephone and Telegraph Company for Telephone and Telegraph Purposes	-
87	Granting a Franchise to W. H. Worswick, Jr., for Gas	-
96	Calling a Special Bond Election for Purchasing a Water System and Water Rights	11-12-19
99	Calling a Special Bond Election for a Water Works System	2-18-20
101	Issuing Bonds for a Water Works System	3-22-20

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Ord. No.	Short Title	Date
118	Granting a Franchise to Southern Pacific Railroad Company for a Railroad	11-21-23
127	Calling a Special Bond Election for Acquiring Land for Sewer Uses and Public Parks	9-7-27
130	Granting a Franchise to Consumers Gas Company for Gas	4-17-29
133	Granting a Franchise to Pacific Gas and Electric Company for Gas	12-4-29
134	Establishing a Datum Plane and Elevations and Grades of Streets, Sidewalks, Curbs, and Gutters and Designating Bench Marks	4-16-30
138	Calling a Special Bond Election for a City Hall and Fire Station	4-1-31
139	Issuing Bonds for a City Hall and Fire Station	6-3-31
151	Calling a Special Bond Election for Fire Apparatus and Street Department Equipment	4-16-38
155	Granting a Franchise to Pacific Gas and Electric Company for Electricity	1-17-40
159	Annexing the W. M. Roberts Subdivision	9-17-41
167	Annexing the West Los Banos District	9-4-46
168	Annexing the Gardner Subdivision, also known as Canal Lane	9-4-46
173	Annexing the Arburua Haciendas Territory	2-19-47
174	Repealing Ordinance No. 169 Relating to the Installation, Operation, and Maintenance of Parking Meters	7-2-47
175	Annexing the East Los Banos District	7-2-47
179	Declaring the Intention to Vacate Certain Streets	5-5-48
180	Annexing the Mathilde Bambauer Ranchitos Territory	7-21-48
184	Declaring the Intention to Vacate Certain Streets and Alleys	4-6-49
185	Annexing the Dairymen Addition	9-7-49
199	Annexing Page Addition No. Two	8-15-51
207	Granting a Franchise to Coast Counties Gas and Electric Company for Gas	7-16-52
208	Annexing the Los Banos Ranchito No. 2 Addition	8-6-52
213	Annexing the North Acres Addition	5-20-53

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Ord. No.	Short Title	Date
215	Calling a Special Election Relating to the Annexation of the Canal Farm Addition	2-17-54
219	Declaring the Intention to Vacate a Portion of Fifth Street	11-17-54
223	Annexing the Bates Addition	5-18-55
226	Declaring the Intention to Vacate a Portion of Second Street	6-15-55
231	Calling a Special Election Relating to the Annexation of the Canal Farm Addition	11-16-55
233	Annexing the Canal Farm Addition	2-1-56
244	Authorizing a Contract Between the City and the Board of Administration of the California State Employees' Retirement System	10-16-57
247	Annexing the Arburua Acres Addition	3-19-58
262	Annexing the State Highway 33 Annexation	1-29-60
270	Calling a Special Bond Election for Sewer System and Drainage System Improvements	9-21-60
280	Calling a Special Election Relating to the Annexation of the Giannone Annexation	7-19-61
282	Annexing the Giannone Annexation	10-4-61
283	Annexing the Briozo Addition	10-18-61
284	Annexing the Arburua Acres Addition No. 2	11-1-61
290	Annexing the Bollenbacher and Kelton Annexation	2-7-62
293	Annexing the Herrera Annexation	4-4-62
294	Annexing the Davis Annexation	4-18-62
296	Permitting a Variance from Ordinance No. 288 to Construct a Dwelling Addition with a Ten Foot Side Yard in Zone R-1 on the Premises Described as the North 51.16 Feet of Lot 55, Page Addition	5-16-62
297	Permitting a Variance from Ordinance No. 288 to Construct a Dwelling with a Twelve Foot Side Yard on the Street Side of the Corner Lot Described as Lot 6 of the Jordan Addition	6-20-62
303	Annexing the Bollenbacher and Kelton Annexation No. 2	8-15-62

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Ord. No.	Short Title	Date
306	Permitting Variances from Ordinance No. 288 to Construct a Building Containing Four Apartments with only Three Off-Street Parking Spaces on the Premises Described as Lot 9 and the Southeasterly 5 Feet of Lot 10 of Block 82; and to Use the Required Front Setback for Off-Street Parking on the Premises Described as the South 60 Feet of the East 108.26 Feet of Lot 76, Miller and Lux's Resubdivision of Said Lots	10-3-62
308	Annexing the Citrus Terrace Annexation	10-3-62
309	Annexing the North Mercey Annexation	10-17-62
311	Permitting a Variance from Ordinance No. 288 to Construct Two Fourplexes and One Triplex to Be Connected by Breezeways on Parcels 1 and 2 of Lot 15 of the Canal Farm Subdivision	11-21-62
317	Annexing the Machado Annexation No. 2	2-20-63
318	Annexing the Freeman Annexation	2-6-63
319	Permitting a Variance from Ordinance No. 288 to Construct Two Houses on a Portion of Plat 231, Sheet 9 on the Official Plats of the City	4-3-63
321	Permitting a Variance from Ordinance No. 288 to Construct a Five Unit Apartment Building with Connecting Balcony and an Extra Staircase on Lots 1 through 6, Brooks Addition No. 1	4-17-63
325	Annexing the Spano Annexation	5-1-63
326	Permitting a Variance from Ordinance No. 288 to Use the Driveway on Lot 41 of Franciscan Terrace as the Required Off-Street Parking	6-19-63
327	Calling a Special Election Relating to the Annexation of East Annexation	6-19-63
328	Annexing the Davis Annexation No. 2	7-3-63
333	Annexing the Crestview Estates Annexation	8-7-63
334	Annexing the Coronado Terrace Annexation	8-7-63
336	Annexing the East Annexation	9-4-63
338	Permitting a Variance from Ordinance No. 288 to Erect a Telephone Exchange Building on a Portion of Lot 31 and a Portion of the 78 Foot Canal Right-of-Way Situated in Miller and Lux's Subdivision	10-16-63
340	Annexing the West Annexation	12-4-63

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Ord. No.	Short Title	Date
343	Permitting a Variance from Ordinance No. 288 to Erect a Beauty Salon and Office on Lots 21 and 22 of Block 74	2-5-64
344	Permitting a Variance from Ordinance No. 288 to Remodel an Existing Building Situated on Lot 36 and the East 64.35 Feet of Lot 37 of the Miller Resubdivision into a Two-Family Residence Subject to Certain Conditions	2-5-64
347	Permitting a Variance from Ordinance No. 342 to Construct a Bedroom and Family Room Addition on a Dwelling Situated on Plat 9, Sheet 21, of the Canal Farm Addition	6-17-64
348	Permitting a Variance from Ordinance No. 342 to Construct a Service Station Pump Island and Canopy on the Easterly 22 Feet of Lots 1 and 2 of Block 1 of the Map of the Spadafore Subdivision Subject to Certain Conditions	6-10-64
350	Permitting Variances from Ordinance No. 342 to Construct a Commercial Building on Lots 5, 6, 7, and 8 of Block 80 in Such a Manner That 34 Parking Spaces Are Provided on the Building Site; to Construct a Duplex on Property Described as Plat 23, Sheet 25, Canal Farm Area; and to Construct a Dwelling on Lots 30, 31, and 32 of Block 77 with a Minimum Front Yard of 12 1/2 Feet	7-15-64
355	Permitting a Variance from Ordinance No. 342 to Construct a Patio up to the Property Line on Lot 56 of the Fairview Park Unit No. 1	10-7-64
358	Permitting a Variance from Ordinance No. 342 to Conduct an Accounting Business and Other Similar Businesses in the Existing Building on Lots 13 and 14 of Block 79 Subject to Certain Conditions	12-16-64
360	Permitting a Variance from Ordinance No. 342 to Construct a Commercial Building on Lots 20 through 25 of Block 65 Subject to Certain Conditions	1-20-65
362	Permitting Variances from Ordinance No. 342 to Construct a Service Station Canopy, Lights, and Sign within Thirty-Five Feet of the Front Lot Line at the Northeast Corner of Pacheco Boulevard and Arizona Avenue Subject to Certain Conditions; and to Construct a Service Station Canopy, Lights, and Sign within Thirty-Five Feet of the Front Lot Line at the Northeast Corner of Pacheco Boulevard and West I Street Subject to Certain Conditions	3-3-65
363	Annexing the Sewer Farm Annexation	3-17-65

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Ord. No.	Short Title	Date
366	Permitting Variances from Ordinance No. 342 to Use the Driveway as Required Off-Street Parking at 828 Jeffrey Road; and to Permit a Five Foot Reduction in a Required Side Yard at 1409 South Nevada Avenue	5-19-65
373	Repealing Subsection (b) of Section 4 of Ordinance No. 354 Relating to Transient Occupancy Taxes	12-1-65
374	Permitting Variances from Ordinance No. 342 to Reduce the Front Setback of Lots 9, 10, and 11 of Block 10 on the Westerly Side of North Street Between C Street and D Street by Five Feet; and to Permit the Projection of a Sign and Canopy in the Required Front Setback of Lots 1 and 2 of Block 1 of the Machado Subdivision	12-1-65
375	Permitting a Variance from Ordinance No. 342 to Construct a Dwelling at 1233 F Street	1-5-66
378	Permitting a Variance from Ordinance No. 342 to Use the Driveway as Required Off-Street Parking at 354 North Santa Inez Street	2-16-66
384	Annexing the Peck Annexation	11-16-66
387	Permitting a Variance from Ordinance No. 342 for the Eaves of a Proposed Dwelling to Project to Within Two Feet of the Side Lot Lines at 716 Monroe Avenue	6-7-67
394	Permitting a Variance from Ordinance No. 342 to Use the Driveway as the Required Off-Street Parking at 841 Pennsylvania Avenue	2-7-68
400	Annexing the Adventist Church Annexation	6-5-68
402	Repealing Ordinance Nos. 260, 276, 277, 279, 286, 305, and 323 and Subsection (2) of Section 1 of Ordinance No. 306 Granting Various Zoning Variances	9-18-68
408	Permitting a Variance from Ordinance No. 342 to Use the Driveway as the Required Off-Street Parking at 914 Granada Circle	3-5-69
410	Permitting a Variance from Ordinance No. 342 to Construct a Service Station Canopy to Project Within the Setback Line at 845 West Pacheco Boulevard	4-16-69
411	Permitting a Variance from Ordinance No. 342 to Construct a Sign Having a Total Area of 423 Square Feet at 401 West Pacheco Boulevard Subject to Certain Conditions	5-21-69

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Ord. No.	Short Title	Date
418	Permitting a Variance from Ordinance No. 342 to Eliminate the Required Side Yards on the Rear One-Half of the West 60 Feet of Block 67 of the Miller and Lux Resubdivision	9-17-69
419	Permitting a Variance from Ordinance No. 342 to Construct a Service Station Canopy Which Will Encroach Nine Feet into the Setback Area on a Portion of Lots 15, 16, 17, and 18 of H. P. Greenlaw's Resubdivision of Lot 11 of Miller and Lux's Subdivision	10-1-69
422	Permitting a Variance from Ordinance No. 342 to Reduce the Side Yard on the Side of the Premises at 1238 Nevada Avenue on Which a Carport Is Situated from Five Feet to Four Feet	2-4-70
423	Repealing Ordinance No. 368Granting a Franchise to Los Banos Cable Television	3-4-70
424	Permitting a Variance from Ordinance No. 342 to Construct and Operate an Electrolysis Studio and Beauty Shop at 422 J Street	3-18-70
425	Permitting a Variance from Ordinance No. 342 to Erect an Addition to a Convalescent Hospital at 931 Idaho Avenue and Reduce the Number of Required Off-Street Parking Spaces	4-1-70
426	Annexing the California State Highway 152 Annexation	5-20-70
427	Permitting a Variance from Ordinance No. 342 to Construct an Aluminum Canopy in Front of an Existing Garage on the West One-Half of Lot 46 of Miller and Lux's Resubdivision	7-1-70
434	Granting a Franchise to Televents of California, Inc. for a Community Antenna Television System	12-2-70
435	Adopting the Los Banos Municipal Code	1-20-71
436	Permitting a Variance from Ordinance No. 342 to Construct a Carport Within One Foot of the Property Line (East Side) to Allow the Parking of Vehicles Side-by-Side on the South 80 Feet of the West 65.35 Feet of Lot 66 of the Miller and Lux Subdivision, Being Parcel No. 26-072-21	1-20-71
438	Permitting a Variance from Section 9-3.1901 of Article 19 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Use the Driveway, with Certain Conditions, at 629 Madison Avenue as the Required Off-Street Parking	5-19-71
444	Annexing the Industrial Annexation	2-16-72

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Ord. No.	Short Title	Date
445	Permitting a Variance from Section 9-3.1104 of Article 11 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Increase the Sign Area on Certain Property	2-16-72
446	Amending Section 5 of Ordinance No. 434 Granting a Franchise to Televents of California, Inc., for a Community Antenna Television System	3-15-72
447	Permitting a Variance from Section 9-3.509 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code for a Roof Extension at 945 Washington Avenue	4-19-72
448	Permitting a Variance from Section 9-3.1901 of Article 10 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Use the Driveway at 1415 South Fourth Street as the Required Off-Street Parking	5-22-72
451	Permitting a Variance from Section 9-3.1901 of Article 19 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Off-Street Parking on Lots 31 and 32 of Block 79	7-19-72
456	Annexing the Campbell Annexation	11-1-72
457	Permitting a Variance from Section 9-3.1901 of Article 19 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Off-Street Parking on Lots 17, 18, and 19 of Block 67	11-1-72
458	Permitting a Variance from Section 9-3.2206 of Article 22 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Construct a Lodge Building in the R-1 District on the North Side of Canal Farm Lane	11-15-72
460	Permitting a Variance from Section 9-2.505 of Article 5 of Chapter 2 of Title 9 of the Los Banos Municipal Code to Reduce an Existing Utility Easement to Not Less Than Five Feet at 912 Madison Avenue	1-3-73
461	Permitting a Variance from Section 9-3.1104 of Article 11 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit an Additional Sign at 335 West Pacheco Highway	1-3-73
463	Permitting a Variance from Section 9-3.507 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit the Splitting of Two Lots on a Certain Parcel of Property	2-7-73
465	Annexing the Overland Avenue Annexation	3-21-73

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Ord. No.	Short Title	Date
467	Permitting a Variance from Section 9-3.1801 of Article 18 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit a Setback Encroachment at 400 Pacheco Boulevard	3-21-73
468	Authorizing an Amendment to the Contract Between the City and the Board of Administration of the California Public Employees' Retirement System	4-4-73
470	Establishing Interim Zoning for a Medical Office on Certain Real Property	5-2-73
489	Invoking Ordinance Nos. 137 and 153 for the Payment and Collection of Business License Taxes for the Quarterly Term Beginning October 1, 1973, and Ending December 31, 1973	12-19-73
495	Declaring the Intention to Vacate Certain Streets and Alleys	4-3-74
504	Amending Subsection (f) of Section 17 of Ordinance No. 434 Granting a Franchise to Televents of San Joaquin Valley, Inc., for a Community Antenna Television System	8-7-74
509	Permitting a Variance from Section 9-3.1715 of Article 17 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit a Fence Over Three Feet in Height at 1856 Hillview Drive	9-17-74
513	Permitting a Variance from Section 9-3.1901 of Article 19 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Off-Street Parking on Lots 31 and 32 of Block 79	11-20-74
514	Permitting a Variance from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code to Reduce the Minimum Lot Frontage on Lots 5, 6, 7, and 8 of the Coronado Terrace Subdivision and to Reduce the Average Depth on Lots 4, 5, 8, and 9 of the Coronado Terrace Subdivision, and Permitting a Variance from Section 9-2.508 of Article 5 of Chapter 2 of Title 9 of the Los Banos Municipal Code to Reduce the Required Distance of a "T" Intersection in the Coronado Terrace Subdivision	11-20-74
518	Permitting a Variance from Section 9-3.1901 of Article 19 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Off-Street Parking for Housing for the Elderly at the San Juan Apartments	1-2-75

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Ord. No.	Short Title	Date
520	Permitting a Variance from Section 9-3.1801 of Article 18 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Building Setback Line on an Irregularly Shaped Lot Located at 906 Pacheco Boulevard	4-2-75
524	Declaring the Intention to Vacate and Abandon a Five Foot Public Utility Easement Along the Southerly Boundary of Lots 15 and 16 of the Hillview Annex Subdivision	6-4-75
525	Permitting a Variance from Section 9-2.502 of Article 5 of Chapter 2 of Title 9 and from Section 9-3.707 of Article 7 of Chapter 3 of Title 9 of the Los Banos Municipal Code Relating to Interior Lots on Parcel Nos. 26-212-44 and 26-212-46	8-20-75
526	Permitting a Variance from Section 9-3.509 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Front Yard Setback at 1129 California Street	8-20-75
533	Permitting a Variance from Section 9-3.1715 of Article 17 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit a Fence Over Three Feet in Height at 162 F Street	10-1-75
534	Permitting a Variance from Section 9-3.1716 of Article 17 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit Existing Eaves to Project Beyond the Two Feet Allowable at 1586 and 1594 Hawthorne Drive	10-1-75
540	Amending Subsection (f) of Section 17 of Ordinance No. 434 Granting a Franchise to Televents of San Joaquin Valley, Inc., for a Community Antenna Television System	1-21-76
541	Permitting a Variance from Section 9-3.1716 of Article 17 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit a Fence Over Three Feet in Height to Remain in the Side Yard at 504 Second Street	2-4-76
545	Permitting a Variance from Ordinance No. 358 to Permit a 130 Square Foot Addition to the Accounting Office at 411 J Street	5-5-76
546	Permitting a Variance from Section 9-3.507 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit the Division of a Parcel on K Street to a Parcel with Less Than the Required Frontage	6-2-76

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Ord. No.	Short Title	Date
547	Permitting a Variance from Section 9-3.606 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit the Division of Assessor's Parcel No. 25-072-19 to a Parcel with Less Than the Required Area and Frontage	7-7-76
549	Declaring the Intention to Vacate and Abandon a Ten Foot Public Utility Easement in Hillview Manor Subdivision	9-1-76
551	Permitting a Variance from Section 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit the Division of Property on F Street and Seventh Street to Lots with Less Than the Required Frontage	11-3-76
555	Declaring the Intention to Vacate and Abandon a Portion of Sixth Street South of F Street to the Alley	12-15-76
559	Permitting a Variance from Section 9-3.1901 of Article 19 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Off-Street Parking at the Southeast Corner of West I Street and Idaho Avenue and Permitting Variances from Sections 9-3.256 of Article 2 and 9-3.709 of Article 7 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit a Parking Lot Facility in a Yard Area on Said Property	3-16-77
561	Permitting Variances from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code and Section 9-3.506 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit the Construction of a Single-Family Home on Property Located at 1510 Shasta Lane	4-6-77
563	Permitting Variances from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code and Section 9-3.506 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit the Construction of a Single-Family Home at 1517 South California Street	4-20-77
566	Permitting Variances from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code and Section 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit the Division of Parcel Nos. 25-102-15 and 25-102-23 to Three Parcels with Less Than the Required Frontage	6-1-77

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Ord. No.	Short Title	Date
568	Permitting a Variance from Section 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit the Division of Parcel No. 25-052-13 to Two Parcels with Less Than the Required Frontage	6-15-77
569	Permitting a Variance as Authorized by Section 9-3.2206 of Article 22 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit the Enclosure of a Structure Located Nineteen Feet into the Setback Line at 539 Pacheco Boulevard	6-1-77
571	Permitting Variances from Sections 9-3.606 and 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit the Division of Property on the Northeast Corner of Third Street and G Street to Lots with Less Than the Required Frontage	7-6-77
572	Permitting Variances from Section 9-3.507 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code and Section 9-3.707 of Article 7 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Frontage on Property at 1450 San Luis Street	7-6-77
574	Permitting a Variance from Section 9-3.606 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit the Construction of a Church on Assessor's Parcel Nos. 25-092-01 and 25-092-02 with Less Than the Required Lot Area	7-20-77
577	Permitting Variances from Sections 9-3.606 and 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit the Division of Assessor's Parcel No. 25-015-05 to Lots with Less Than the Required Frontage	8-3-77
579	Permitting a Variance from Section 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit the Division of Assessor's Parcel Nos. 25-051-03 and 25-051-04 to Lots with Less Than the Required Frontage	8-17-77
580	Permitting a Variance from Section 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit the Division of Assessor's Parcel Nos. 25-101-05, 25-083-02, and 25-092-21 to Lots with Less Than the Required Frontage	8-17-77
581	Authorizing an Amendment to the Contract Between the City and the Board of Administration of the California Public Employees' Retirement System	8-17-77

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Ord. No.	Short Title	Date
582	Declaring the Intention to Vacate a Portion of a Public Street	9-7-77
583	Permitting a Variance from Section 9-3.1901 of Article 19 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Off-Street Parking for Property at 1004 Nevada Avenue	9-21-77
585	Permitting Variances from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code and Section 9-3.509 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Frontage and Side Yards on Assessor's Parcel No. 26-032-08	10-5-77
587	Permitting Variances from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code and Section 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Frontage for Property on the Southeast Corner of Seventh Street and East B Street	10-19-77
588	Permitting Variances from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code and Section 9-3.507 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit the Division of Assessor's Parcel No. 26-065-03 to a Lot with Less Than the Required Frontage	10-19-77
589	Permitting a Variance from Section 9-3.509 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Frontage and Side Yards for Property on the Southwest Corner of West L Street and California Street	11-2-77
591	Permitting a Variance from Section 9-3.1909 of Article 19 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Number of Parking Spaces Required for a Church on Assessor's Parcel Nos. 27-161-22,27-161-26, 27-161-32, and 27-161-35	12-21-77
592	Permitting Variances from Sections 9-3.506 and 9-3.507 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Frontage and Area for Property at 555 and 565 Page Avenue	12-7-77
593	Permitting a Variance from Section 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Frontage on Assessor's Parcel Nos. 25-101-18 and 25-101-09	12-7-77

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Ord. No.	Short Title	Date
597	Permitting a Variance from Section 9-3.507 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Frontage on Assessor's Parcel Nos. 27-202-22 and 27-202-23	3-1-78
598	Permitting a Variance from Section 9-3.509 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Side Yard Setback for Property at 1520 Sixth Street	4-5-78
599	Permitting a Variance from Section 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Width on Assessor's Parcel No. 82-160-02	4-19-78
602	Permitting a Variance from Section 9-3.1715 of Article 17 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit a Fence in the Side Yard on Assessor's Parcel No. 27-202-09	4-19-78
603	Permitting a Variance from Section 9-3.707 of Article 7 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Frontage on Assessor's Parcel No. 27-031-33	5-3-78
607	Amending Subsection (f) of Section 17 of Ordinance No. 434 Granting a Franchise to Televents of San Joaquin Valley, Inc., for a Community Antenna Television System	6-7-78
610	Permitting Variances from Section 9-3.707 of Article 7 of Chapter 3 of Title 9 of the Los Banos Municipal Code and Section 9-3.1720 of Article 17 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit Fourplex Dwelling Units on Parcels with Less Than the Required Widths and to Reduce the Required Side Yard Setbacks on Lots 67 through 73 in the Coronado Terrace Subdivision	7-5-78
623	Permitting Variances from Section 9-2.303 of Article 3 of Chapter 2 of Title 9 of the Los Banos Municipal Code and Section 9-3.707 of Article 7 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit the Resubdivision of Twelve Existing Lots to Create Four Additional Lots in the Block Bordered by D and E Streets on the North and South and Santa Rita and San Juan Streets on the East and West	8-16-78
626	Permitting a Variance from Section 9-3.1901 of Article 19 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Off-Street Parking for Property at 863 I Street	11-1-78

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Ord. No.	Short Title	Date
627	Permitting Variances from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code and Sections 9-3.506 and 9-3.507 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Width, Depth, and Area on Assessor's Parcel No. 27-201-33	11-1-78
628	Permitting Variances from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code and Section 9-3.506 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Area and Depth for Property at 1517 South California Street	11-15-78
631	Permitting a Variance from Section 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Width on Assessor's Parcel No. 27-073-07	12-20-78
634	Permitting a Variance from Section 9-3.1901 of Article 19 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Off-Street Parking for the MacArthur Apartments No. 2, Assessor's Parcel Nos. 25-141-04 through 25-141-19	3-21-79
637	Permitting Variances from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code and Section 9-3.707 of Article 7 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Widths on Lots 49, 53, 54, and 55 of Racquet Club Park No. 2 and Lots 71, 117, 118, 119, 122, and 123 of Racquet Club Park No. 3	4-18-79
640	Permitting a Variance from Section 9-3.1715 of Article 17 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit a Six Foot Fence on Lots 21 and 22 of Presidential Estates	5-2-79
641	Repealing Subsection (a) of Section 6-7.05 of Chapter 7 of Title 6 of the Los Banos Municipal Code Relating to Certain Responsibilities of the Water Department	5-16-79
643	Declaring the Intent to Vacate a Ten Foot Public Utility Easement Located on the East Side of Nevada Avenue 150 Feet North of Pacheco Boulevard Between Lots 14 and 15 of the Salha Addition	6-6-79

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Ord. No.	Short Title	Date
645	Permitting Variances from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code and Section 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Widths on Property Located at the Northwest Corner of Eighth Street and F Street	6-20-79
646	Permitting a Variance from Section 9-3.1802 of Article 18 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit a Ground Sign in the Building Setback Area on Property Located 300 Feet East of Ninth Street on the North Side of Pacheco Boulevard	7-5-79
649	Permitting a Variance from Section 9-3.1605 of Article 16 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Distance from a Mobile Home Space to the Property Line Abutting a Public Street on Certain Property Described in the Application for the Variance	9-5-79
650	Permitting Variances from Sections 9-3.706 and 9-3.707 of Article 7 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Widths and Lot Areas on Parcel Nos. 27-044-07 through 27-044-13 and 27-055-08	10-3-79
652	Permitting Variances from Section 9-2.303 of Article 3 of Chapter 2 of Title 9 of the Los Banos Municipal Code and Section 9-3.707 of Article 7 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Vary the Required Lot Widths for Six Existing Lots to Be Redivided into Eight Lots on Properties Located Between D and E Streets on the West Side of San Juan Avenue	10-17-79
654	Permitting a Variance from Section 9-3.1802 of Article 18 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Clearance of a Freestanding Sign in the Building Setback Area on Property Located between Adams and Washington Avenues on the East Side of Center Avenue	11-21-79
656	Permitting Variances from Section 9-2.303 of Article 3 of Chapter 2 of Title 9 of the Los Banos Municipal Code and Section 9-3.707 of Article 7 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Redivide Six Existing Parcels into Eight Lots on Property Located Between D and E Streets Fronting on San Juan Avenue	2-6-80

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Ord. No.	Short Title	Date
658	Permitting a Variance from Section 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Width on Property Located West of Second Street on the South Side of E Street	4-2-80
659	Permitting Variances from Sections 9-3.506, 9-3.507, and 9-3.509 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Width, Lot Size, and Front and Back Yards on Property Located on the Northwest Corner of Adams Avenue and South California Street	4-16-80
664	Permitting Variances from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code and Section 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Width and Lot Area on Assessor's Parcel No. 27-081-39	6-16-80
669	Permitting Variances from Section 9-3.103 of Article 1 of Chapter 3 of Title 9 of the Los Banos Municipal Code and Section 9-3.602 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Allow an Addition to a Single-Family Dwelling on Property Located at the Southwest Corner of Seventh and F Streets	9-17-80
675	Permitting Variances from Section 9-3.509 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code and Section 9-3.1716 of Article 17 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Allow an Encroachment in the Front Yard Located at 706 Jeffrey Road	1-21-81
676	Authorizing an Amendment to the Contract Between the City and the Board of Administration of the California Public Employees' Retirement System	1-21-81
677	Permitting Variances from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code and Section 9-3.507 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Width and Lot Area on Assessor's Parcel No. 27-097-07	2-4-81
679	Permitting a Variance from Section 9-3.1901 of Article 19 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Parking and Substitute Lesser Paving Material for Employee Parking on Assessor's Parcel Nos. 26-132-34 and 26-132-01	4-15-81

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Ord. No.	Short Title	Date
681	Permitting a Variance from Section 9-3.1715 of Article 17 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Allow a Six Foot Fence on Assessor's Parcel No. 83-253-01	6-17-81
683	Permitting Variances from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code and Sections 9-3.506 and 9-3.507 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Allow the Resubdivision of Property With Five Existing Single-Family Dwellings on Assessor's Parcel No. 26-041-01	7-1-81
685	Permitting a Variance from Section 9-3.1703 of Article 17 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Allow the Construction of an Accessory Structure Prior to the Main Use on Property Located at 763 Texas Avenue	8-19-81
687	Permitting a Variance from Section 9-3.1801 of Article 18 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Allow the Erection of a Sign Lower than the Minimum Requirements and Exceeding the Pole Width Maximum Requirements on Property Located at the Corner of I Street, Pacheco Boulevard, and H Street	9-2-81
688	Permitting a Variance from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code, Section 9-2.508 of Article 5 of Chapter 2 of Title 9 of the Los Banos Municipal Code, and Section 9-3.507 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Allow a Reduction in Lot Width and Deviation from the Cul-de-sac Standards to Subdivide Partly Improved Property Located on the South Side of Willmott Road 200 Feet West of North Street	9-2-81
693	Permitting a Variance from Section 9-3.1802 of Article 18 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit a Ground Sign in the Building Setback Area on Property Located at 1950 East Pacheco Boulevard	10-21-81
695	Permitting a Variance from Section 9-3.808 of Article 8 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Front Yard Setback on Property Located at the Northwest Corner of Fourth and I Streets	1-6-82
696	Permitting a Variance from Sections 9-3.602 and 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Lot Width and Street Side Yard Area on Property Located at the Southeast Corner of Ninth and F Streets	2-17-82

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Ord. No.	Short Title	Date
698	Permitting a Variance from Section 9-3.1901 of Article 19 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Number of Parking Spaces on Property Located at the Corner of West I Street and Texas Avenue	7-21-82
701	Permitting Variances from Section 9-3.509 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code and Section 9-3.1711 of Article 17 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Side Yard Requirements on Property Located at 1212 California Street	9-15-82
702	Permitting Variances from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code and Section 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit the Construction of Dwelling Units on Lots with Less Frontages Than Required on Property Located on C, D, and E Streets Between Seventh and Eighth Streets	10-6-82
703	Permitting Variances from Sections 9-3.506, 9-3.507, and 9-3.509 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Width, Lot Size, and Front and Rear Yards on Property Located at the Northwest Corner of Adams Avenue and South California Street	10-21-82
706	Permitting a Variance from Section 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Width on Property Located on the South Side of F Street Between Ninth and Tenth Streets	11-3-82
707	Permitting a Variance from Section 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Width on Property Located on the South Side of E Street Between Eighth and Ninth Streets	1-5-83
708	Permitting Variances from Section 9-3.509 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code and Section 9-3.2103 of Article 21 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit a Room Addition on Property Located at 723 Texas Avenue	4-20-83
709	Repealing Sections 6-7.03, 6-7.04, 6-7.14, 6-7.15, 6-7.18, and 6-7.23 of Chapter 7 of Title 6 of the Los Banos Municipal Code Relating to Water Rates and Services	4-20-83

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Ord. No.	Short Title	Date
710	Permitting Variances from Sections 9-3.506 and 9-3.507 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code and Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code to Permit the Resubdivision of Property Located at the Northeast Corner of M Street and Fourth Street	5-4-83
713	Permitting Variances from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code and Sections 9-2.506 and 9-2.507 of Article 5 of Chapter 2 of Title 9 of the Los Banos Municipal Code to Divide a Lot into Two Lots Fronting on Fourth Street and Center Lane	7-20-83
715	Consolidating General Municipal Election Dates with State General Election Dates	9-7-83
716	Permitting Variances from Section 9-3.609 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code and Section 9-3.2103 of Article 21 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Add to an Existing Accessory Structure Located at 351 F Street	10-5-83
717	Permitting Variances from Sections 9-3.706 and 9-3.707 of Article 7 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Develop a Medical Office Building on Property Located at the Southeast Corner of Pine Street and Iowa Avenue	11-2-83
718	Permitting Variances from Sections 9-3.706 and 9-3.707 of Article 7 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Resubdivide Six Lots into Eight Lots Located at the Northwest Corner of F Street and San Juan Avenue	11-16-83
720	Permitting a Variance from Section 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Develop Two Existing Lots with Less Than the Required Lot Width on Property Fronting on F Street Between Eighth Street and Ninth Street	12-21-83
724	Permitting a Variance from Section 9-3.1802 of Article 18 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit a Ground Sign in the Building Setback Line on Property Located at 518 Pacheco Boulevard	4-4-84
725	Permitting a Variance from Section 9-3.606 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Divide a Corner Lot into Two Lots with Less than the Required Lot Area on Property Located at the Southeast Corner of Fifth and F Streets	4-4-84

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Ord. No.	Short Title	Date
726	Permitting a Variance from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code and Section 9-2.506 of Article 5 of Chapter 2 of Title 9 of the Los Banos Municipal Code to Permit the Reduction of the Required Lot Area on Property Located at the Southwest Corner of Willmott Avenue and North Street	5-1-84
727	Permitting a Variance from Section 9-3.509 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Side Yard Setback on Property Located at 1116 Maryland Avenue	7-5-84
728	Permitting a Variance from Section 9-3.1715 of Article 17 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Locate a Fence in the Street Side Yard of a Corner Lot on Property Located at 1519 Eleventh Street	7-5-84
731	Permitting a Variance from Section 9-3.509 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Side Yard Setback on Property Located at 1130 Maryland Avenue	10-17-84
734	Permitting a Variance from Section 9-3.907 of Article 9 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Width on Property located on the North Side of West J Street	6-5-85
735	Permitting a Variance from Section 9-3.609 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit the Location of a Portion of a Carport in the Side Yard on Property Located at 1035 Fourth Street	7-3-85
738	Permitting a Variance from Section 9-3.1802 of Article 18 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit an Electrical Sign with a Clearance Below the 12-Foot Requirement on Property Located at 849 West Pacheco Boulevard	12-4-85
739	Permitting a Variance from Section 9-3.1715 of Article 17 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit a 6-Foot Fence in the Front Half of Lots to Enclose a Storage Area as an Accessory Use to the Main Packing Shed Operation on Property Located at the Northeast Corner of Seventh Street and G Street	12-4-85
741	Repealing Ordinance No. 214 Establishing a Monthly Salary for the City Treasurer	2-5-86

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Ord. No.	Short Title	Date
745	Permitting a Variance from Section 9-3.507 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit a 55-Foot Lot Width Where a 60-Foot Lot Width Is Required to Create Two Parcels on Property Located on the Southwest Corner of Madrone Street and Texas Avenue	5-21-86
747	Permitting a Variance from Section 9-3.1715 of Article 17 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit a 6-Foot Fence in the Front Half of Lots to Enclose a Storage Area as an Accessory Use to the Main Packing Shed Operation on Property Located at the Southeast Corner of Fourth Street and G Street	6-4-86
754	Approving the Leasing of Public Facilities by the City and the Execution of Other Financing Documents in Connection with the Los Banos Public Facilities Project No. 1	8-6-86
755	Establishing the Retirees' Perpetual Hospitalization Insurance Fund	8-20-86
758	Permitting a Variance from Section 9-3.707 of Article 7 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Lot Width for Certain Lots on Property Located at 908-936 Idaho Avenue	12-17-86
760	Permitting a Variance from Subsections (b) and (c) of Section 9-3.509 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Permit the Reconstruction of a Shared Accessory Building on Property Located at 361 K Street and 1125 Fourth Street	1-7-87
765	Permitting Variances from Sections 9-3.507 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code and Section 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Widths on Property Located at 824 F Street, 937 E Street, and 833 D Street	8-19-87
766	Permitting a Variance from Section 9-3.507 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce the Required Lot Widths on Property Located at 1222 Illinois Avenue	9-16-87
767	Permitting a Variance from Section 9-3.1802 of Article 18 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Lower and Convert a Pole Sign on Property Located at 140 West Pacheco Boulevard	9-16-87

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Ord. No.	Short Title	Date
774	Permitting a Variance from Section 9-3.509 of Article 5 of Chapter 3 of Title of the Los Banos Municipal Code to Permit an Encroachment into the Rear Yard Area on Property Located at 1231 Fourth Street	1-20-88
785	Permitting a Variance from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code and Section 9-3.509 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code for an Odd- Shaped Lot Located at 960 Santa Barbara Street	9-21-88
786	Authorizing an Amendment to the Contract Between the City and the Board of Administration of the California Public Employee's Retirement System	10-20-88
791	Accepting the Penal Code Requirements Relating to the Selection and Training Standards of Public Safety Dispatchers	12-21-88
792	Permitting Variances from Sections 9-3.506 and 9-3.507 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Reduce Required Lot Sizes and Lot Widths on Property Located between Kiwi Street and North Street	1-4-89
801	An Ordinance Relating to Annexation, Zoning, Subdivision and Environmental Fees	6-21-89
805	Permitting a Variance from Section 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Construct a Single-family Home on a Lot Below the Minimum Width and Area in the R-2, Medium Density Residential District on Property Located at 824 "F" Street	7-19-89
809	Permitting a Variance from Section 9-3.707 of Article 7 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Relocate a Single-family Home on a Lot with Frontage Below that Required in the R-3, High Density Residential Professional District on Property Located at 816 "J" Street	9-6-89
812	Permitting a Variance from Section 9-3.707 of Article 7 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Develop a Duplex on a Lot Below the Minimum Lot Width in the R-3, High Density Residential Professional District on Property Located at the Northeast Corner of Eighth and J Streets	10-18-89

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Ord. No.	Short Title	Date
814	Permitting a Variance from Sections 9-2.404 of Article 4 of Chapter 2, 9-3.506 of Article 5 of Chapter 3 and 9-3.606 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Divide a 75 × 150 Foot Corner Lot Into Two Parcels in the R-2, Medium Density Residential District on Property Located at the Southeast Corner of First and F Streets	11-15-89
816	Permitting a Variance from Section 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Develop Five Single Family Homes on Five Lots, Each Fifty Feet Wide, One Being A Corner Lot	12-20-89
817	Permitting a Variance from Sections 9-3.606 and 9-3.607 of Article 6 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Locate a Manufactured Home on An Irregular Shape Lot in the R-2, Medium Density Residential District on Property Located at 150th "F" Street	12-20-89
820	Permitting a Variance from Section 9-3.507 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Construct Three Single-Family Homes in the R-2, Medium Density Residential District on Property Located at 838 "F" Street, 844 "F" Street and 852 "F" Street	1-3-90
821	Permitting a Variance from Section 9-3.507 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Construct Two Single-Family Homes in the R-2, Medium Density Residential District on Property Located at 721 "D" Street and 748 "E" Street	1-3-90
824	Permitting a Variance from Sections 9-3.506, 9-3.507, 9-3.509 of Article 5, 9-3.2205 and 9-3.2206 of Article 22 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Divide an Existing Parcel Into Two Parcels on Property Located in the R-1, Low Density District	2-21-90
826	Permitting a Variance from Section 9-3.507 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Construct a Single-Family Home in the R-2, Medium Density Residential District on Property Located at 646 "F" Street	3-7-90
829	Permitting a Variance from Section 9-3.507 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Construct a Single-Family Home in the R-2, Medium Density Residential District on Property Located East of the Southeast Corner of Seventh and "C" Streets	5-16-90

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Ord. No.	Short Title	Date
830	Urgency Ordinance Authorizing an Amendment to the Contract Between the City and the Board of Administration of the California Public Employees' Retirement System	6-6-90
834	Permitting a Variance from Section 9-3.509 of Article 5 of Chapter 3 of Title 9 of the Los Banos Municipal Code to Encroach With a Carport Six (6') Feet On Property Located at 1521 Alpine Lane	8-15-90
841	Permitting a Variance from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code to Vary the Average Lot Width on a Certain Parcel of Land	2-20-91
846	Rescinding Ordinance No. 838	5-15-91
848	Permitting a Variance from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code to Vary the Average Lot Depth on a Certain Cul-de-Sac Lot	7-3-91
850	Permitting a Variance from Section 9-3.1901(c) of Article 19 of Chapter 3 of Title 9 of the Los Banos Municipal Code	10-2-91
859	Permitting a Variance from Section 9-3.1901 of Article 19 of Chapter 3 of Title 9 of the Los Banos Municipal Code	8-5-92
872	Permitting a Variance from Section 9-2.404 of Article 4 of Chapter 2 of Title 9 of the Los Banos Municipal Code	7-21-93
876	Permitting a Variance from Sections 9-3.509(a) and 9-3.1715(b)(1) of Chapter 3 of Title 9	5-4-94
879	Adopts Residential Specific Plan Regarding Specific Plan #1, Meadowlands Project	7-20-94
880	Permitting a Variance from Section 9-3.509(b) of the Los Banos Municipal Code	11-16-94
883	Permitting a Variance from Sections 9-3.507 and 9-3.508 of the Los Banos Municipal Code	1-4-95
889	Declares Need for Redevelopment Agency	9-20-95
896	Interim Ordinance Prohibiting Establishment of New Adult Entertainment Businesses	3-20-96
900	Approves and Adopts Redevelopment Plan for Redevelopment Project	7-17-96
903	Permitting a Variance from Section 9-3.1901 of the Los Banos Municipal Code	8-7-96

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Ord. No.	Short Title	Date
928	Authorizing an Amendment to the Contract between the City Council and the Board of Administration of the California Public Employees' Retirement System	7-30-97
929	Permitting a Variance from Sections 9-3.509 and 9-3.1075 of the Los Banos Municipal Code	7-16-97
932	Adopting the Lamoglia Development Agreement	8-6-97
940	Adopting Meadowlands Development Agreement	3-18-98
942	Authorizing an Amendment to the Contract between the City Council and the Board of Administration of the California Employee's Retirement System	5-6-98
961	Adopting a development agreement between the City of Los Banos and Los Banos Entertainment Associates, LLC	6-21-00
972	Authorizing the Mayor to execute a development agreement on behalf of the City for that certain development project known as Los Banos Gardens subdivision	9-5-01
973	Authorizing the Mayor to execute a development agreement on behalf of the City for that certain development project known as the Mission Estates subdivision	9-5-01
974	Authorizing the Mayor to execute a development agreement on behalf of the City for that certain development project known as the Mission Village North subdivision	10-17-01
975	Authorizing the Mayor to execute a development agreement on behalf of the City for that certain development project known as the Mission Village South subdivision	10-17-01
976	Authorizing the Mayor to execute a development agreement on behalf of the City for that certain development project known as the Northdate at Regency Park subdivision	10-17-01
977	Authorizing the Mayor to execute a development agreement on behalf of the City for that certain development project known as the Northgate at Regency Park II subdivision	10-17-01
978	Authorizing the Mayor to execute a development agreement on behalf of the City for that certain development project known as the Somerset subdivision	10-17-01

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Ord. No.	Short Title	Date
981	Authorizing the Mayor on behalf of the City to execute an addendum to the Lamoglia development agreement	10-17-01
982	Authorizing the Mayor to execute a development agreement on behalf of the City for that certain development project known as the Meadowlands Unit II subdivision	11-21-01
983	Authorizing the levy of a special tax within the City of Los Banos Community Facilities District	3-20-02
984	Urgency Ordinance Authorizing an amendment to the contract between the City Council and the Board of Administration of the California Public Employees' Retirement System	4-17-02
986	Urgency Ordinance Authorizing an amendment to the contract between the City Council and the Board of Administration of the California Public Employees' Retirement System	5-1-02
987	Adopting the development agreement between the City and J. Richard Tapia dba Golden Valley Harley Davidson	6-5-02
1000	Authorizing the Mayor to execute a development agreement on behalf of the City for that certain development project known as the Magnolia Grove subdivision	8-6-03
1002	Authorizing the Mayor to execute a development agreement on behalf of the City for that certain development project known as the Villages at Stonecreek and the Villages II at Stonecreek	9-17-03
1004	Authorizing the Mayor to execute a development agreement on behalf of the City for that certain development project known as the Meadowlands Unit No. 3	11-19-03
1010	Authorizing the Mayor to execute a development agreement on behalf of the City for that certain development project known as Stonecreek Area Plan and Annexation	5-5-04
1014	Approving and adopting an amendment to the Redevelopment Plan for the Los Banos Redevelopment Project pursuant to the provisions of the Community Redevelopment Law, Health and Safety Code Section33450 et seq	5-19-04

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Ord. No.	Short Title	Date
1017	Authorizing the Mayor to execute a development agreement on behalf of the City for that certain development project known as the Orchard Terrace II subdivision and annexation	11-3-04
1019	Authorizing the Mayor to execute a pre-annexation development agreement on behalf of the City for that certain development project known as the East Mercey Springs Area Plan and annexation	11-3-04
1024	Authorizing the Mayor to execute a development agreement on behalf of the City for that certain development project known as the Village Green subdivision and annexation	2-2-05
1026	Authorizing the Mayor to execute a development agreement on behalf of the City for that certain development project known as the provinces	4-6-05
1030	Granting a franchise to provide cable services	5-18-05
1032	Authorizing the Mayor to execute a development agreement on behalf of the City for that certain development project known as Stonecreek Villages IIA and III	6-15-05
1033	Authorizing the Mayor to execute a development agreement on behalf of the City for that certain development project known as Stonecreek Village Unit IV	6-15-05
1041	Authorizing the Mayor to execute a pre-annexation development agreement on behalf of the City for the Spadafore-Giannone Area Plan	1-7-06
1043	Authorizing the Mayor to execute a development agreement on behalf of the City for that certain development project known as the Villas Vesting Tentative Map	2-18-06
1044	Authorizing amendments to the zoning district map for various properties located within the Los Banos Rail Corridor Master Plan	3-1-06
1056	Describing the Redevelopment Agency's program to acquire real property by eminent domain pursuant to the provisions of the California Community Redevelopment Law, Health and Safety Code Section 33342.7	6-6-07
1060	Authorizing the Mayor to execute a development agreement on behalf of the City for that certain development project known as Quail Meadows at Stonecreek	10-17-07

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Ord. No.	Short Title	Date
1063	Authorizing the Mayor to execute a development agreement on behalf of the City relative to the Shaunessy Village Project	1-16-08
1064	Authorizing the Mayor to execute a development agreement on behalf of the City relative to the Mission Village South Project	12-19-07
1075	Authorizing the Mayor to execute a pre-annexation development agreement on behalf of the City for the Villa Burano	8-20-08
1096	Authorizing amendment to the contract between the City and the California Public Employees' Retirement System	11-3-10
1103	Amending the zoning map to pre-zone from county A-1 (general agricultural) to H-C (highway commercial) the property located west of Badger Flat Road and north of Pacheco	2-1-12
1104	Authorizing the mayor to execute a pre-annexation agreement of behalf of the City relative to the development known as AM/PM and McDonald's	1-18-12
1106	Amending the official zoning map by rezoning one parcel generally located at the northwest corner of Arizona Avenue and West I Street (310 W. I street) from low density residential (R-1) to neighborhood commercial (C-N)	12-19-12
1107	Extending the temporary suspension of the collection of regional transportation impact fees established by Ordinance No. 1031	2-20-13
1109	Amending the official zoning map by rezoning one parcel generally located at the northwest corner of Overland Avenue and Rockport Drive from highway commercial (H-C) to Medium Density Residential (R-2)	6-19-13
1111	Amends the zoning map to pre-zone approximately one-half acre located at 15901 Badger Flat Road from general agricultural (A-1) to highway commercial (H-C)	8-21-13
1112	Authorizes the mayor to execute a pre-annexation development agreement between the City and LB property Management, LLC for the property located at 15901 Badger Flat Road	8-21-13
1115	Extending the temporary suspension of the collection of regional transportation impact fees established by Ordinance No. 1031	2-19-14

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Ord. No.	Short Title	Date
1118	Urgency ordinance temporarily adding subsection (b) to § 10-2.03.10 regarding water irrigation restrictions for 2014	3-19-14
1121	Suspends indefinitely the collection of transportation impact fees as codified by Ordinance No. 1031	8-20-14
1122	Amends zoning map by rezoning property at 310 West I Street from C-N to R-1	10-1-14
1124	Prezones 28.5 acres at the southeast corner of Overland Avenue and Johnson Road from County General Agricultural to Industrial	1-7-15
1125	Approves a pre-annexation development agreement with AMG & Associates, LLC for the AMG Industrial Business Park annexation	1-7-15
1127	Approves amendment to the development agreement for the Villages at Stonecreek IIA and III development	4-1-15
1128	Amends zoning map by rezoning property at 537, 543 and 547 M Street from low density residential (R-1) to medium density residential (R-2) and the remainder to be highway commercial (H-C)	4-1-15
1129	Approves amendment to the development agreement for the Villages at Stonecreek IV development	5-6-15
1132	Amends zoning map by rezoning property located at 745 West J Street from R-1 to C-N	8-19-15
1143	Amends zoning map by rezoning property located on assessor's parcel Nos. 430-010-004, 005 and 040 from C-N to H-C	3-16-16
1148	Approves development agreement between City and Anderson Homes for Villages at Stonecreek IX	11-16-16
1154	Amends the official zoning map by rezoning property at 027-214-001—027-214-007 from P-O to R-2	6-21-17
1155	Approves development agreement between the City and Anderson Homes for 80.4 acres on the south of the future Cardoza Road extension	5-17-17
1159	Establishes a moratorium on massage establishments	Repealed by 1162
1160	Extends moratorium on massage establishments	Repealed by 1162
1167	Amends zoning map by rezoning the Los Banos police station facility from R-C to P-F	12-19-18
1169	Amends zoning map by rezoning property for Mercey Springs Road apartments from R-1 to R-3	3-20-19

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§ SOE.010 TABLE 2 - SPECIAL ORDINANCES NOT CODIFIED

Ord. No.	Short Title	Date
1173	Amends zoning map by rezoning the Los Banos Child Development Center from Park to P-O	8-21-19
1177	Urgency ordinance temporarily amending the number of members of the Planning Commision	11-20-19
1183	Authorizes amendment to the contract between the City and the California California Public Employees' Retirement System for local safety members	4-15-20
1184	Interim ordinance amending Ch. 11-8 regarding shopping carts	5-20-20
1187	Authorizing the implementation of a community choice aggregation program by and through the Penninsula Clean Energy Authority	10-21-20
1193	Approves a pre-annexation development agreement with AMG & Associates, LLC for the AMG Industrial Business Park annexation	1-19-22
1197	Approves a development agreement between the City and Anderson Homes for development of 70.5 acres located south of West Pacheco Boulevard and west of Stonecreek Boulevard	6-1-22
1198	Amends zoning map by rezoning the lot located at 1133 F Street from C-1 to R-3	7-6-22
1203	Amends zoning map in accordance with the Los Banos General Plan update 2042	11-15-23
1207	Amends the zoning map to pre-zone approximately 170 acres located between the San Luis Canal and the Santa Fe Canal, Merced County, California, From County General Agricultural (A-1) To Public Facility (Pf)	3-5-25
1208	Approves second amendment to development agreement relative to the development known as "Villages at Stonecreek IV"	6-18-25
1214	Approves a development agreement relative to the development known as Villages VI	2-18-26

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Title SO

TABLE 3 - SUSPENDED ORDINANCES

§ SO.010. Suspended ordinances.

Ord. No.	Short Title	Date
200	Imposing a License Tax for the Privilege of Selling Tangible Personal Property at Retail	9-7-51
202	Imposing an Excise Tax on the Use or Other Consumption of Tangible Personal Property	10-31-51
232	Amending Section 3 and Repealing Subsection (c) of Section 4 of Ordinance No. 200 Imposing a Sales Tax	12-7-55
234	Amending Sections 2, 3, and 4 of Ordinance No. 200 Imposing a Sales Tax	6-6-56

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