

# Visalia City Council Agenda



For the regular meeting of: Monday, March 20, 2006

Location: City Hall Council Chambers

Mayor: Jesus J. Gamboa  
Vice Mayor: Greg Kirkpatrick  
Council Member: Greg Collins  
Council Member: Donald K. Landers  
Council Member: Bob Link

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All items listed under the Consent Calendar are considered to be routine and will be enacted by one motion. If anyone desires discussion on any item on the Consent Calendar, please contact the City Clerk who will then request that Council make the item part of the regular agenda.

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## **Employee Introduction:**

Dennis Lehman, Chief Building Official introduces Kevin Tromborg & Frank Rocha, Building Inspectors; and Steven Rocha, Plan Checker.

Vince Elizondo, Parks & Recreation Director introduces Jeannie Greenwood, Recreation Supervisor and Alejandra Arredondo, Senior Office Assistant.

## **WORK SESSION AND ACTION ITEMS (as described)**

**5:00 p.m.**

1. Consultant Selection for the West Highway 198 Master Plan.
2. Item removed from Agenda.
3. Review of proposed Lowe's Shopping Center at the Northwest corner of Riggin Avenue and Demaree Street.

*\*Any items not completed prior to Closed Session may be continued to the evening session at the discretion of the Council.*

## **ITEMS OF INTEREST**

### **CLOSED SESSION**

**6:00 p.m. (Or, immediately following Work Session)**

4. Conference with Legal Counsel – Existing Litigation  
Name of Case: Hettick v. City of Visalia TCSC Case No. 05-214421

5. Conference with Real Property Negotiators  
Property: located south of Ferguson Avenue on east side of Linwood Street; a portion of APN 077-087-052 and a parcel located at 321 North Lovers Lane, a portion of APN 098-070-031.  
Under Negotiation: price, terms, conditions of acquisition for park purpose  
Negotiators: Steve Salomon, Vince Elizondo, Don Stone, California Water Service Co.
6. Conference with Real Property Negotiators  
Property: 830 E. Roosevelt, APN 094-130-040  
Under Negotiation: Price, terms, conditions of purchase and sale agreement  
Negotiators: Steve Salomon, Mike Olmos, Matty Matecjec, William and Joann Bawks
- 7a. Conference with Real Property Negotiators  
Property: corner of Burke and Center; APN 094-190-010  
Under Negotiation: Price, terms, conditions of purchase  
Negotiators: Steve Salomon, Mike Olmos, Marty Zeeb, Chris Beck, Kyle Rhinebeck
- 7b. Conference with Real Property Negotiators  
Property: facility located at 1968 S. Lovers Lane  
Under Negotiation: Price, terms, conditions of potential lease  
Negotiators: Steve Salomon, George Sandoval, California Department of Forestry
8. Public Employment  
Title: Chief of Police

## **REGULAR SESSION**

**7:00 p.m.**

## **PLEDGE OF ALLEGIANCE**

**INVOCATION** - Michael Sheltzer, Congregation B'nai David

## **SPECIAL PRESENTATIONS/RECOGNITION**

**CITIZENS REQUESTS** - This is the time for members of the public to comment on any matter within the jurisdiction of the Visalia City Council. This is also the public's opportunity to request that a Consent Calendar item be removed from that section and made a regular agenda item for discussion purposes. Comments related to Regular or Public Hearing Items listed on this agenda will be heard at the time the item is discussed or at the time the Public Hearing is opened for comment. The Council Members ask that you keep your comments brief and positive. Creative criticism, presented with appropriate courtesy, is welcome. The Council cannot legally discuss or take official action on citizen request items that are introduced tonight. In fairness to all who wish to speak tonight, each speaker from the public will be allowed three minutes (speaker timing lights mounted on the lectern will notify you with a flashing red light when your time has expired). Please begin your comments by stating and spelling your name and providing your address.

**- Convene jointly as the Redevelopment Agency and the Visalia City Council**

9. RDA CONSENT CALENDAR -

- a. Authorization to enter into an agreement between the Community Redevelopment Agency of the City of Visalia and Habitat for Humanity of Tulare County, for use of Redevelopment Agency Low/Mod Housing Set-Aside funds, to provide for a loan account administered by City's Finance Department with a balance of up to one hundred thousand dollars (\$100,000) for acquiring land for the construction of affordable homes.

**- Adjourn as the Redevelopment Agency and remain seated as the Visalia City Council**

**CHANGES TO THE AGENDA/ITEMS TO BE PULLED FOR DISCUSSION**

10. CONSENT CALENDAR - Consent Calendar items are considered routine and will be enacted by a single vote of the Council with no discussion. For a Consent Calendar item to be discussed, or voted upon individually, it must be removed at the request of the Council.

- a) Authorization to read ordinances by title only.
- b) Authorize the City Manager to approve **Resolution 2006-24** allowing City staff to apply for a State Office of Emergency Services grant to recover costs from damages resulting from the January 2006 flood event.
- c) Item removed from Agenda.
- d) Authorize the City Manager to accept, execute and implement the grant award from the California Energy Commission in the amount of \$100,000 for seven CNG Solid Waste trucks. **Resolution 2006-25 required.**
- e) Authorize \$160,550 for the purchase of Musco Athletic Lighting system for Riverway Sports Park.
- f) Authorization to submit a pre-proposal application for the Green Trees for The Golden State grant in the amount of approximately \$140,000 and designating the City Manager as the agent to negotiate, execute and submit all necessary documentation pertaining to the planning of street trees in City parks, various neighborhoods and adjacent to various waterways.
- g) Appointment of Robert Mijares as Parks and Recreation Commissioner, Lesa Mann and Russ Desch as Parks and Recreation Alternate Members, as recommended by the Citizens Advisory Committee.
- h) Authorization of an agreement between Christian Church Homes of Northern California/Visalia Senior Housing, Inc. and the City of Visalia for the provision of HOME funds not to exceed \$2.5 million for the development of a 50+/- unit affordable senior housing project in downtown Visalia.

i) **Introduction of the following Ordinance(s):**

1. **Ordinance 2006-05** authorizing the lease of certain portions of real property located at the Visalia Municipal Airport to the Federal Aviation Administration for the purpose of maintaining and operating Navigational Equipment.

j) **Second Reading of the following Ordinance(s):**

1. **Ordinance 2006-02** to amend Section 13.08 (Sewer Service System) of the Visalia Municipal Code to comply with Environmental Protection Agency (EPA) requirements.
2. **Ordinance 2006-03** An Interim Ordinance Establishing Prohibited and Permitted Uses and Development Standards for a Portion of the East Downtown Strategic Plan Area (*A 4/5 vote is required to adopt this Ordinance.*)

k) Authorization to record the final parcel map for Tentative Parcel Map 2005-25, located at the northeast corner of Shirk Street and Doe Avenue. APN 077-100-074

l) Authorization to file Notice of Completion for the following:

1. Oakwest Subdivision Unit No. 5, containing 126 lots, located southeast of Hurley Avenue and Shirk Road.
2. Oakwest Subdivision Unit No. 6, containing 72 lots, located southeast of Hurley Avenue and Shirk Road.
3. Summerfield Phase 1, containing 76 lots, located southeast of Akers Street and Riggin Avenue.
4. Summerfield Phase 2, containing 74 lots, located at the Southeast of Akers Street and Riggin Avenue.
5. Rancho Santa Fe Estates Subdivision, containing 54 lots, located on the south side of Monte Vista between Burke and Santa Fe Streets.
6. Conyer Estates Addition, containing 9 lots, located at the northeast corner of Vine Avenue and Conyer Street intersection.
7. Project No. 3011-00000-720000-0-9629-2003, the Mill Creek Trail project.

m) Authorization for the City Manager to work with the Local Government Commission on development of a one day workshop on current planning and development principles, and allocating up to \$10,000 for various expenses associated with such workshop.

11. PUBLIC HEARING -

- a. Adoption of Negative Declaration No. 2006-30 which evaluates environmental impacts associated with Annexation No. 2006-01 (Doe) and Contract Cancellation No. 2006-01: a request for the partial cancellation of Williamson Act Land Conservation Contract No. 10765 and the diminishment of Agriculture Preserve No. 3638 by 100 acres. The property is located at the northwest corner of Plaza Drive and Riggin Avenue (APN: 077-120-004, 009). **Resolution 2006-26 required** (*A separate Motion by the Council is required.*)
- b. Annexation No. 2006-01 (Doe): A request by Russell Doe, applicant (Michael Porte and Lou Ginise, agents) to annex 160 acres into the City limits of Visalia **Resolution 2006-27 required.** (*A separate Motion by the Council is required*) and to amend Tulare County's

LAFCO Sphere of Influence by 160 acres. The property is located at the northwest corner of Plaza Drive and Riggin Avenue in the City of Visalia, County of Tulare. (APN: 077-120-004, 009) **Resolution 2006-28 required.** (*A separate Motion by the Council is required.*)

## REPORT ON ACTIONS TAKEN IN CLOSED SESSION

## REPORT OF CLOSED SESSION MATTERS FINALIZED BETWEEN COUNCIL MEETINGS

### Upcoming Council Meetings

Monday, April 3, 2006 (Visalia Convention Center)

Monday, April 17, 2006

Monday, May 1, 2006

Work Session 4:00 p.m.

Regular Session 7:00 p.m.

City Hall Council Chambers

707 West Acequia Avenue

In compliance with the American Disabilities Act, if you need special assistance to participate in meetings call (559) 713-4512 48-hours in advance of the meeting. For Hearing-Impaired - Call (559) 713-4900 (TDD) 48-hours in advance of the scheduled meeting time to request signing services.

## City of Visalia Agenda Item Transmittal

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):** 1

**Agenda Item Wording:** Consultant Selection for the West Highway 198 Master Plan

**Deadline for Action:** None

**Submitting Department:** Community Development - Planning

**Contact Name and Phone Number:** Fred Brusuelas, Assistant  
Community Development Director 713-4364

For action by:

City Council  
 Redev. Agency Bd.  
 Cap. Impr. Corp.  
 VPFA

For placement on which  
agenda:

Work Session  
 Closed Session  
Regular Session:  
 Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.): 15

### **Department Recommendation and Summary:**

Authorize staff to negotiate an agreement with BMS Design Group of San Francisco to prepare the West Highway 198 Master Plan. The City Council during the work session of March 6, 2006, made a decision to have the West Highway 198 Master Plan prepared with an agricultural emphasis. Staff was directed to proceed with an agricultural focused Master Plan preparation process and recommend a consultant to prepare the plan. Staff is recommending that the City Council Select the consultant firm of **BMS Design Group** to prepare the West Highway 198 Master Plan.

The City Council has had ongoing discussions regarding preparation of a West Highway 198 Master Plan. The Council in 2005 directed the process to have a consulting firm selected and a Master Plan prepared. The process was initiated and a Task Force was assembled to conduct consultant interviews. The land use emphasis for the Highway 198 Master Plan area was left open to consultant firm suggestions. The consultant firms of **Dyett & Bhatia** and **BMS Design Group** made their presentations during interviews with the Highway 198 Task Force on the basis of receiving their comments and demonstrating their abilities. Both firms equally demonstrated their abilities to prepare a wide range of master plans. The submitted scope of work and budget for the West Highway 198 Master Plan

**Prior Council/Board Actions:** The City Council held a work session on March 6, 2006 to discuss the proposed West Highway 198 Master Plan. At the work session, the Council directed Staff to proceed with the process to have the Master Plan prepared. Staff was directed to return with a consultant recommendation. The Council also directed that the Master Plan be prepared with an agricultural focus that incorporates an Agricultural Enterprise Zone, Agricultural Preservation Plan and funding options. The hired consultant firm will prepare a new scope of work and budget that will be agricultural focused Master Plan. The scope of work and budget will be reviewed by staff, and when negotiations are completed, the agreement will be brought to council for authorization to execute.

**Committee/Commission Review and Actions:** The West Highway 198 Task force conducted an interview process to evaluate the consultant firms of Dyett & Bhatia and BMS Design Group to prepare the West Highway 198 Master Plan. The evaluation of the firms by the Task Force resulted in a score of 662 points (51%) **Dyett & Bhatia** and 635 points (49%) **BMS Design Group**. It is the opinion of staff that the close scoring reflects the equal capabilities of either consulting firm to perform the work being asked. The major distinction between the firms is that the firm of **BMS Design Group** presented the Task Force with a concept of the Highway 198 corridor and master plan area that portrayed a rural character and agricultural emphasis. There was also a depiction of tree lined roads and limited building construction. Although the firms have a very close scoring, it is the recent decision of the City Council to have an agricultural focused Master Plan that identified BMS Design Group as most qualified due to their agricultural focused design concept.

**Alternatives:** As an alternative, the City Council may direct that the firm of **Dyett & Bhatia** be selected to prepare the West Highway 198 Master Plan.

- Attachments:** 1. Study Area Map  
2. BMS Project Team Qualifications

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):** I move to authorize the City Manager to negotiate a scope of work and budget for the preparation of the West Highway 198 Master Plan with BMS Design Group.

***Financial Impact***

**Funding Source:**  
Account Number: None.

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____	No_X__

***Environmental Assessment Status***

**CEQA Review:**

Required? No  
Review and Action: Prior:  
Required:

**NEPA Review:**

Required? No  
Review and Action: Prior:  
Required:

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

None.

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**



## City of Visalia Agenda Item Transmittal

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):** 3

**Agenda Item Wording:** Review of Proposed Lowe's Shopping Center at the Northeast Corner of Riggins Avenue and Demaree Street

**Deadline for Action:** None

**Submitting Department:** Community Development

**Contact Name and Phone Number:** Fred Brusuelas 713-4364  
Paul Scheibel 713-4369

For action by:

City Council  
 Redev. Agency Bd.  
 Cap. Impr. Corp.  
 VPFA

For placement on which agenda:

Work Session  
 Closed Session  
Regular Session:  
 Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.): 30 min.

### Department Recommendation and Summary:

Staff recommends that the City Council review the applicant's development proposal for a 247,387 square foot shopping center, including the proposed 172,137 sq.ft. Lowe's Home Improvement Center; direct that a Specific Plan be first adopted to guide the development of the commercial center, provide direction on the preferred design and uses for the commercial development, and include direction that the Specific Plan include the multi-family zoned property adjacent to the shopping center parcel.

This project provides the City with an opportunity to design an urban commercial village with emphasis on internal and external walkability and with effective orientation and connectivity to surrounding residential neighborhoods. With these concepts in mind, in reviewing the project, staff further recommends that Council direct the following design criteria be incorporated into a specific plan for this area, in addition to any other concerns that Council may wish to discuss.

- The site plan is dominated by a single retail store comprising 172,000 sq. ft. of building and 31,000 sq. ft. of garden center. This will be the biggest single occupant retail building in Visalia. Due to the small size of the parcel, it is difficult for the project to include other tenants needed to meet the daily goods and service needs of surrounding residential neighborhoods. This site is therefore undersized for this scale of dominant tenant. The size of the major tenant should be reduced substantially to allow a mix of smaller commercial buildings with a wider variety of retail tenants.
- Commercial buildings should be strategically placed around the site and proximate to nearby streets to reduce the expansiveness of the parking lot and increase visual attractiveness from neighboring streets. Reduction in size of the major tenant will enable better dispersal of commercial buildings to occur and enhance pedestrian movements.
- The current plan backs a very large building toward future multiple family uses to the north. Truck traffic generated by the major tenant and other shops will utilize Flagstaff Avenue, which will also provide primary access to the multiple family area. The future multiple

family area should be included in the specific plan so that proper coordination can occur between the MFR area and shopping center with respect to building orientation, noise mitigation, visual treatment, vehicular movements and access points on Flagstaff, pedestrian pathway, lighting, and other buffering and connectivity issues.

- The current design of the project could be better oriented toward Lela Street and Jerome Avenue, which provide pedestrian access to residential areas to the west (across Demaree), east and northeast. The plan should be revised to provide better orientation to these entryway streets with design features to encourage and facilitate pedestrian travel.
- The four corners of the site at street intersections have very little enhancement and visual appeal. These corners provide the first views of the center to the traveling public. The corners should be enhanced with raised landscapes, fountains, pergolas, sheltered walkways or other features to enhance the visual and walkability aspects of the center.
- Building elevations should use varied architectural treatments that prevent visual monotony but maintain compatibility. Long building lines need to be avoided. Varied building elevations and staggered building heights, along with proper building dispersal, will create a village type commercial area with enhanced walkability characteristics.
- Strong emphasis should be placed on internal walkability. Building location should be oriented toward pedestrians and not parking convenience. Well defined and lit pathways between buildings and in parking areas should be provided. Tree placement should provide ample shade for pedestrian shoppers. Site design needs to provide for enhanced pedestrian street crossings at all crossing points at major streets.

These criteria are intended to provide initial design concepts for the center. Further design elements will be addressed during the development of the specific plan.

### **Background:**

The City has received a new development proposal for a Shopping Center with 247,387 square feet of building space on 13.8 acres at the northeast corner of Riggan Ave. and Demaree St. The property has a Community Commercial land use designation. The applicant, Westland Development presented the proposal to the Site Plan Review Committee on January 25, 2006 (SPR 2006-16).

The development plan features a 172,137 square foot Lowe's Home Improvement Center as the center's primary tenant, and an attached 42,600 square foot building with an as yet un-named user. The remaining 32,650 square feet of commercial space would be situated on several outpads along Riggan Avenue. The applicant is not proposing to include the six-acre parcel located immediately to the north that has a Medium Density Residential land use designation.

There are several concerns with the current proposal regarding entries that are offset from existing streets, truck delivery routes and their effect on local residential traffic, and the contribution this project would make to General Plan buildout trip generation on collector and arterial roads that serve the northwest quadrant. Primary access to the site would be from Riggan Ave. and from Demaree St. These are both Arterial roads, and could provide adequate access to the site from areas within the City's northwest quadrant. Access to the site from adjacent neighborhoods would be from Jerome Ave. (both east and west of the site), and Leila Streets that parallels the site along the east.

The site is one of the locations designated in the General Plan Land Use Element Policy 3.5.8 (attached) as a Community Center, and requires development to be guided by a Specific Plan. To date, the only Specific Plan previously prepared for a designated Community Center is the Demaree/Caldwell Specific Plan (38.7 acres approved by the City Council in Fall 1998). That project includes a mix of commercial uses that are partially built out, office garden uses, and a multi-family residential component that is not yet approved for development.

For the subject project, the applicant held an informal neighborhood meeting in early January with the residents of the Shannon Ranch I subdivision, adjacent to the east of the project site. Approximately 40 residents attended the meeting. City staff was also present as an impartial information resource for the residents. The residents' primary concerns were the aesthetic impacts on their existing neighborhood, traffic impacts on Riggin Avenue, and potential drainage impacts to the area. Staff did not note any particular objections by the attendees to the proposed uses.

**Preferred Commercial Uses:** Staff recommends that the City Council find the developer's proposed primary use for the commercial site (172,000 sq. ft. single occupant home improvement store), and determine that the structure and use are out of scale for the site. Implicit with this recommendation are two associated issues:

One: The proposed primary tenant (Lowe's), at a size of 172,137 sq.ft., does not appear to be a Neighborhood or Community level use, but is more appropriately classified as a Regional use. Lowe's existing Visalia store is located on Mooney Boulevard, and is approximately 150,000 sq.ft. in size, including the warehouse/service area, but excluding the outdoor garden center. The existing store is in a designated Regional Retail land use area. The store at the proposed site (Riggin and Demaree) should serve neighborhood and community markets, not regional markets, and should be designed as such.

Land Use Policy 3.5.8 specifies that Community Centers "shall be of community-, neighborhood-, or convenience-level draw only. No uses which are primarily of a regional draw or uses which would compete with Core Area uses shall be permitted." The General Plan provides a distinction between regional uses and other commercial uses on the basis of the relative market area the venue is intended to serve. The General Plan identifies Regional sites as "...Mooney Boulevard between SH 198 and Packwood Creek, South of Caldwell Avenue, east of Mooney Boulevard, and SH 198 between Campus, Demaree, and County Center."

A Home Depot store approximately 125,000 sq. ft. in size (including canopy) is located on Community Commercial property at Demaree and Caldwell. While the Home Depot store at the northeast corner of Demaree St. and Caldwell Ave. may constitute a precedent for this use in a Community Center area, the site at Demaree and Riggin Will be surrounded by residential neighborhoods and does not have the commercial/office mix that exists at the Demaree and Caldwell intersection.

Two: The proposed primary tenant (Lowe's) would occupy 172,137sq.ft. of 247,387 sq.ft. (69.6%) of the total building square footage of the site, and would not be consistent with the General Plan vision for Community Centers for both the use, and the building size. The proposed Lowe's building's mass and size would dominate the center's design and orientation, and it would leave only about 30% (75,250 sq.ft.) of the remaining building area for the variety of daily goods and services anticipated for Community Center developments, and not presently provided within one mile of the site. Additional goods and service tenants should be able to locate on the site to effectively serve surrounding neighborhoods.

Staff believes a home improvement store is an acceptable use for this shopping area, but only in a smaller building that constitutes a smaller percentage of the anticipated building area of the site.

In addition to facilitating space for a greater mix of goods and service providers, a smaller primary tenant in conjunction with a greater mix of building sizes and users could contribute to a “village” style shopping center, as opposed to the more geometric or regimented building arrangement typical of a traditional shopping center as shown on the current site plan. This could also enhance the compatibility of the site with the adjacent residential neighborhoods by providing larger edge landscape buffers, reduced building masses, and greater articulation of the building footprints as they are arranged throughout the site, instead of being linearly aligned along the edges of the site.

**Form of Entitlements:** The developer accepts that a formally adopted, regulatory Specific Plan, as opposed to a less regulatory master plan, will be required to precede any conditional use permit (CUP) and subdivision map applications. Staff recommends that the City Council authorize the developer to initiate the process by drafting a Specific Plan for the development of the site. Once the development plan for the site is accepted by the City through adoption of the Specific Plan, the developer would then be authorized to proceed with their development entitlements (CUP and map for the commercial center). Staff also recommends that the City Council direct that the Specific Plan also incorporate the multi-family parcel to the north that is also owned by the applicant. Incorporating both land uses in a Specific Plan would help ensure that all infrastructure concerns such as drainage and traffic, as well as an optimal interface relationship between the uses are all resolved in a comprehensive manner. This would be similar to the approach used for the Demaree/Caldwell Specific Plan.

**Design Considerations:** As noted in the neighborhood meeting and included in the key issues noted above, particular consideration should be given to the aesthetic appeal of any commercial and residential development proposed for the site. The future Specific Plan will require the applicant to adhere to high standards of building architecture, pedestrian access to and within the site, including focal points that facilitate informal gatherings, minimizing large expanses of parking lots, and mitigating potential noise and view impacts on the surrounding neighborhoods, particularly the Shannon Ranch subdivision with homes that back onto Leila Street immediately to the east of the project site (see enlarged aerial map exhibit).

**Staff recommendation and alternatives for consideration:**

**RECOMMENDED ACTION:** Staff recommends that the City Council review the applicant’s development proposal for a 247,387 square foot shopping center, including the proposed 172,137 sq.ft. Lowe’s Home Improvement Center; direct that a Specific Plan be first adopted to guide the development of the commercial center, and provide direction on the preferred design and uses for the commercial development in consideration of concerns raised by staff; and include direction that the Specific Plan includes the multi-family zoned property adjacent to the shopping center parcel.

**ALTERNATIVE No. 1.** Direct the applicant to proceed with preparation of a Specific Plan, but require only development and interface criteria for the six-acre multi-family residential to the north.

**ALTERNATIVE No. 2.** Direct the preparation of a Specific Plan to be developed under City auspices. In this case, staff would take the lead in establishing the land uses and the detailed listing of permitted or conditionally uses in the project area. The cost of this process would be reimbursed by the developer.

**Prior Council/Board Actions:** N/A

**Committee/Commission Review and Actions:** N/A

**Attachments:** Reduced Size SPR 2006-16 Site Plan Exhibit  
 General Plan Policy 3.5.8  
 General Plan Map  
 Aerial Photo Map  
 Enlarged Aerial Photo Map

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):** Council discussion and direction as recommended by staff.

***Financial Impact***

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue:	\$
Amount Budgeted: \$	Lost Revenue:\$	
New funding required:\$	New Personnel:	\$
Council Policy Change: Yes_____ No_____		

Copies of this report have been provided to:

***Environmental Assessment Status***

**CEQA Review:**

Required? No Environmental review will be conducted during processing of entitlement applications.

Review and Action: Prior:  
Required:

**NEPA Review:**

Required? Yes No

Review and Action: Prior:  
Required:

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):** 9a

**Agenda Item Wording:** Authorization to enter into an agreement between the Community Redevelopment Agency of the City of Visalia and Habitat for Humanity of Tulare County, for use of Redevelopment Agency Low/Mod Housing Set-Aside funds, to provide for a loan up to one hundred thousand dollars (\$100,000) for acquiring land for the construction of affordable homes.

**Deadline for Action:** March 20, 2006

**Submitting Department:** Finance; Community Redevelopment Agency

**Contact Name and Phone Number:**

Michael Olmos, 713-4328  
Eric Frost, 713-4474  
Sharon Sheltzer, 713-4414

**Department Recommendation and Summary:** Staff recommends that the Agency Board authorize the Executive Director to enter into a third agreement with Habitat for Humanity of Tulare County, for a loan in the amount up to one hundred thousand dollars (\$100,000) utilizing Redevelopment Agency Low/Mod Housing Set-Aside funds to assist in the purchase and development of single-family lots.

Lots purchased by Habitat, subject to this agreement, will be used for development of affordable housing. By providing funds to Habitat for Humanity, the City continues its efforts in development of affordable housing for very-low income families.

**Background:**

Habitat for Humanity has requested in the attached letter that the City extend a third loan to Habitat for Humanity to develop affordable housing in the attached letter from Habitat's executive director, Betsy Murphy. The Community Redevelopment Agency has been providing the City's HOME Funds (Home Investment Partnership Funds) and Redevelopment Low/Mod Housing Set-Aside Funds to Habitat for Humanity since 1995. On December 15, 2003, City Council approved a loan in the amount up to one hundred thousand dollars (\$100,000) utilizing Redevelopment Agency Low/Mod Housing Set-Aside funds to assist in the purchase and construction of single family lots. Using these funds, Habitat was able to:

- Acquire two parcels: 611 N. Locust and 221 E. Houston and obtain environmental reviews for these properties;
- Clear the lot, obtain building permits and install the infrastructure for the 611 N. Locust parcel;
- Pay closing costs for 2 houses on N. Court Street, and;

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

Est. Time (Min.):   2

- Engage and pay for the services of a drafts person for the plans for the N Encina Ave. Project

On November 1, 2004, the Agency Board approved another loan account agreement between the Redevelopment Agency and Habitat for Humanity for the use of \$100,000 Redevelopment Agency Low/Mod Housing Set-aside funds for acquiring land for the construction of affordable homes. Using these funds Habitat was able to:

- Acquire property for two houses at 822 W. Harold and pay for the required lot split, environmental review and CUP. The home construction is complete.
- Pay the remaining costs for the 611 N. Locust and 221 E. Houston lots beyond what the previously allocated funds covered, including land cost, building permits and CUP.

Remaining loan funds in the amount of \$45,347, together with the requested \$100,000 would be used for two identified projects, and if funds are remaining they would be used if additional appropriate land was located. City owned land at 1631 N Encina Street presently being developed with streets and utilities will be sold to Habitat for Humanity for the construction of four affordable homes. They have also located a lot at 1029 W. Goshen for \$95,000 on which they hope to provide housing for another four families.

Habitat for Humanity has a long history of working in the City of Visalia to provide housing for very-low income families through Habitat's construction/ownership program. Habitat enlists the future owner and community volunteers to construct the homes. Families must be willing to partner with Habitat, putting in 500 hours of "sweat equity" working on their own homes and other Habitat projects.

Habitat for Humanity is always looking for new sites. When their "Site Selection Committee" locates a site, time is of the essence. In the past, the City has contributed funds to purchase these sites on a case-by-case basis. This past practice made the purchase and development process more difficult for Habitat to obtain good sites. With the loan agreement in place, Habitat for Humanity will be able to purchase land expeditiously. Habitat for Humanity must construct single-family clean, safe, affordable units for low and very-low income persons within five years from the close of escrow.

In addition to land purchasing these funds can be used for:

- Construction or rehabilitation of real property
- Onsite or offsite improvements
- Obtaining insurance during the construction or rehabilitation
- Plan Development
- Costs including escrow fees, building permit fees, and impact fees

This agreement allows the funds to be withdrawn from a special loan account in an expedited manner. Thirty (30) days prior to the closing of escrow, or as soon as a purchase agreement is signed, Habitat will provide a written request to the City of Visalia Finance Department. The request will identify the property, contact information regarding the property, Title Company, and the names of the low-income persons which have been qualified to receive the home when completed. With these requirements, Finance will make every effort to review the request and make the funds available within thirty (30) calendar days of receipt of the request.



Habitat for Humanity, prior to conveying the property will obtain a promissory note, deed of trust, insurance and an affordability agreement from the qualified persons. These security documents will name the Agency as the secured party, payee, and/or beneficiary. The security documents will contain a provision that the loan is forgivable at the expiration of the forty-five (45) year affordability covenant. During such time, if the owner ceases to comply with the covenants contained in the security documents, the loan shall become immediately due and payable to the Agency, pursuant to the terms of the security documents, unless the obligations are assumed by a qualified transferee.

As a future note, Habitat for Humanity has asked that the City consider a larger loan amount in the future due to increased cost for housing. They have requested that the City double its commitment to Habitat by increasing future loans to \$200,000 annually. Staff will further explore this option and bring back a more complete request with the next year's budget cycle.

**Prior Council/Board Actions:** Prior action on December 15, 2003, approval for use of Redevelopment Low/Mod Housing Set-Aside Funds as a loan account administered by City's Finance Department with a balance of up to one hundred thousand dollars (\$100,000) for a one-year period, to acquire land for the construction of affordable homes.

Prior action on November 1, 2004 for approval for use of Redevelopment Low/Mod Housing Set-Aside Funds as a loan account administered by City's Finance Department with a balance of up to one hundred thousand dollars (\$100,000) for a one-year period, to acquire land for the construction of affordable homes.

**Committee/Commission Review and Actions:** None

**Alternatives:** None recommended

**Attachments:** Habitat for Humanity Letter dated 10/28/05

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):** I move that the Agency Board authorize the Executive Director to enter into a third agreement with Habitat for Humanity of Tulare County, for a loan in the amount up to one hundred thousand dollars (\$100,000) utilizing Redevelopment Agency Low/Mod Housing Set-Aside funds to assist in the purchase of single-family lots.

**Financial Impact**

**Funding Source:**

Account Number: 1932-670051-65609

**Budget Recap:**

Total Estimated cost: \$100,000	New Revenue:	\$
Amount Budgeted: <b>\$100,000</b>	Lost Revenue:	\$
New funding required:\$	New Personnel:	\$
Council Policy Change: Yes____	No__X__	

Copies of this report have been provided to:

**Environmental Assessment Status**

**CEQA Review:**

Required? Yes  No

Review and Action: Prior:  
Required: for land purchase

**NEPA Review:**

Required? Yes  No

Review and Action: Prior: for land development  
Required: for sale of land

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):** 10b

**Agenda Item Wording:** Authorize the City Manager to approve a Resolution allowing City staff to apply for a State Office of Emergency Services grant to recover costs from damages resulting from the January 2006 flood event. **Resolution 2006-24 required.**

**Deadline for Action:** March 20, 2006

**Submitting Department:** Fire/Finance

**Contact Name and Phone Number:**

Danny Wristen, 713-4056  
Gus Aiello, 713-4423

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
- Consent
- Calendar
- Regular Item
- Public Hearing

Est. Time (Min.): \_\_\_\_\_

**Recommendation**

That Council approve a resolution authorizing City staff to apply for a grant to recover costs from damages resulting from January 2006 flooding incident.

**Summary**

In early January, Visalia was hit with a substantial amount of rain. Unanticipated costs of approximately \$240,000 were incurred due to public property damage as well as emergency response and protective measure efforts. The State Office of Emergency Services is offering a grant program for cities and counties to recover costs incurred during the flooding incident.

**Discussion**

In the 24 hour period beginning January 1, 2006 at 8:00 a.m., Visalia received approximately 3 inches of rain resulting in flooding in certain parts of the city and damage to public property. Although the not a disaster at the federal level, the State declared Tulare County a disaster. Due to this declaration, the State OES is offering a grant opportunity to recover up to a maximum of 75% of the costs incurred as a result of the flood event. The first step in the process to apply for funding is to approve an OES resolution. Upon approval of the resolution, an application for reimbursement will be completed and forwarded to OES for consideration. If the application for grant funding is approved, State OES may reimburse as much as 75%, or approximately \$180,000, of the actual costs incurred.

City staff has completed a preliminary assessment of the damages incurred and will pursue the grant funding upon Council's approval of a resolution. Estimated costs incurred during the event are shown in Table 1:

**Table 1 - Estimated Costs Incurred from January 2006 Flood Event**

LOCATION	DESCRIPTION OF DAMAGE AND SCOPE OF WORK	COST ESTIMATE
City-wide	Tree clearing services during flood event	5,000
Various City-wide sites	Cost of materials for sandbags	6,100
Various City-wide sites	Non-exempt employee overtime in flood relief efforts	17,550
Linwood between Houston & Goshen	Cost of pump rentals to pump ponding basin	15,600
Linwood between Houston & Goshen	Cost of pumping services in response to flooding	105,087
Cobblestone Estates Subdivision	Damage done to City vehicle	5,000
Linwood @ Ferguson	Road Damage	5,000
Misc City-wide (8 sites)	Road Damage	32,800
Damage to Fire Engine Pump		TBD
Damage to Fire Engine Pump		TBD
Purchase of 2 trash pumps		45,335
Hourly rate for city equipment	City equipment deployed during flood event	TBD
Hourly rate for PW vehicles	City vehicles deployed during flood event	TBD
Hourly rate for Fire vehicles	City vehicles deployed during flood event	TBD
Hourly rate for PD vehicles	City vehicles deployed during flood event	TBD
Hourly rate for Command Post Vehicle	City vehicles deployed during flood event	TBD
Various street light repairs City-wide	Labor/materials to repair street signals after flooding	2,500
	Total	239,972
	<b>75% potential cost recovery</b>	<b>179,979</b>

**Prior Council/Board Actions:**

**January 9, 2006** – Receive an update and provide appropriate direction regarding the recent storm events.

**Committee/Commission Review and Actions:**

**Alternatives:**

**Attachments:** State Office of Emergency Services Resolution

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):** I move to authorize the City Manager to approve a Resolution 2006-24 allowing City staff to apply for a State Office of Emergency Services grant to recover costs from damages resulting from the January 2006 flood event.

***Financial Impact***

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to:

***Environmental Assessment Status***

**CEQA Review:**

Required? Yes                      No  
Review and Action: Prior:  
Required:

**NEPA Review:**

Required? Yes                      No  
Review and Action: Prior:  
Required:

**Tracking Information:** (*Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date*)

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):** 10d

**Agenda Item Wording:**

Authorize the City Manager to accept, execute and implement the grant award from the California Energy Commission in the amount of \$100,000 for seven CNG Solid Waste trucks. **Resolution 2006-25 required.**

**Deadline for Action:**

March 20, 2006

**Submitting Department:**

Public Works

**Contact Name and Phone Number**

Andrew Benelli, Public Works Director 713-4340

Jim Bean, Public Works Manager 713-4564

**For action by:**

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

**For placement on which agenda:**

- Work Session
- Closed Session
- Regular Session:
- Consent Calendar
- Regular Item
- Public Hearing

Est. Time (Min.): \_\_\_\_\_

**Department Recommendation and Summary:**

Staff recommends that Council authorize staff to accept, execute and implement the grant funding totaling \$100,000 (FED-05-003) for seven CNG solid waste trucks, through the Department of Energy's (DOE) 2005 State Energy Program, to continue deployment of heavy-duty natural gas vehicles for the City of Visalia.

On April 4, 2005, Council authorized staff to apply for a grant from the Department of Energy in the amount of \$100,000. On August 30, 2005, Solid Waste was informed that the grant was awarded to the City of Visalia in the amount of \$100,000. The Department of Energy is now requesting authorization to accept, execute and implement the grant funding. Solid Waste has already proceeded with the procurement of the new compressed natural gas (CNG) garbage trucks. There are currently forty-nine garbage trucks in the Solid Waste fleet; eight of them use compressed natural gas as a fuel source. In the next two years, the City will purchase thirteen additional CNG garbage trucks to replace the existing diesel engine trucks. The CNG trucks are currently being refueled at Visalia Unified School District's CNG station on Woodland and Houston Avenue. In approximately a year the City's CNG station on North Cain will be completed and the trucks will be able to refuel at that location.

The City is required by the State to adhere to much stricter fuel emission control standards, which began January 2005, and by taking advantage of the DOE grant, the City will take a proactive stance toward reducing vehicle emissions pollution in the Central Valley, which has one of the highest air pollution indexes in the country.

Replacing existing Diesel trucks with Compressed Natural Gas trucks moves Visalia closer to compliance with the California Air Resource Board regulations.

**Prior Council/Board Actions:** Authorized staff to execute this grant from the Department of Energy in the amount of \$100,000.

**Committee/Commission Review and Actions:**

**Alternatives:**

Do not authorize staff to execute the grant.

**Attachments:**

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):**

Move to adopt Resolution 06-25 endorsing the execution of grant number FED-05-003 from the Department of Energy.

***Financial Impact***

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: ____ No ____	

***Environmental Assessment Status***

**CEQA Review:**

Required? Yes No  
Review and Action: Prior:  
Required:

**NEPA Review:**

Required? Yes No  
Review and Action: Prior:  
Required:



**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

**RESOLUTION NO. 06-25**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA ENDORSING EXECUTION OF A GRANT UNDER THE CLEAN CITIES PROGRAM BY 2005 DEPARTMENT OF ENERGY SEP GRANTS**

**WHEREAS**, the U.S. Department of Energy awarded a grant to the California Energy Commission under the 2005 State Energy Program Special Projects solicitation; and

**WHEREAS**, the U.S. Department of Energy requires this grant to be subawarded to the San Joaquin Valley Clean Cities Coalition or its designee; and

**WHEREAS**, the San Joaquin Valley Clean Cities Coalition has designated the City of Visalia to accept, execute, and implement the grant award from the California Energy Commission in the amount of \$100,000; and

**WHEREAS**, City of Visalia desires to implement the purchase of six compressed natural gas garbage trucks into their fleet for the 05/06 budget year.

**WHEREAS**, City of Visalia desires to complete the project proposed to the U.S. Department of Energy by purchasing an additional (seventh) compressed natural gas garbage truck for the 06/07 budget year.

**NOW, THEREFORE, BE IT RESOLVED**, that Andrew Benelli, Public Works Director, or his designee, is hereby authorized and empowered to execute in the name of the City of Visalia an agreement with the California Energy Commission and all other necessary documents to implement and carry out the purposes of this resolution.

Passed, approved, and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

STEVEN M. SALOMON, CITY CLERK

STATE OF CALIFORNIA )  
COUNTY OF TULARE ) ss.  
CITY OF VISALIA )

I, Steven M. Salomon, City Clerk of the City of Visalia, certify the foregoing is the full and true Resolution 06-\_\_\_\_\_ passed and adopted by the Council of the City of Visalia at a regular meeting held on March 20, 2006.

Dated: March 20,2006

STEVEN M. SALOMON, CITY CLERK

By Roxanne Yoder, Chief Deputy

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):** 10e

**Agenda Item Wording:** Approve \$160,550 for the purchase of Musco Athletic Lighting system for Riverway Sports Park

**Deadline for Action:** March 20, 2006

**Submitting Department:** Park and Recreation Department

**Contact Name and Phone Number:** Don Stone, 713-4397

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

Est. Time (Min.): \_\_\_\_\_

**Department Recommendation and Summary:** Staff recommends the Council authorize the purchase of the Musco Lighting Structure system for three soccer fields at the Riverway Sports Park at a cost of \$160,550 including tax and shipping. This request is for light poles, concrete pole bases, and light fixtures all pre-wired and ready for assembly on site by the contractor. The Musco system was selected based on recommendation from the electrical consultant for the project. A decision was made not to include the light fixtures when the project was bid in order to save the contractor's mark-up estimated to be ten to twelve percent.

During the design phase Gurcinas and Associates, the electrical engineer, on the project evaluated several sports lighting systems. Manufactures considered were Musco and General Electric. Gurcinas compared systems on cost, reliability, long-term maintenance, energy consumption, cost of installation, and overall reputation. When all factors were considered the Musco Green technology was judged to be the best value based on cost, design, guarantee, energy consumption, and service.

Musco has recently developed a lighting system that reduces by forty percent the number of light fixtures needed to provide the same light levels as their pervious product. The new Musco Green system uses only thirty two 1,500 watt fixtures to light a full-size soccer field compared to fifty fixtures needed using past technology. These efficiencies are a result of improvements in the reflector, visor and lamp design which directs over 90% of the light on the field. By reducing the fixtures there is a corresponding reduction in energy use, load on pole and installation cost.

Musco guarantees that lighting levels will be a constant thirty foot candles during the 5,000 hour life of the lighting fixture. Their warrantee also includes the re-aiming of fixtures at no cost in the event there is an alignment problem. The warrantee also includes a free replacement of all lamps after 5,000 hours of use (estimated 10 years). The system has been designed to control light glare and direct 90% of the light on the playing field. This system exceeds the City standard of one half foot-candles of light at the property line. Light levels of this system will not to exceed a maximum of .17 foot candles.

This document last revised: 3/17/06 11:04:00 AM

By author: dwston

File location and name: H:\(1) AGENDAS for Council\2006\032006\Item 10e Riverway Sports Park Lighting.doc

Funding for the purchase has been budgeted in the phase one of the sports park.

**Prior Council/Board Actions:** None

**Committee/Commission Review and Actions:**

**Alternatives:**

**Attachments:** Price quote and product information

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):** Move to approve the expenditure of \$160,550 for the purchase of Musco Athletic Lighting system for Riverway Sports Park.

Copies of this report have been provided to:

## **Financial Impact**

**Funding Source:**

Account Number: 3011-0000-720000-0-9141-2003

**Budget Recap:**

Total Estimated cost: \$165,550	New Revenue:	\$
Amount Budgeted: \$	Lost Revenue:	\$
New funding required:\$ 0	New Personnel:	\$
Council Policy Change: Yes_____ No_____		

## **Environmental Assessment Status**

**CEQA Review:**

Required? Yes                      No

Review and Action: Prior:  
Required:

**NEPA Review:**

Required? Yes                      No

Review and Action: Prior:  
Required:

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):** 10f

**Agenda Item Wording:** Authorization to submit a pre-proposal application for the Green Trees for The Golden State grant in the amount of approximately \$140,000 and designating the City Manager as the agent to negotiate, execute and submit all necessary documentation pertaining to the planting of street trees in City parks, various neighborhoods and adjacent to various waterways.

**Deadline for Action:** Submission Deadline – March 31, 2006

**Submitting Department:** Park and Recreation Department,  
Division of Urban Forestry

**Contact Name and Phone Number:** Don Stone, x4397,  
Brian Kempf, 713-0631, David Pendergraft, x4295

For action by:

City Council  
 Redev. Agency Bd.  
 Cap. Impr. Corp.  
 VPFA

For placement on which agenda:

Work Session  
 Closed Session  
Regular Session:  
 Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.):   2  

**Department Recommendation:** Staff recommends the City Council authorize staff to submit a pre-proposal application to the California Department of Forestry, Green Trees for The Golden State grant program for \$140,000 for the purpose of planting approximately 1,500 trees within City parks, street right of way, and along waterway corridors and designate the City Manager as the City agent to negotiate, execute and submit all necessary documentation.

The grant will fund 90% of the costs for trees, tree stakes, labor, irrigation materials and installation with a ten percent match required from the City. The pre-proposal is the first step in the grant review process. If the proposal is accepted then a full grant proposal will be submitted for review and consideration. The City will be required to provide ten percent matching funds. Staff proposes that the match come from the Parks Division's operating budget and the Waterway Fund project designated to match grants.

Staff has selected projects based on the grant criteria and where they will provide the most benefit to the City. The grant will be used as a part of the required City match for two trail projects; one on the St Johns River and another on Mill Creek. Staff also proposes to add approximately two hundred fifty trees areas in parks that do not have adequate shade cover. In addition staff will continue to retrofit transportation corridors with street trees and replace street trees in older areas where trees are causing damage to the hardscape.

The grant is part of a continuing effort to enhance the City's urban forest. Under the leadership of Brian Kempf of the Urban Tree Foundation the City has received over \$700,000 in grants to plant approximately 4,000 trees in the downtown, in right of ways, and parks and open spaces during the past five years. In 2001 the Council adopted the Street Tree Ordinance that requires street trees to be included in new residential and commercial development. And the Council

approved a contract for tree trimming. In the past year over 3,000 street trees have been trimmed.

The project is also a partnership with the Urban Tree Foundation and Community Services Education and Training (CSET), Tulare County Conservation Crop (TCC). Brian Kempf of the Urban Tree Foundation will oversee the project and TCC will plant the trees. The City is required to provide watering and maintenance during the establishment period. Funding for maintaining trees will be included in the Park and Urban Forestry budget.

**Prior Council/Board Actions:**

**Committee/Commission Review and Actions:**

**Alternatives:** Take no action or deny the recommendation. If said request is denied, staff will not apply for grant funding.

**Attachments:**

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):** I move to authorize staff to submit a pre-proposal application for the Green Trees for The Golden State grant in the amount of approximately \$140,000 and designating the City Manager as the agent to negotiate, execute and submit all necessary documentation pertaining to the planting of street trees in City parks, various neighborhoods and adjacent to various waterways.

***Financial Impact***

**Funding Source:** Park & Urban Forestry Operating Budget & Waterway Fund Match Project

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap –**

Total Estimated cost: \$14,000	New Revenue:
Amount Budgeted: \$0	Lost Revenue: \$
New funding required: \$ 0	Personnel: \$
Council Policy Change: Yes___ No__	

Copies of this report have been provided to:

***Environmental Assessment Status***

**CEQA Review:**

Required? Yes  No

Review and Action: Prior:

Required: A Categorical Exemption will be required to comply with CEQA.

**NEPA Review:**

Required? Yes  No

Review and Action: Prior:

Required:

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**



**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):** 10g

**Agenda Item Wording:** Appointment of Robert Mijares as Parks and Recreation Commissioner and Lesa Mann & Russ Desch as Alternate Members.

**Deadline for Action:** N/A

**Submitting Department:** Parks and Recreation Department

**Contact Name and Phone Number:** Vincent Elizondo, Director of Parks & Recreation, 713-4367

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

Est. Time (Min.): 5

**Department Recommendation and Summary:** It is recommended that the Visalia City Council appoint Robert Mijares as a Parks and Recreation Commissioner to replace Margaret Figueroa-Huggins who submitted her resignation affective March, 2006. It is also recommended that the City Council appoint Lesa Mann and Russ Desch as Alternate Members to the Parks and Recreation Commission.

On February 21, 2006, the Parks and Recreation Commission met with Robert Mijares, Arthur Desch, Lesa Mann and Jim Runyon as potential Parks and Recreation Commissioner candidates.

The Commission was given the opportunity to review the applications and the candidates were given the opportunity to introduce themselves and discuss why they would like to serve on the Parks and Recreation Commission. The Commission voted unanimously to appoint and recommend the prospective applicants.

On March 2, the Citizens Advisory Committee reviewed the recommendation of the Parks and Recreation Commission and unanimously approved the recommendation.

**Prior Council/Board Actions:**

**Committee/Commission Review and Actions:** 2/21/06 Parks and Recreation Commission Meeting and 3/2/06 Citizens Advisory Committee

**Alternatives:**

**Attachments:** Committee applications.

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):** That the City Council appoint Robert Mijares to serve on the Parks and Recreation Commission and Lesa Mann and Russ Desch be appointed as Alternate Members to the Parks and Recreation Commission.

***Financial Impact***

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes _____ No _____	

Copies of this report have been provided to:

***Environmental Assessment Status***

**CEQA Review:**

Required? Yes No  
Review and Action: Prior:  
Required:

**NEPA Review:**

Required? Yes No  
Review and Action: Prior:  
Required:

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

## City of Visalia Agenda Item Transmittal

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):** 10h

**Agenda Item Wording:** Authorization of an agreement between Christian Church Homes of Northern California/Visalia Senior Housing, Inc. and the City of Visalia for the provision of HOME funds not to exceed \$2.5 million for the development of a 50+/- unit affordable Senior Housing project in downtown Visalia.

**Deadline for Action:** August 2006

**Submitting Department:** Community Development

**Contact Name and Phone Number:**

Steve Salomon, City Manager, 713-4312  
Michael Olmos, Director of Community Development, 713-4332  
Sharon Sheltzer, Project Manager, 713-4414

For action by:

City Council  
 Redev. Agency Bd.  
 Cap. Impr. Corp.  
 VPFA

For placement on which agenda:

Work Session  
 Closed Session  
Regular Session:  
 Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.):   2  

**Department Recommendation and Summary:**

Staff recommends the City Council:

Authorize the City Manager to execute an agreement between Christian Church Homes of Northern California/Visalia Senior Housing, Inc. and the City of Visalia for the provision of HOME funds not to exceed \$2.5 million for the development of a 50+/- unit affordable Senior Housing project in downtown Visalia.

Background

On January 18, 2005 City Council authorized the City Manager to negotiate an agreement with Christian Church Homes of Northern California, where the City agreed to provide HOME program funds not to exceed \$2.5 million to be combined with a HUD 202 Program grant and any other grants and credits obtained by the non-profit agency, for the development costs of the project. Staff was directed to return to Council for approval of this agreement. The agreement was drafted by the City Attorney and approved by the attorney for Christian Church Homes of Northern California. According to Federal government guidelines on timeliness for the expenditure of HOME funds, these funds must be committed by a signed contract by August 31, 2006.

Christian Church Homes of Northern California and Visalia Senior Housing have worked together, and with the City on three affordable senior housing projects in Visalia. These include the Meadows on Tulare Avenue completed in 1974, The Town Meadows on Murray completed in 1981, and Oak Meadows on School Street completed in 2003. This project will be the fourth partnership to further their stated goal to provide affordable housing for seniors in Visalia. A very suitable property has been identified in the east downtown area, and is pending negotiations.

The agreement

The following major points are addressed by the agreement:

1. The project will be co-sponsored by Christian Church Homes of Northern California and Visalia Senior Housing, Inc., a new 501(c)3 non-profit corporation formed for the purpose of developing and owning the Project.
2. The City shall provide supplemental funding for the project not to exceed \$2.5 million over the 2005/06 and 2006/07 HOME program funding period.
3. The parcel to be purchased with City HOME funds shall be pre-approved by the City and acquired within one year of the effective date of the agreement.
4. All workers shall be paid Federal Prevailing wages.
5. Christian Church Homes shall be responsible for all other required funds.
6. Christian Church Homes shall be responsible to obtain all approvals and permits.
7. Christian Church Homes shall commence construction within one year after closing escrow on the property purchased for the project.
8. The term of the agreement shall be 55 years; payments shall be made from any residual receipts and can be forgiven by the City at the end of the term.
9. The project shall meet all of the requirements for the use of HOME program funds for the development of affordable housing.

**Prior Council/Board Actions:**

January 18, 2005- Council authorized City Manager to enter into an agreement with Visalia Senior Housing, Inc. for the use of Federal HOME funds not to exceed \$2.5 million for a senior housing development.

May 2, 2005- Council approved Consolidated Plan/Action Plan amendment for the use of the funds

**Committee/Commission Review and Actions:**

**Alternatives:** none

**Attachments:** agreement

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):**

Authorization of an agreement between Christian Church Homes of Northern California/Visalia Senior Housing, Inc. and the City of Visalia for the provision of HOME funds not to exceed \$2.5 million for the development of a 50+/- unit affordable Senior Housing project in downtown Visalia.

**Financial Impact**

**Funding Source:** HOME Federal funds  
Account Number: To be determined by Finance

**Budget Recap:**

Total Estimated cost: \$2,500,000 maximum New Revenue: \$  
Amount Budgeted: \$2,500,000 Lost Revenue: \$  
New funding required: \$ New Personnel: \$  
Council Policy Change: Yes\_\_\_ No\_\_x\_

Copies of this report have been provided to:

**Environmental Assessment Status**

**CEQA Review:**

Required? Yes x No  
Review and Action: Prior:  
Required: Determined at site acquisition stage

**NEPA Review:**

Required? Yes x No  
Review and Action: Prior:  
Required: Determined at site acquisition stage

Tracking: Contract will be signed and property search will be continued.

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**



## City of Visalia Agenda Item Transmittal

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):** 10i(1)

**Agenda Item Wording:** Introduction of Ordinance No. 2006-05 Authorizing the lease of certain portions of real property located at the Visalia Municipal Airport to the Federal Aviation Administration for the purpose of maintaining and operating Navigational Equipment.

**Deadline for Action:**

**Submitting Department:** Administrative Services – Airport

**Contact Name and Phone Number:** Mario Cifuentez, II  
Airport Manager, x4480

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

Est. Time (Min.): \_\_\_\_\_

### **Department Recommendation and Summary:**

#### Executive Summary:

City Staff recommends that Council authorize the City Manager to execute this Memorandum of Agreement with the Federal Aviation Administration (FAA) allowing the FAA to occupy areas of property on the airport for the purpose of providing navigation aides necessary for aircraft operations. The term of this agreement is for twenty (20) years. Pursuant to FAA Grant Assurances, the Airport is required to provide the space without cost to the Government.

#### Background:

The Federal Aviation Administration currently occupies several areas of real property owned by the City of Visalia for the purpose of maintaining and operating navigation equipment uses as part of the instrument landing system, to assist users of the Visalia Municipal Airport. Previously, this occupancy has been granted by lease agreements. However, for several years, the FAA has struggled with the accuracy of the on-airport no cost land leases. Often times, the leases contained inaccurate legal descriptions or new equipment was installed but no leases were ever initiated. In an effort to streamline the leasing process and to correct these problems, the FAA has developed the Memorandum of Agreement (MOA). The MOA will replace all individual no cost land leases on-airport.

The new MOA process eliminates the use of legal descriptions and relies on a List of Facilities and the Airport Layout Plan (ALP) to identify where the facilities are located. Both parties agree that the continued operation and maintenance of the facility is of benefit to and necessary for the continued operation of the Visalia Municipal Airport. Both parties further desire to enter into this new agreement at this time, which will provide for their continued use.

This document last revised: 3/17/06 10:57:00 AM

By author: Mario Cifuentez

File location and name: H:\(1) AGENDAS for Council\2006\032006\Item 10i(1) Introduction of FAA Ordinance.doc



The term of the agreement begins October 1, 2006 and ends September 30, 2026. No monetary consideration is to be received by the Airport, as the rights extended to the Government are in consideration of the obligations assumed by the Government in its establishment, operations and maintenance of the facility.

**Prior Council Actions:**

September 3, 1996 – Introduction of Ordinance 9620 Authorizing the lease of certain real property located on Avenue 256 west of State Highway 63 (Mooney Blvd.) to the United States of America for the “Outer Marker” facility which is also part of the Instrument Landing System for the Visalia Municipal Airport.

June 2, 1997 – Introduction of Ordinance 97\_\_ Authorizing the lease of certain real property located generally along the extended centerline of Runway 30 at the Visalia Municipal Airport to the United States of America for the purpose of maintaining and operating a “Middle Marker” facility.

**Committee/Commission Review and Actions:** The Airport Committee recommends execution of this Agreement.

**Alternatives:**

**Attachments:** Proposed Memorandum of Agreement

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):** Move introduction of Ordinance No. 2006-05 authorizing the lease of several areas of airport property at the Visalia Municipal Airport to the Federal Aviation Administration for the purpose of operating Navigational Aides.

This document last revised: 3/17/06 10:57:00 AM

By author: Mario Cifuentez

File location and name: H:\(1) AGENDAS for Council\2006\032006\Item 10i(1) Introduction of FAA Ordinance.doc

**Financial Impact**

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required:\$	New Personnel: \$
Council Policy Change: Yes_____ No <input checked="" type="checkbox"/>	

Copies of this report have been provided to:

**Environmental Assessment Status**

**CEQA Review:**

Required? Yes \_\_\_\_\_ No

Review and Action: Prior: \_\_\_\_\_  
Required: \_\_\_\_\_

**NEPA Review:**

Required? Yes \_\_\_\_\_ No

Review and Action: Prior: \_\_\_\_\_  
Required: \_\_\_\_\_

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

Others:

**ORDINANCE NO. 2006-05**

This document last revised: 3/17/06 10:57:00 AM

By author: Mario Cifuentez

File location and name: H:\(1) AGENDAS for Council\2006\032006\Item 10i(1) Introduction of FAA Ordinance.doc

**AN ORDINANCE OF THE CITY COUNCIL OF  
THE CITY OF VISALIA**

**AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM  
OF AGREEMENT WITH THE FEDERAL AVIATION ADMINISTRATION  
(FAA) FOR THE CONTINUED INSTALLATION AND OPERATION OF  
FAA OWNED NAVIGATIONAL AIDS.**

**WHEREAS**, the City of Visalia owns approximately 720 acres of certain real property generally referred to as the Visalia Municipal Airport, and,

**WHEREAS**, the United States of America, Department of Transportation, Federal Aviation Administration has utilized said real property for the construction, maintenance and operation of a Navigation Equipment since 1977, and,

**WHEREAS**, said Navigational Aids are of benefit to, and necessary for the continued operation of the Visalia Municipal Airport, and,

**WHEREAS**, the FAA has determined that a Memorandum of Agreement is the most appropriate document to govern the leasing process with Airports and the parties wish to enter into a new agreement for the continued use of the property and existing facilities, and,

**WHEREAS**, the subject real property is more particularly located on the approved Airport Layout Plan.

**Be it ordained by the Council of the City of Visalia,**

Section 1. The City Manager of the City of Visalia be, and is hereby authorized to execute on behalf of the City of Visalia, that certain Memorandum of Agreement by and between the City of Visalia and the Federal Aviation Administration, Agreement No. DTFAWP-06-L-00048.

Section 2. This ordinance shall go into effect thirty (30) days after its passage.

This document last revised: 3/17/06 10:57:00 AM

By author: Mario Cifuentez

File location and name: H:\(1) AGENDAS for Council\2006\032006\Item 10i(1) Introduction of FAA Ordinance.doc

## City of Visalia Agenda Item Transmittal

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):**

**Agenda Item Wording:** Adoption of Ordinance 2006-\_\_\_\_\_ to amend Chapter 13.08 (Sewer Service System) of the Visalia Municipal Code to comply with Environmental Protection Agency (EPA) requirements.

**Deadline for Action:** March 20, 2006

**Submitting Department:** Public Works

**Contact Name and Phone Number:** Jim Ross, Utilities Manager, 713-4466

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

Est. Time (Min.): 1

### Department Recommendation

Staff recommends adopting Ordinance 2006-\_\_\_\_\_ to amend Chapter 13.08 of the Visalia Municipal Code, Sewer Service System in order to comply with EPA requirements. Staff further recommends adopting the pretreatment Enforcement Policy Procedures Manual.

### Discussion

The City of Visalia wastewater division is responsible for administering the City's wastewater pretreatment program. The pretreatment program is required by the Clean Water Act and is designed to enable the city to regulate the quality and quantity of wastewater discharged into the sewer system. Chapter 13.08 of the Visalia Municipal Code (Sewer Service System), the City of Visalia Enforcement Policy Procedures Manual (EPPM), and various other documents compose the pretreatment program.

In practice, the primary function of the pretreatment program is to permit and monitor the wastewater discharge of Visalia's industrial and commercial users. There are currently 16 users classified as significant industrial users (SIU: Kraft, Mission Uniform, Josten's, etc) and approximately 475 classified as non-significant industrial users (NIU: restaurants, print shops, dry cleaners, automotive shops, etc). These facilities are routinely inspected and sampled for compliance with the ordinance. In addition, regular self monitoring reports are received from the various industries.

The pretreatment program falls under the regulatory authority of the California State Water Resources Control Board (SWRCB) and annually undergoes a Pretreatment Compliance Inspection (PCI) for compliance with Federal and State standards. Recent inspections have identified deficiencies in the sewer ordinance and the EPPM that the proposed changes are intended to address.

Following is a brief description of the proposed changes to the Sewer System Ordinance. Minor changes such as spelling and grammar corrections are not discussed.

- A “discharger” is now being called a “user” in order to standardize the ordinance with Federal regulations.
- Various wastewater terms such as POTW, septage waste, and pass through are being more clearly defined.
- Limitations on discharge are being moved from Section 13.08.550, Limitations on Wastewater Strength, to Section 13.08.480, Prohibitions on Discharge, to make the ordinance easier to follow.
- Non-significant Industrial user permits shall be valid up to four years rather than the current two years.
- Federal regulations require certain industrial users to submit reports for baseline monitoring, compliance schedule progress, compliance with deadlines and periodic compliance reports. Provisions are being added to the ordinance to authorize the city to enforce these requirements (Section 13.08.823A et.al.)
- New tools to enforce the city’s pretreatment program are being added to the sewer ordinance. Currently, when a user is in violation of their discharge permit, the city issues a Notice of Violation (NOV). If the industry fails to correct the problem, the City issues a Cease and Desist order (C&D) which would prohibit discharge. The addition of Section 13.08.925, Consent Orders, Section 13.08.930, Compliance Orders, and Section 13.8.1035, Administrative Fines, would allow the City to escalate enforcement actions to bring an industry into compliance without resorting to a C&D.
- Authority to impose civil and criminal liabilities against unauthorized discharges is being amended to comply with the language requirements of federal regulations.
- Section 13.08.1075, Emergency Suspensions, is being added to authorize the City to immediately suspend a user’s discharge when necessary to stop an actual or threatened discharge which could endanger the health or welfare of the public.

The City’s Enforcement Policy Procedures Manual (EPPM) is a document that outlines the enforcement actions the City will take to enforce the provisions of the sewer ordinance. The original EPPM was written in 1989 and was never adopted by the City Council nor submitted for EPA or SWRCB review and approval. In addition, it fails to address enforcement responses for several commonly anticipated violations. As such, the EPPM is being amended to identify actions that shall be taken to address the following types of violations:

- Unpermitted discharges
  - Discharger unaware of requirement and unauthorized discharge did not cause harm to environment or to the sewer system.
  - Failure to apply for a discharge permit after initial notification of the application requirements.
- Exceedance of local or federal pretreatment standards
- Monitoring and reporting violations
  - Improperly signed or certified
  - Incomplete record keeping
  - Failure to utilize proper analytical methods
  - Failure to report additional sampling results
  - Failure to keep permit on-site
- Compliance schedule violations
- Denial of entry violations

As an aside, the Goshen Community Services District (Goshen CSD) is also being required to make similar changes to its sewer use ordinance. Once the amended ordinances are adopted by the City Council and the Goshen CSD Board of Directors, changes to the Wastewater Pretreatment Program MOU between the two jurisdictions shall be required.

**Prior Council/Board Actions:** None

**Committee/Commission Review and Actions:**

**Alternatives:**

**Attachments:**

Proposed Sewer Service System ordinance (Section 13.08 of Visalia Municipal Code)  
Proposed Enforcement Policy Procedures Manual  
Letter from SWRCB, City of Visalia Pretreatment Program Legal Adequacy Review  
Evaluation of City's Enforcement Policy Procedures Manual

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):**

Move to amend Chapter 13.08 of the Visalia Municipal Code, Sewer Service System to comply with EPA requirements.

Further move to adopt the pretreatment Enforcement Policy Procedures Manual.

***Financial Impact***

**Funding Source:**

Account Number: None (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes <input type="checkbox"/> No <input type="checkbox"/>	

***Environmental Assessment Status***

**CEQA Review:**

Required? Yes No X

Review and Action: Prior:  
Required:

**NEPA Review:**

Required? Yes No X

Review and Action: Prior:  
Required:

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

**ORDINANCE NO. 2006-\_\_**  
**OF THE VISALIA CITY COUNCIL**  
**TO AMEND CHAPTER 13.08 OF THE**  
**CITY OF VISALIA MUNICIPAL CODE**

**WHEREAS**, the City of Visalia owns and operates the wastewater collection and treatment system within the City of Visalia; and

**WHEREAS**, the wastewater collection system is comprised of over 400 miles of sanitary sewer pipelines; and

**WHEREAS**, the Visalia Water Conservation Facility is a 22.0 million gallon per day wastewater treatment plant; and

**WHEREAS**, the Visalia Water Conservation Plant operates under a discharge permit issued and enforced by the California State Water Resources Control Board; and

**WHEREAS**, the California State Water Resources Control Board conducts an annual inspection and evaluation of the Water Conservation Facility to ensure permit compliance; and

**WHEREAS**, as part of its annual evaluation, the California State Water Resources Control Board reviews the governing municipal code to verify that the City has the necessary authority to carry out its responsibilities under the discharge permit; and

**WHEREAS**, Visalia Municipal Code Chapter 13.08, Sewer Service System, governs the use and operation of the sewer service system; and

**WHEREAS**, the California State Water Resources Control Board has identified various changes that are needed in Chapter 13.08 to comply with regulatory requirements; and

**WHEREAS**, the City of Visalia Enforcement Policy Procedures Manual outlines the enforcement actions the City will take to enforce provisions of the sewer ordinance.

**NOW, THEREFORE BE IT ORDAINED** that the Visalia City Council makes the following specific findings based on the evidence presented:

1. Amendments to Chapter 13.08 of the Visalia municipal code are necessary in order to comply with regulatory requirements.
2. The proposed amendments will satisfy regulatory requirements and are beneficial to the operation and maintenance of the sewer service system.
3. Adoption of the City of Visalia Enforcement Policy Procedures Manual is necessary to properly enforce Chapter 13.08 of the Visalia Municipal code.

**NOW, BE IT FURTHER ORDAINED** that the Visalia City Council, based on the specific findings and evidence presented, amends Chapter 13.08 of the Visalia municipal code as proposed and adopts the Enforcement Policy Procedures Manual



The record of this proceeding is located in the City Clerk's Office located at 707 W. Acequia Ave. in the city of Visalia, California..

**PASSED AND ADOPTED:**

\_\_\_\_\_  
Jesus Gamboa, Mayer

ATTEST:

APPROVED BY CITY ATTORNEY:

\_\_\_\_\_  
Steven M. Salomon, City Clerk

\_\_\_\_\_  
Daniel M. Dooley

## Chapter 13.08

### SEWER SERVICE SYSTEM

#### Sections:

- 13.08.00A Article 1. General Provisions
- 13.08.010 Purpose and policy.
- 13.08.020 Rules and regulations.
- 13.08.030 Short title.
- 13.08.039A Article 2. Definitions
- 13.08.040 Definitions.
- 13.08.049A Article 3. Use of Public Sewers Required
- 13.08.050 Disposal of wastes.
- 13.08.060 Treatment of wastes required.
- 13.08.070 Unlawful disposal.
- 13.08.080 Occupancy prohibited.
- 13.08.090 Private sewerage disposal systems--Continuation of use.
- 13.08.100 Private sewerage disposal systems--Restrictions and exceptions, continuation of use.
- 13.08.109A Article 4. Private Sewerage Disposal Construction
- 13.08.110 Prohibition of new systems or connections.
- 13.08.120 Sewer not available.
- 13.08.125 City's option to extend sewer
- 13.08.130 Permit required.
- 13.08.140 Inspection required.
- 13.08.150 Design requirements.
- 13.08.160 Cost of maintenance by owner.
- 13.08.170 Additional requirements.
- 13.08.179A Article 5. Sewer Extensions, Financing and Costs Repayment
- 13.08.180 Private financing.
- 13.08.190 Public financing.
- 13.08.200 Existing sewer cost repayment.
- 13.08.209A Article 6. Side Sewers and Connections
- 13.08.210 Permit required.
- 13.08.220 Installation and/or connection of lateral sewers by city.
- 13.08.230 Design considerations.
- 13.08.240 Separate sewers.
- 13.08.250 Sewer too low.
- 13.08.260 Connection to public sewer.
- 13.08.270 Safety precautions.
- 13.08.280 Completion of work.
- 13.08.290 Maintenance of side sewers.
- 13.08.299A Article 7. Public Sewer Construction
- 13.08.300 Permit required.
- 13.08.310 Plans, profiles and specifications required.
- 13.08.320 Subdivision.
- 13.08.330 Easements or rights-of-way.
- 13.08.340 Persons authorized to perform work.
- 13.08.350 Grade stakes.

- 13.08.360 Compliance with local regulations.
- 13.08.370 Protection of excavation.
- 13.08.380 Design and construction standards.
- 13.08.390 Bond--Public sewer construction.
- 13.08.400 All work to be inspected.
- 13.08.410 Notification.
- 13.08.420 Correct notices.
- 13.08.430 All costs paid by owner.
- 13.08.440 Contract with outside industrial and commercial users.
- 13.08.450 Street excavation permit.
- 13.08.460 Liability.
- 13.08.470 Time limit on permits.
- 13.08.479A Article 8. Regulation of Wastewater Discharges
- 13.08.480 Prohibitions on discharges.
- 13.08.490 Prohibitions on storm drainage and ground water.
- 13.08.500 Prohibition on unpolluted water.
- 13.08.510 Limitations on radioactive wastes.
- 13.08.520 Limitations on the use of garbage grinders.
- 13.08.530 Limitations on point of discharge.
- 13.08.540 Holding tank waste and septic tank waste.
- 13.08.550 Limitations on wastewater strength.
- 13.08.560 Limitations on infectious waste.
- 13.08.570 Traps required.
- 13.08.580 Construction of traps.
- 13.08.590 Maintenance of traps.
- 13.08.600 Pretreatment of wastes.
- 13.08.610 Maintenance of pretreatment facilities.
- 13.08.620 Monitoring facilities.
- 13.08.630 Inspection and sampling.
- 13.08.640 Notification of violation.
- 13.08.650 Notification of the discharge of hazardous waste.
- 13.08.660 Special agreements--Private facilities.
- 13.08.670 Special agreement--Public facilities.
- 13.08.680 Federal requirements limitations.
- 13.08.690 Regional water quality control board requirement limitations.
- 13.08.700 Other governmental agency jurisdictions.
- 13.08.709A Article 9. Permits and Fees
- 13.08.710 Permit required.
- 13.08.720 Application for permit.
- 13.08.730 Compliance with permit.
- 13.08.740 Agreement.
- 13.08.750 Basic connection charge.
- 13.08.755 Timing of fee payment.
- 13.08.760 Treatment connection charge.
- 13.08.770 Timing of fee payment.
- 13.08.780 Special connection charges.
- 13.08.790 Additional connection charges.
- 13.08.800 Classes of permits.
- 13.08.810 Permits and inspection charges.
- 13.08.815 Analytical requirements.
- 13.08.816 Sample collection.

Visalia Municipal Code

- 13.08.820 Recordkeeping requirements.
- 13.08.823A Article 10. Reporting requirements.
- 13.08.824 Baseline monitoring reports.
- 13.08.825 Compliance schedule progress reports.
- 13.08.826 Report on compliance with categorical pretreatment standard deadline.
- 13.08.827 Periodic compliance reports.
- 13.08.829A Sewer service charges.
- 13.08.830 Purpose and basis.
- 13.08.840 Setting of rates.
- 13.08.850 Discharge classification.
- 13.08.860 Flow measurement.
- 13.08.870 Collection.
- 13.08.880 Late charges.
- 13.08.890 Application.
- 13.08.899A Article 11. Administration and Enforcement
- 13.08.900 Violation unlawful.
- 13.08.910 Inspection and sampling.
- 13.08.920 Notice and correction.
- 13.08.925 Consent orders
- 13.08.930 Compliance orders.
- 13.08.935 Public nuisance.
- 13.08.940 Disconnection.
- 13.08.950 Public nuisance--Abatement.
- 13.08.960 Means of enforcement only.
- 13.08.970 Accidental discharge/slug control plan.
- 13.08.980 Issuance of cease and desist orders.
- 13.08.990 Show cause hearing.
- 13.08.995 Submission of time schedule.
- 13.08.1000 Appeals.
- 13.08.1010 City council appeal.
- 13.08.1020 Injunction.
- 13.08.1030 Liability.
- 13.08.1035 Administrative fines.
- 13.08.1040 Civil penalties.
- 13.08.1050 Criminal penalties for certain violations.
- 13.08.1060 Penalties for significant noncompliance.
- 13.08.1070 Falsifying of information.
- 13.08.1075 Emergency suspensions
- 13.08.1080 Termination of service.
- 13.08.1089A Article 12. Special Regulations
- 13.08.1090 Protection from damage.
- 13.08.1100 Confidential information.
- 13.08.1110 Special agreements.

**Section 13.08.00A Article 1. General Provisions**

**Section 13.08.010 Purpose and policy.**

These wastewater discharge regulations set uniform requirements for discharges

of domestic and industrial waste and drainage water into the city sewerage system to enable the city to comply with the administrative provisions of the Clean Water Grant Regulations, water quality requirements set by the Regional Water Quality Control Board and the applicable effluent limitations, national standards of performance, toxic and pretreatment effluent standards, and any other discharge criteria which are required or authorized by state and federal law, and to derive the maximum public benefit by regulating the quality and quantity of wastewater discharged into those systems. (Prior code § 4100)

**Section 13.08.020 Rules and regulations.**

The following rules and regulations concerning sewer construction, disposal of sewage and drainage of buildings, and connection to and use of the sewerage system of the city are adopted, and all work in respect thereto shall be performed as herein required and not otherwise. (Prior code § 4101)

**Section 13.08.030 Short title.**

This chapter shall be known as the "Wastewater Ordinance of the City of Visalia." (Prior code § 4103)

**Section 13.08.039A Article 2. Definitions**

**Section 13.08.040 Definitions.**

As used in this chapter, the following terms are defined in this section:

"Acceptable private sewerage disposal system" means adequate earth-covered underground septic tanks, cesspools, leach lines and wells, and/or combinations thereof; not including privies, privy vaults, open cesspools, or similar devices.

"Act" or "the act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.

"Applicant" means the person making application for a permit for a sewer or plumbing installation, who shall be the owner of premises to be served by the sewer or plumbing installation for which a permit or waiver is requested, or his authorized agent.

"Authorized representative" means:

1. If the discharger is a corporation, an authorized representative shall mean:

a. President of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;

b. The manager of one or more manufacturing, production, or operational facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000.00), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

2. If the discharger is a partnership, or sole proprietorship, an authorized representative shall mean a general partner or proprietor, respectively;

3. If the discharger is a federal, state or local governmental facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or his/her designee;

4. The individuals described in this section may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization has been submitted to the city.

"Available sewer" means a community sewer within two hundred (200) feet of the property line of any premises.

"Beneficial uses" means uses of the waters of the state that may be protected against quality degradation including, but not necessarily limited to, domestic, municipal, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other uses, both tangible or intangible as specified by federal and state law.

"Biochemical oxygen demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty (20) degrees C, expressed in milligrams per liter.

"Building" means a structure used for any purpose which contains a fixture, plumbing system or sanitary facility of any type.

"Building drain" means 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 side sewer.

"Categorical pretreatment standards" means National Categorical Pretreatment Standard(s). Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act which applies to a specific category of industrial user.

"Cesspool" means an excavation in the ground which receives the discharge of a drainage system, or part thereof, so designed and constructed as to retain the organic matter and solids discharging therein, but permitting the liquids to seep through the bottom and sides.

"Chlorine demand" means the amount of chlorine required to produce a free chlorine residual of 0.1 mg/l after a contact time of fifteen (15) minutes as measured by the Iodometric Method on a sample at a temperature of twenty (20) degrees C in accordance with the procedures in standard methods.

"City" means the city of Visalia, California.

"City council" means the city council of the city.

"City engineer" means the city engineer of the city or the engineer's authorized deputy, agent or representative.

"City manager" means the city manager of the city or the manager's authorized deputy, agent or representative.

"Clean Water Grant Program Regulations" means the latest regulations of the California Code of Regulations, Title 23, Chapter 3, Subchapter 7, and any subsequent amendments thereto.

"Commercial discharger" means any discharger not specifically defined as a residential, industrial, or institutional discharger.

"Commercial garbage grinder" means a mechanical unit for pulverizing solid wastes produced by commercial dischargers.

"Community sewer" means a sewer owned and operated by the city or other public agency tributary to a treatment facility operated by the city.

"Compatible pollutant" means biochemical oxygen demand, suspended solids, settleable solids, pH and fecal coliform bacteria; plus other pollutants that the city's treatment facilities are designed to accept and/or remove. Compatible pollutants are

incompatible when discharged in quantities that have an adverse effect on the city's system or NPDES permit compliance.

"Connection" means the physical attachment of a building, premises, fixture, plumbing system, trap, pretreatment facility, or any other facility discharging wastewater to a community sewer.

"Connection fee" means a one time charge for new connections to the collection system. The fee is normally paid at the time of issuance of a building permit.

"Contamination" means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. Contamination shall include any equivalent effect resulting from the disposal of wastewater, whether or not waters of the state are affected.

"Contractor" means an individual, firm, corporation, partnership or association duly licensed by the state of California to perform the type of work to be done under a permit.

"County" means the county of Tulare, California.

"Developed lot" means a parcel of ground of record, of less than five acres, created by subdivision or lot split, and occupied by a residential, commercial, institutional or industrial structure.

"Director" means the director(s) of the department(s) of the city or such other person as may be designated by the director to perform the services or make the determinations permitted or required in this chapter to be made by the director.

"Discharger" means any person who discharges or causes the discharge of wastewater to a community sewer system or directly to the POTW. Discharger shall mean the same as user.

"Dissolved solids" means the solid matter in solution in wastewater, as determined by evaporation of a sample from which all suspended matter has been removed by filtration, in accordance with the procedures in standard methods.

"Domestic sewage" means the waterborne wastes derived from the ordinary living processes and of such character as to permit satisfactory disposal, without special treatment, into the community sewer.

"Dwelling unit" means a building or portion of a building arranged, intended or designed to be occupied by not more than one family and having facilities for sleeping, eating, cooking and sanitary purposes.

"Effluent" means wastewater or other liquid, partially or completely treated, or in its natural state, or any portion thereof flowing out of a reservoir, basin, treatment plant or industrial treatment plant.

"Fixture" means lavatory, tub, shower, water closet, garbage disposal or other facility connected by a drain to the sewer.

"Fixture unit" means the flow producing effluent of different fixtures on the collection system as defined by the most recent edition adopted by the city of the Uniform Plumbing Code, published by the International Association of Plumbing and Mechanical Officials, a nonprofit organization.

"Garbage" means putrescible animal, fish, fowl, fruit, or vegetable refuse or any part thereof resulting from the preparation, storage, handling, processing or consumption of food.

"Grease" means any material which is extractable from an acidified sample of a waste by hexane or other designated solvent and as determined by the appropriate methods and procedures approved by the Environmental Protection Agency, and identified in 40 CFR Part 136. Grease includes fats and oils.

"Grease interceptor" means a pretreatment device designed and installed to

separate fats, oils and grease from wastewater.

"Holding tank waste" means septage waste from holding tanks such as chemical toilets, campers, trailers, septic tanks or other such tanks intended to temporarily contain septage wastes.

"Incompatible pollutant" means any pollutant which is not a compatible pollutant as defined in this section.

"Indirect discharge" means the introduction of pollutants into the city's wastewater collection or treatment systems from any nondomestic source regulated under the provisions of the Act, Section 307, as amended, or as otherwise identified by the city.

"Industrial user" means a source of indirect discharge.

"Industrial waste" means the waterborne waste and wastewater from any producing, manufacturing or processing operation of whatever nature, including institutional and commercial operations, where water is used for laundering, vehicle cleaning, or the removal of significant quantities of wastes of nonhuman origin, as distinct from sanitary sewage. "Industrial waste inspector" means the representative of the city specifically authorized as industrial waste inspector.

"Institutional discharger" means any public or nonprofit school, church, hospital, lodge, club, fire department, library, memorial building or other public or nonprofit activity which discharges only sanitary sewage to city's system.

"Interference" means the inhibition or disruption of the sewer system, treatment process or operations of the wastewater treatment plant which contributes to the violation of city's NPDES permit caused by a discharge, either alone or in conjunction with discharge or discharges from other sources. The term includes prevention of sewage sludge use or disposal by the city in accordance with Section 405 of the Act (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection, Research, and Sanctuaries Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the city.

"Mass emission rate" means the weight of material discharged to the sewer system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular constituent or combination of constituents.

"Natural outlet" means any outlet into a water course, pond, ditch, lake or other body of surface or groundwater.

"New source" means:

1. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if standards are thereafter promulgated in accordance with that section, provided that:

a. The building, structure, facility or installation is constructed at a site at which no other source is located; or

b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production or wastewater generating process of the building, structure, facility or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, will be considered.



2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsections (1)(b) or (1)(c) of this definition, but otherwise alters, replaces, or adds to existing process or production equipment.

3. Construction of a new source is determined to have commenced if the owner or operator has:

a. Begun, or caused to being as part of a continuous on-site construction program:

i. Any placement, assembly, or installation of facilities or equipment; or  
ii. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase, or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this definition.

"Nuisance" means anything which is injurious to health or is offensive to the senses or an obstruction to the free use of property so as to interfere with a person's comfort or enjoyment of life or property, or which affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

"Outside sewer" means a sanitary sewer, beyond the limits of the city, not subject to control or jurisdiction of the city.

"POTW (Publicly Operated Treatment Works)" means the city sewage treatment facilities, known also as the sewage treatment plant, the water conservation plant, or the wastewater treatment plant.

"Pass through" means the discharge of pollutants through the city's treatment system into navigable waters in quantities or concentrations which alone or in conjunction with a discharge or discharges from other sources is cause of a violation of any requirement of the city's NPDES permit, including an increase in magnitude or duration of the violation.

"Peak flow rate" means the annually determined highest flow rate of sewage or industrial waste discharged to a public sewer over a period of at least fifteen (15) minutes at any time during the preceding twelve (12) month period.

"Permit" means any written authorization to install or construct sewers or to discharge to the city sewerage system required pursuant to this or any other regulation of the city.

"Person" means any individual, firm, company, partnership, association, organization, the United States of America, the state of California, a political subdivision, governmental agency or other public or municipal corporation.

"pH" means the logarithm of the reciprocal of the hydrogen-ion activity in moles per liter of solution as determined by standard methods and procedures approved by the Environmental Protection Agency, and identified in 40 CFR Part 136.

"Plumbing fixtures" means receptacles that receive liquid, water, or wastewater and discharge them into a drainage system.

"Plumbing system" means the distributing pipes for the water supply; the fixtures and fixture traps; the soil, waste and vent pipes; the building drain and building sewer, and the stormwater drainage pipes; with their devices, appurtenances, and connections within and adjacent to the building.

"Pollution" means an alteration of the quality of the receiving waters of the state by waste to a degree which unreasonably affects such waters for beneficial use or for facilities which serve such beneficial uses. Pollution may include, but not be limited to, contamination.

"Premises" means any lot, place or parcel of land or any building, structure, mobile home, or any part of a building, structure, or mobile home on any lot, place or parcel of land.

1. "Residential premises" means all premises used exclusively for residential purposes except for boarding houses, dormitories, motels, hotels, hospitals, convalescent homes, or other premises used primarily as a temporary place of residence, and discharging only sanitary sewage.

2. "Nonresidential premises" means all premises other than residential premises.

"Pretreatment facility" means any works or device for the treatment or flow limitation of sewage or industrial waste, prior to discharge into a public sewer.

"Pretreatment requirements" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.

"Pretreatment standard" means any prohibitive discharge standards, categorical pretreatment standards and/or local limitations on wastewater discharge characteristics.

"Private sewer," "building sewer" or "house service sewer" means that part of the building sewer beginning at the junction thereof with the building plumbing or drainage system and terminating at the property line or at the easement line.

"Properly shredded garbage" means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles shall be carried freely under the flow conditions normally prevailing in public sewers, with no particles greater than one-half inch (1.27 centimeters) in any dimension.

"Public sewer" ("community sewer") means a sewer directly controlled by the city.

"Radioactive material" means material containing chemical elements that spontaneously change their atomic structure by emitting any particles, rays or energy forms.

"Receiving water quality requirements" means requirements for the city's treatment plant effluent and/or the waters to which such effluent is discharged, established by law or by state or federal regulatory agencies, for the protection of receiving water quality.

"Residential discharger" means any discharger whose premises are used solely for residential purposes.

"Sanitary sewage" means any and all waste substances, liquids or solids associated with human habitation, excluding storm, surface and groundwaters, and industrial wastes.

"Sanitary sewer" means a sewer which carries only sanitary or sanitary and industrial wastewaters and to which storm, surface, and groundwaters are not intentionally admitted.

"Septage receiving station" means a facility at the Visalia Water Conservation Plant for receipt of septic and holding tank wastes.

"Septage waste" means the liquid and semi-solid material removed from septic tanks or other holding tanks used to temporarily contain domestic sewage.

"Septage waste hauler" means an entity permitted to transport septage waste from various locations to the wastewater treatment facility.

"Septic tank" means a watertight receptacle which receives the discharge of a

drainage system or part thereof, designed and constructed so as to retain solids, digest organic matter through a period of detention, and allow the liquids to discharge into the soil outside of the tank through a system of open joint piping or a seepage pit meeting the requirements of the Uniform Plumbing Code.

"Sewage" ("wastewater") means a combination of the water-carried wastes from residences, commercial buildings, institutions, and industrial establishments, together with such ground, surface and storm waters as may be present.

"Sewerage system" means all facilities for collecting, pumping, storing, treating and disposing of sewage.

"Sewage treatment plant" means the city sewage treatment facilities known also as the water conservation plant or the wastewater treatment plant.

"Sewer" means a pipe or conduit for holding and carrying sewage, including manholes and all other appurtenance facilities which are necessary or convenient to the holding or carrying of sewage.

1. "House sewer" (building sewer) means that portion of the side sewer from the lateral sewer to its connection to the building drain.

2. "Interceptor sewer" means a public sewer in a public right-of-way receiving the discharges from main or trunk sewers and conveying said sewage to the sewage treatment plant.

3. "Lateral sewer" means that portion of the side sewer which is within the public right-of-way.

4. "Main sewer" means a publicly owned sewer in a public right-of-way to which side sewer connections from private properties are or may be connected for the disposal of domestic or industrial waste.

5. "Side sewer" means the privately owned and maintained sewer which connects the plumbing system of the building to the main sewer. The side sewer begins at the point of connection to the main sewer, including the wye, and terminates at the point of connection to the building drain two feet outside the foundation line or building wall. Side sewer includes the lateral sewer and the house sewer.

6. "Trunk sewer" means a public sewer in a public right-of-way receiving the discharge from one or more main sewers and conveying said sewage to another trunk sewer or to an interceptor sewer.

"Sewer service charge" means a charge established to obtain equitable payment from all dischargers for the cost of construction, operation and maintenance of the sewerage facilities.

"Shall" is mandatory; "may" is permissive.

"Significant industrial user" means any industrial user which:

1. May be subject to categorical pretreatment standards;

2. Discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);

3. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the treatment plant; or

4. Is designated as significant by the city on the basis that the industrial user has a reasonable potential for adversely affecting the operation of the system or for violating any pretreatment standard or requirement.

"Significant noncompliance" means any violation of one or more of the criteria set forth in 40 CFR Part 403.8(f)(2)(vii), as amended.

"Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than three times the average twenty-four

(24) hour concentration or flows.

"Solid wastes" means the nonliquid carried wastes normally considered to be suitable for disposal with refuse at sanitary landfill refuse disposal sites.

"Street" means a public highway, road, street, avenue, alley way, public place, easement or right-of-way for vehicle or pedestrian use.

"Storm drain" ("storm sewer") means a sewer which carries storm and surface waters and drainage, but excludes sanitary sewage and industrial wastes, other than unpolluted cooling water.

"Suspended solids" means solids that either float on the surface of or are in suspension in, water, sewage, or other liquids; and which are removable by laboratory filtering.

"Trade secret" means any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce or compound an article of trade or a service having commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

"Trap" means any facility designed, constructed and operated for the purpose of removing and retaining dangerous, deleterious or prohibited constituents from wastewater by differential gravity separation before discharge to the public sewer.

"Unpolluted water" means water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the agency having jurisdiction thereof for disposal to storm or natural drainages or directly to surface waters.

"Unsanitary" means contrary to those principles which are known to promote and safeguard health.

"User" means any person who discharges or causes the discharge of wastewater to a community sewer system or directly to the POTW. User shall mean the same as discharger.

"User classification" means a classification of users based on the 1987 edition of the Standard Industrial Classification (SIC) Manual prepared by the Federal Executive Office of Management and Budget.

"Waste" means and includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.

"Wastewater constituents and characteristics" means the individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate, and such other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

"Watercourse" means a channel in which a flow of water occurs either continuously or intermittently.

"Water softener" means a unit using the ion exchange process and requiring sodium chloride to regenerate the exchange bed designed to remove hardness (magnesium and/or calcium ions) from a water supply.

"Waters of the state" means any water, surface or underground, including saline waters, within the boundaries of the state. (Ord. 2000-18 §§ 1 (part), 2 (part), 2000: prior code §§ 4104--4199)

**Section 13.08.049A Article 3. Use of Public Sewers Required**

**Section 13.08.050 Disposal of wastes.**

It is unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner, upon public or private property within the city, or in an area under jurisdiction of said city, any human or animal excrement, garbage or other objectionable waste. (Prior code § 4200)

**Section 13.08.060 Treatment of wastes required.**

It is unlawful to discharge to any natural outlet or watercourse any sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter. (Prior code § 4201)

**Section 13.08.070 Unlawful disposal.**

Except as provided in this chapter, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, seepage pit or other facility intended or used for the disposal of sewage. (Prior code § 4202)

**Section 13.08.080 Occupancy prohibited.**

No building, industrial facility or other structure shall be occupied until the owner of the premises has complied with this chapter. (Prior code § 4203)

**Section 13.08.090 Private sewerage disposal systems--Continuation of use.**

Whether or not public sewers exist or are installed in public streets or rights-of-way abutting annexed and developed properties, existing acceptable private sewerage disposal systems may continue to be maintained and used by the property owners for service of the dwellings and structures existing at the time of adoption of this chapter only, except as hereinafter restricted or excepted. Acceptable private sewerage disposal systems include adequate earth-covered underground septic tanks, cesspools, leach lines and wells, and/or combinations thereof. Determination of the acceptability of a private system shall be the responsibility of the city. (Prior code § 4204)

**Section 13.08.100 Private sewerage disposal systems--Restrictions and exceptions, continuation of use.**

A. Dwellings or structures connected to or utilizing privies, privy vaults, open cesspools, or similar unacceptable private sewerage disposal systems shall, immediately upon annexation to the city, be connected to an available public sewerage system.

B. Whenever it is determined that an existing adequate private sewerage disposal system is in need of major repairs to ensure continuation of the proper operation of that system, the dwelling or structure served must be connected to an available public sewerage system within sixty (60) days. "Major repairs" does not include such items as septic tank pumping and usual maintenance functions.

C. Whenever state or county health authorities, or the city, declare an individual private disposal system, or the systems in the area, to be a health hazard or to be creating a public nuisance, the use of such system, or systems, shall be discontinued within the period of time specified by the city and connection(s) to public sewer made forthwith.

D. Whenever an area, under the authority of the special assessment acts of the state of California is assessed for sewer construction, all benefited property owners may be required by the city council to connect to the public sewer system, where in the opinion of the council the conditions described in subsection (c) of this section exist or are incipient.

E. Where main sewers are installed, for the public welfare and at public expense, the city council may require abutting property owners to connect thereto within a period of time specified by the council. (Prior code § 4205)

**Section 13.08.109A Article 4. Private Sewerage Disposal Construction**

**Section 13.08.110 Prohibition of new systems or connections.**

No new private sewerage disposal systems shall be constructed within the city, and no new dwellings or structures shall be connected to existing private systems; except as hereinafter excepted. (Prior code § 4206)

**Section 13.08.120 Sewer not available.**

Where a public sewer is not available, the building sewer shall be connected to a private sewerage disposal system complying with the provisions of this chapter. (Prior code § 4207)

**13.08.125 City's option to extend sewer.**

Where there is no available public sewer, the city shall have the option, at its sole discretion, to extend the public sewer to within two hundred (200) feet of the property line and require connection thereto, as set forth herein. If the city waives its option to extend sewer system, such waiver shall be in writing from the city manager to the applicant. Such waiver is required prior to applicant commencing installation of a private sewage disposal system. (Ord. 2003-20 (part), 2003

**Section 13.08.130 Permit required.**

Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit from the city. The written application for such permit shall be supplemented by any plans, specifications, and other information deemed necessary by the city as well as the sewer extension waiver signed by City Manager. A permit and inspection fee shall be paid to the city at the time application is filed, in accordance with the provisions of this chapter. (Prior code § 4208)

**Section 13.08.140 Inspection required.**

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of 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 provide twenty-four (24) hour notice to the city when the work is ready for final inspection, and before any underground portions are covered. (Prior code § 4209)

**Section 13.08.150 Design requirements.**

The type, capacities, location and layout of a private sewage disposal system shall comply with recommendations of the department of public health of the state of California and the health officer of Tulare County, as determined by the city. No permit

shall be issued for any private sewage disposal system requiring subsurface soil absorption capacity where the characteristics of the property do not indicate sufficient soil absorption qualities. No septic tank, cesspool, anaerobic tank or chemical process shall be permitted to discharge to any public sewer or any stream or watercourse. (Prior code § 4210)

**Section 13.08.160 Cost of maintenance by owner.**

The owner shall operate and maintain private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. (Prior code § 4211)

**Section 13.08.170 Additional requirements.**

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by any law, ordinance, rule or regulation administered by the county health office or city building inspector. (Prior code § 4212)

**Section 13.08.179A Article 5. Sewer Extensions, Financing and Costs Repayment**

**Section 13.08.180 Private financing.**

The purpose of this article is to provide an expedient method of financing sewer construction in cases where all benefited property owners do not wish to participate in such construction and shall not benefit therefrom until connecting to such sewer construction. The method shall provide for equal proportion of cost within a reasonable period of time among the parcels to be benefited. The following method is not intended to be exclusive.

A. Petition for Extension. Owners of real property desiring to have the city sewer system extended in accordance with the provisions of this article, shall make written application therefore to the city, stating the location and limits of the requested public sewer extension, together with a description of their property. The city shall evaluate the feasibility and practicality of the proposed sewer extension and shall estimate the cost of the project, including all costs normally charged by the city to persons extending public sewers, and shall submit to the council a map showing the area to be served and benefited by said sewer extension. All such sewer extensions shall be within the boundary lines of a public street or a public easement. The sewer extension shall extend across the parcel boundaries being served. The minimum cost to any property owner shall be not less than required by Section 13.08.180(C). The city manager shall report to the city council regarding the proposed sewer extension and if the council determines said extension to be in the public interest, it may grant the request for initiation of the sewer extension project.

B. Deposit of Funds for Construction and Costs. Whenever the application of property owners for public sewer extension has been granted by the city council, the applicant shall deposit with the city, in cash, an amount equal to the total cost estimate of the project. No work shall be started upon the project until the specified deposit has been made.

C. Performance. The city shall prepare plans, specifications, and proposal agreements for the construction of the proposed public sewer extension and shall advertise for sealed proposals. Contracts shall be let to the lowest responsible bidder by the city council. Upon completion and acceptance of the work by the city, the city shall prepare a statement of the final cost of the public extension. If it shall be found that the

actual cost upon completion of the project is less than the estimated cost, the excess of the money paid to the city shall be refunded to the applicants in the same proportion that it was paid to the city. When the actual cost exceeds the estimated cost, the applicants upon notice and demand shall forthwith pay the prorated deficiency in cash. No connection to the constructed sewer shall be permitted by the city until such additional payment, if necessary, is made.

D. Cost of Distribution. The city shall prepare a statement of the final cost of the public sewer, and a map showing the prorated costs to the various parcels of property benefited.

E. Connection Requirements. Whenever the sewer system of the city has been extended in accordance with the provisions of this article, those owners of property benefited, or their successors in interest who have not heretofore contributed their proportionate share of the cost of the public sewer extension in the amount set up in the city's final cost sheet, shall not be permitted to connect with the public sewer extension unless, and until, they shall have paid to the city the amount in cash stated on the city's final costs sheet, or the current year connection fee as required by Section 13.08.750(C), whichever is greater. All such payments shall be in addition to any other fees required by other city ordinances or regulations.

F. Private Sewers. Any property owner in the public sewer extension district who has, prior to said sewer extension, constructed a private sewer connection to the public sewer for his property at his own expense, shall not be required to contribute to the cost of said public sewer extension except where such property derives increased benefits therefrom as determined by the city and as approved by the council. Such property owner shall pay only the amount so approved before connecting his property to the public sewer extension.

G. Refunds. Periodically upon demand, the city shall refund to the persons originally paying for a sewer extension proportionate amounts paid to the city by property owners who did not participate in the original cost and who have been given permits to connect to the extended sewer and have paid for said connection as provided for in this chapter.

H. Termination of Refunds. Any claim by a contributing property owner for a refund which is available due to payment by benefited property owners, shall be made within a period of ten years of the filing of the final cost statement. All money paid after the lapse of ten years shall be retained by the city.

I. Oversizing Sewer Mains. The city may oversize any sewer main from the minimum eight inch diameter if it is determined by the city that a larger line would be needed to serve other developments. If a larger line is installed, the city shall pay only the additional oversizing cost. (Prior code § 4213)

**Section 13.08.190 Public financing.**

The purpose of this article is to provide an equitable method for the assessing of costs and the financing of such costs for the provision of sanitary sewer service to developed lots within the city and/or annexing to the city. The following method is not intended to be exclusive.

A. Definitions and Restrictions.

1. A developed lot is defined for purposes of this article as a parcel of ground of record less than five acres, a parcel created by subdivision or lot split and any of the above occupied by a residential, institutional, or commercial structure.

2. The provisions of this article shall apply when at least ninety (90) percent of the area proposed for sewer service is composed of developed lots which are using



private sewage disposal systems.

3. No area shall be considered for sewer service under the provisions of this article unless at least fifty (50) percent of the property owners of the developed lots sign a sewer connection agreement with the city in accordance with the procedures outlined hereinafter.

4. Developed lots larger than those in the surrounding neighborhood or subdivision which are subject to further development under existing zoning restrictions shall be assessed at charges higher than those described hereinafter when, in the opinion of the city engineer, such higher charges are required as a matter of equitable sewer cost assessment.

B. Financing of Sewer Extensions. Sewer extensions to be constructed under the provisions of this article may be financed by the city. The city must be reimbursed for this financed cost at such time as benefiting property owners connect to the sewer, except that sewers may be financed for a period not to exceed five years from the date of connection under the financing provisions of the short form of the 1911 Act, Chapter 27, (commencing with Section 5870 through 5895.54) of the Streets and Highways Code, state of California. The limits imposed with respect to such 1911 Act financing are a minimum annual payment to the city of fifty dollars (\$50.00) plus interest with the repayment of the total amount due, with interest, to be completed in not more than five years. All monies received as a result of this chapter shall be paid to the Sanitation Fund of the city.

C. Public Financing. The city council shall establish annually by resolution the sewer connection fee which is to represent the total cost of public sewer facilities to the benefited property owners under this article, which fee shall include and take the place of all other charges and fees other than the monthly sewer service charge specified in this chapter. Such resolution shall be adopted by the council in each calendar year. The resolution currently in effect shall prevail until such time as the resolution for the new year is adopted.

D. The connection fee shall be based on a recommendation by the city engineer considering the costs of sewer extensions for the preceding twelve-month period. The connection fee shall include the cost of sewer laterals to the property line, manholes, main line costs, plumbing permit, and the trunkline capacity charge and treatment plant capacity charge outlined in Section 13.08.750 and shall be a uniform cost per lot; except, that additional fees may be stipulated for additional dwelling units on such lots. The above provisions shall be dependent upon budgeted or specified allocations by the city council of funds sufficient to carry out the purposes of this subsection. The city council, by this chapter in no way undertakes to guarantee the provision of sewer service to any area within or annexing to the city except when, in the council's opinion, the city is able to finance such facilities, and when it is the council's judgment that there is priority need for such facilities with respect to other municipal service.

E. Sewer Connection Agreements. The property owner signing the sewer connection agreement consents to:

1. Pay any and all applicable sewer connection fees as set forth in Article 9, Sections 13.08.710 through 13.08.820;
2. Connect to the sewer line and pay the normal sewer service charge as set forth in Article 10, Sections 13.08.830 through 13.08.890. (Prior code § 4214)

**Section 13.08.200 Existing sewer cost repayment.**

The purpose of this article is to assure repayment to the city by directly benefited

property owners for connections to trunk sewers abutting properties not otherwise adequately served by the public sewer system, where such trunk sewers have been built at public expense and where the property owners directly connecting thereto receive benefits in excess of those accruing to the general area served by the trunk sewer; and further to require payment to the city for connection to main sewers where the owners and/or developers of connected and directly benefited property have not paid for their proportionate share of the cost of construction of the main sewer.

A. Application. This article shall not apply to connections to existing sewers within the boundaries of the incorporated area of the city, as said boundaries existed on April 12, 1948, as outlined in the map thereof on file in the office of the city engineer.

B. Payment. Prior to issuance of a sewer connection permit for properties desiring to connect directly to the aforementioned trunk sewers, or main sewers, the persons desiring to connect thereto shall pay to the city a cost determined annually by council resolution under Section 13.08.750. It is the intent of this article to provide that property owners directly benefited by the construction of trunk or main sewers at a location where they may connect directly thereto without extension of the public sewer, shall pay to the city the costs which they would normally have incurred were they to have constructed, or to have participated in the construction of, sewer facilities to serve their property. Single-family residences within the city limits of the city which are permitted to connect to an existing sanitary sewer line may have their charges set on the tax roll if they so elect. The procedure of the short form of the 1911 Act assessment as set forth in the Street and Highways Code, Chapter 27 shall be followed. The limits imposed are a minimum annual payment to the city of fifty dollars (\$50.00), with the repayment of all charges, with interest, to be completed in not more than five years.

C. Exceptions. The provisions of this article shall apply to connection to existing main or trunk sewer lines with the following exceptions:

1. Those sewers constructed under the provisions of either the short or long form of the 1911 Act of the state of California Streets and Highways Code where assessments are or have been made on the basis of benefits;

2. Sewer connections of the existing single family dwellings in those areas which are deemed by the council to be unable to finance public sewer improvements and described as such by council resolution, said boundaries being as outlined on maps thereof on file in the city engineer's office;

3. Sewers constructed under the provisions of Sections 13.08.180 or 13.08.190 or similar provisions of prior city ordinances;

4. Sewers constructed under council annexation agreements;

5. Sewers constructed pursuant to approved development agreements.

D. Disposition of Funds. All monies received as a result of this section shall be deposited into the sanitation fund of the city. No monies received as a result of this chapter shall be repayable to any developer or property owner who has constructed main sewers for the benefit of his property. Such repayments shall be made only when the developer or property owner has fully complied with the provisions of Section 13.08.180. Further, no developer or property owners shall have the right to sell, lease, assign, or otherwise purport to convey sewer connection rights to any main sewer for other than directly benefited properties owned by said developer at the time of design approval by the city. (Prior code § 4215)

### **13.08.205 Payment for sewer connections prior to July 1, 2010.**

Notwithstanding the provisions of Section 13.08.190 B. and Section 13.08.200 B., payment for connection of single family residences inside the city limits made to sanitary

sewer lines after January 1, 2004 and prior to July 1, 2010, may be placed on the county tax roll pursuant to the provisions of Chapter 27 of the Streets and Highways Code, with the repayment of all charges, with interest, to be completed in not more than ten (10) years.

**Section 13.08.209A Article 6. Side Sewers and Connections**

**Section 13.08.210 Permit required.**

No person shall cause or permit a premises to be initially connected to the sewer system nor shall any person increase the number of dwelling units on residential premises connected to the sewer system, change the use of residential premises connected to the sewer system to a nonresidential use, increase the area of nonresidential premises devoted to a nonresidential use, or change the use of nonresidential premises to a residential use without a connection permit issued by the director as provided by this chapter. (Ord. 2000-18 §§ 1 (part), 2 (part), 2000: prior code § 4216)

**Section 13.08.220 Installation and/or connection of lateral sewers by city.**

A. Except as otherwise directed by the city, the city shall install all lateral sewers, making connections therefrom to main and trunk sewers, and charging the property owner for the costs thereof. This installation shall terminate at the property line (street right-of-way line); line and grade to said termination shall be determined by the city engineer, as shall procedures for requesting such installations.

B. Where determined by the city engineer to be in the best interest of the city and/or the property owner, and in all new subdivision installations, the property owner shall be requested to have the lateral sewer installed by a licensed contractor in lieu of city installation. In such instances, the city shall be responsible for cutting wyes into existing sewers.

C. In either case, city installation or property owner installation, all costs and expenses incident to the installation and connection of a lateral sewer shall be borne by the owner, except where otherwise provided in this chapter. (Prior code § 4217)

**Section 13.08.230 Design considerations.**

Minimum size and slope in the side sewer shall be in accordance with the requirements of the city. (Prior code § 4218)

**Section 13.08.240 Separate sewers.**

Every building must be separately connected to a public sewer. No two adjacent lots abutting the same area shall be permitted to join in the use of the same side sewer. However, one or more buildings located on premises belonging to the same owner may be served with the same side sewer during the period of said ownership. Upon the subsequent subdivision and/or sale of a portion of said lot, the portion not directly connected with such public sewer shall be separately connected with a public sewer, and it is unlawful for the owner thereof to continue to use or maintain such indirect connection. (Prior code § 4219)

**Section 13.08.250 Sewer too low.**

In any building in which any portion of the building drain or building sewer is too

low to permit gravity flow to the public sewer, sewage drained by such building drain or sewer shall be lifted by artificial means, approved by the city engineer, and discharged to the public sewer at the expense of the owner. (Prior code § 4220)

**Section 13.08.260 Connection to public sewer.**

The applicant for a side sewer permit shall notify the city when the building sewer is ready for inspection and connection to the public sewer or lateral sewer. (Prior code § 4221)

**Section 13.08.270 Safety precautions.**

All excavations for a side sewer installation being installed by the owner's contractor shall be maintained in a safe and workmanlike manner, and adequately guarded with barricades and/or lights so as to protect the public from hazard, in full accordance with all applicable state and federal regulations. (Prior code § 4222)

**Section 13.08.280 Completion of work.**

Streets, sidewalks, parkways and other property disturbed in the course of a contractor's work shall be restored in a manner satisfactory to the city. (Prior code § 4223)

**Section 13.08.290 Maintenance of side sewers.**

Side sewers, including lateral sewers and wyes, shall be maintained by the owner of the property served in good order and condition, at his or her sole cost and expense. (Prior code § 4224)

**Section 13.08.299A Article 7. Public Sewer Construction**

**Section 13.08.300 Permit required.**

No person shall construct, extend or connect to any public sewer without first obtaining a written permit from the city and paying all fees and connection charges and furnishing bonds and/or cash deposits as required herein. The provisions of this section requiring permits shall not be construed to apply to contractors constructing sewers and appurtenances under contracts awarded and entered into with the city. (Prior code § 4225)

**Section 13.08.310 Plans, profiles and specifications required.**

A. The application for a permit for public sewer construction shall be accompanied by complete plans, profiles and specifications, complying with all applicable ordinances, rules and regulations of the city, prepared by a registered civil engineer, showing all details of the proposed work.

B. The application, together with the plans, profiles and specifications shall be examined by the city engineer who shall within twenty (20) working days approve them as filed or require them to be modified as deemed necessary for proper installation. When the city engineer is satisfied that the proposed work is proper and that the plans, profiles and specifications are sufficient and correct, he shall order the issuance of a permit predicated upon the payment of all connection charges, fees and deposits and furnishing required bonds. The permit shall prescribe such terms and conditions as necessary in the public interest. (Prior code § 4226)

**Section 13.08.320 Subdivision.**

The requirements of Sections 13.08.300 and 13.08.310 shall be fully complied with before any final subdivision map shall be approved by the city council. The final subdivision map shall provide for the dedication for public use of all streets, easements or rights of way in which public sewer lines are to be constructed. (Prior code § 4227)

**Section 13.08.330 Easements or rights-of-way.**

In the event that an easement is required for an extension of the public sewer, the applicant shall procure and have accepted by the city council a proper easement or grant of right-of-way sufficient in law to allow the laying and maintenance of such extension. (Prior code § 4228)

**Section 13.08.340 Persons authorized to perform work.**

Only properly licensed contractors shall be authorized to perform the work of public sewer construction within the city. All terms and conditions of the permit issued by the city to the applicant shall be binding on the contractor. The requirements of this section shall apply to side sewers installed concurrently with public sewer construction. (Prior code § 4229)

**Section 13.08.350 Grade stakes.**

Grade and line stakes shall be set by a registered civil engineer prior to the start of work on any public sewer construction. The contractor shall be responsible for accurately transferring grades to sewer inverts. The engineer shall provide copies of cut sheets to the contractor and to the city. (Prior code § 4230)

**Section 13.08.360 Compliance with local regulations.**

Any person constructing a sewer within a street or public right-of-way or easement shall comply with all state, county or city laws, ordinances, rules and regulations pertaining to the cutting of pavement, opening, barricading, lighting and protecting of trenches, backfilling and repaving thereof, and shall obtain all permits and pay all fees required by other departments having jurisdiction prior to the issuance of a permit by the city. (Prior code § 4231)

**Section 13.08.370 Protection of excavation.**

A. The applicant shall maintain such barriers, lights and signals as are necessary to give warning to the public at all times that a sewer is under construction and of each dangerous condition to be encountered as a result thereof. Applicant shall also likewise protect the public in the use of the sidewalk against any such conditions in connection with the construction of the sewer. Streets, sidewalks, parkways and other property disturbed in the course of the work shall be reinstalled in a manner satisfactory to the city or any other public agency having jurisdiction thereover.

B. If the city engineer determines that the construction site is not adequately signed and the contractor evades the engineer's warning or it is after working hours, the engineer shall have the recourse to obtain the necessary signing devices from any source available and all costs related thereto shall be borne by the contractor. (Prior code § 4232)

**Section 13.08.380 Design and construction standards.**

Minimum standards for the design and construction of sewers within the city or subject to the jurisdiction of the city shall be the "Sanitary and Storm Sewer Specifications" of the city. The city engineer may permit modifications of those specifications or may require higher standards where unusual conditions are encountered. "As-built" drawings showing the actual location of all sewers, structures, wyes, and laterals shall be filed with the city before final acceptance of the work. (Prior code § 4233)

**Section 13.08.390 Bond--Public sewer construction.**

Prior to the issuance of a permit for public sewer construction the applicant shall furnish to the city a faithful performance bond or cash deposit in the amount of the total estimated cost of the work. Said bond shall be in the minimum amount of one thousand dollars (\$1,000.00) and shall be secured by a surety or sureties satisfactory to the city. The cash deposit or faithful performance bond shall be conditioned upon the performance of the terms and conditions of the permit and shall guarantee the correction of faulty workmanship and the replacement of defective materials for a period of one year after the date of acceptance of the work. (Prior code § 4234)

**Section 13.08.400 All work to be inspected.**

All sewer construction work, building sewers, plumbing and drainage systems shall be inspected by an inspector acting for the city to insure compliance with all requirements of the city. No sewer shall be covered at any point until it has been inspected and passed for acceptance. No sewer shall be connected either directly or indirectly to the city's public sewer system until the work covered by appropriate permit has been completed, inspected and approved. All sewers shall be cleaned of all debris accumulated from construction operations. (Prior code § 4235)

**Section 13.08.410 Notification.**

It shall be the duty of the person doing the work authorized by permit to notify the office of the city that said work is ready for inspection. Such notification shall be given not less than twenty-four (24) hours before the work is to be inspected and if notice is made verbally, it shall be followed by written notice. It shall be the duty of the person doing the work to make sure that the work is ready for inspection by the city before giving the above notification. (Prior code § 4236)

**Section 13.08.420 Correct notices.**

When any work has been inspected and the work is unsatisfactory, a written notice to that effect shall be given instructing the permittee, or the agent of such permittee, within ten days, to comply to such order or notice for work authorized by the permit in accordance with the ordinances, rules and regulations of the city. (Prior code § 4237)

**Section 13.08.430 All costs paid by owner.**

All costs and expenses incident to the installation and connection of any sewer or other work for which a permit has been issued shall be borne by the permittee. The permittee shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the work. (Prior code § 4238)

**Section 13.08.440 Contract with outside industrial and commercial users.**

A. Use by an industry or commercial establishment located outside the city limits ("outside user") shall not be granted if it shall impair the usage of the sewer system or any part thereof by property within the city.

B. Enlargements, extensions or modifications of the city sewer system for use by outside industries or commercial establishments, shall be solely at the cost of such user and the city shall, upon completion, be granted title to and hold full control of such extension, enlargements or modifications.

C. Failure or refusal of any outside user to comply with any condition of this article or of any contract granted hereunder, shall be sufficient grounds for cutting off its connection with the sewer system after five days written notice thereof by the city.

D. Determination by the city that the use of the city sewer system by an outside user is resulting in impairment of the use by property within the city, shall give the city the conclusive right to terminate any contract user's further use of said city sewer system or any part thereof.

E. Any existing contracts with outside users for city sewer system usage shall not be modified by the provisions of this chapter until such time as such contracts have terminated.

F. Maximum protection to the city shall be provided in the drafting of any contract and such protection shall include enforcement of the pretreatment provisions of the city's NPDES permit and provision for annexation to the city of the property occupied by users at such time as annexation is, in the opinion of the city, feasible, with sufficient penalty fees in said contract to guarantee compliance with this stipulation.

G. All contracts with outside users shall be approved by the city council.

H. Permission shall not be granted to connect any lot or parcel of land outside the city to any public sewer in or under the jurisdiction of the city unless a permit thereof is obtained. The applicant shall first enter into a contract in writing whereby he shall bind himself, his heirs, successors and assigns to abide by all ordinances, rules and regulations in regard to the manner in which such sewer shall be used, the manner of connecting therewith, and the plumbing and drainage in connection therewith and also shall agree to pay all fees required for securing the permit and a monthly fee in the amount set by the city for the privilege of using such sewer. The granting of permission for connection to the city sewer system by an outside user shall be optional with the city council. (Prior code § 4239)

**Section 13.08.450 Street excavation permit.**

A separate permit must be secured from the city or the county or any other person having jurisdiction thereover by permittees or contractors intending to excavate in a public street for the purpose of installing sewers or making sewer connections.

A. No person shall enter, obstruct, uncover or tamper with any portion of the public sewer, or connect to it, or dispose anything into any sewer and/or sewer manhole without the written permission of the city engineer.

B. No person or party shall remove or demolish any building or structures with plumbing fixtures connected directly or indirectly to the public sewer without first notifying the city engineer of such intention. All openings in or leading to the public sewer line or lines caused by such work shall be sealed watertight and inspected by the city engineer before being backfilled.

C. No person shall fill or backfill over, or cause to cover, or obstruct access to, any sewer manhole.

D. No person shall erect any improvements, structures, or buildings over public sewers without the written permission of the city engineer. (Prior code § 4240)

**Section 13.08.460 Liability.**

A. The city and its officers, agents and employees shall not be answerable for any liability or injury or death to any person or damage to any property arising during or growing out of the performance of any work by any permittee. The permittee shall be answerable for, and shall save the city and its officers, agents and employees harmless from any liability imposed by law upon the city or its officers, agents or employees, including all costs, expenses, fees and interest incurred in defending same or in seeking to enforce this provision. The permittee shall be solely liable for any defects in the performance of permittee's work or any failure which may develop therein.

B. Every person, firm, company, corporation, or organization applying for a permit shall file with the engineering department a policy, true copy thereof, or certificate of insurance, accompanied by an endorsement signed by the underwriter or an authorized representative, as evidence that the applicant has obtained and maintains and shall require all of its subcontractors to maintain the following insurance requirements:

1. Comprehensive general liability coverage with limits of not less than one million dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury, personal injury, and property damage. Such insurance shall: (a) name city, its appointed and elected officials, officers, employees and agents as additionally insureds; and (b) be primary with respect to any insurance or self-insurance programs maintained by the city; and (c) contain standard cross liability provisions;

2. Commercial automobile liability insurance with a combined single limit of no less than five hundred thousand dollars (\$500,000.00) per occurrence. Applicants whose transportation operations are governed by the public utilities commission shall possess limits as required by the commission;

3. Worker's compensation coverage with statutory limits, and employer's liability insurance with limits of not less than one million dollars (\$1,000,000.00) per accident.

C. Greater amounts may be required as determined by the city from time to time by resolution. Permittee must pay premiums thereon and permittee shall not commence work until all insurance required has been obtained and such insurance has been approved by the city. (Prior code § 4241)

**Section 13.08.470 Time limit on permits.**

If work under a permit is not commenced within six months from the date of issuance or if after partial completion the work shall be discontinued for a period of six months, or if the connection or work authorized by such permit is not completed within one year from date of issuance of permit, the permit shall thereupon become void and no further work shall be done until a new permit shall have been secured. A new fee shall be paid upon the issuance of said new permit. (Prior code § 4242)

**Section 13.08.479A Article 8. Regulation of Wastewater Discharges**

**Section 13.08.480 Prohibitions on discharges.**

No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment



standards or any other National, State, or local pretreatment standards or requirements.

No person shall discharge to a public sewer wastes which, in the opinion of the director, cause, threaten to cause, or are capable of causing either alone or by interaction with other substances:

- A. A fire or explosive hazard;
- B. Obstruction of flow in a sewer system or injury of the system or damage to the wastewater collection, treatment or disposal facilities;
- C. Danger to life or safety of personnel;
- D. A nuisance, or prevention of the effective maintenance or operation of the sewer system, through having a strong, unpleasant odor;
- E. Air pollution by the release of toxic or malodorous gases or malodorous gas-producing substances;
- F. . No person or industrial user shall discharge to the city's facilities any substance which has or contains:
  1. A temperature which will inhibit biological activity in the treatment plant, but in no case heat which will cause the influent at the headworks of the treatment plant to exceed one hundred four (104) degrees F (forty (40) degrees C);
  2. More than two hundred (200) mg/l of oil or grease of animal or vegetable origin;
  3. Any gasoline, benzene, naphtha, fuel oil or other inflammable or explosive liquid, solid or gas;
  4. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
  5. Any garbage that has not been properly shredded;
  6. Any ashes, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, wood, or any other solid, or viscous substance capable of causing obstructions to the flow in sewers or other interference with the proper operation of the sewage system;
  7. Any waters or wastes having a pH lower than 5.5 or higher than 9.0 or having any other corrosive characteristic capable of causing damage or hazard to structures, equipment or personnel of the sewage system;
  8. Any waters or wastes containing toxic or poisonous substances in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters of the sewage treatment plant;
  9. Any noxious or malodorous gas or substance capable of creating a public nuisance;
  10. No discharge to the sewer shall be permitted that when blended with the remaining city flow shall cause an excess of the following constituent levels in the discharge from the sewage treatment plant.
    - a. Chlorides: one hundred fifty (150) mg/l,
    - b. Dissolved solids: six hundred (600) mg/l,
    - c. Sodium ratio: seventy (70) percent,
    - d. pH, outside limits: 6.5-8.5 ph units;
  11. Which exerts an excessive chemical oxygen demand or chlorine demand to such a degree that the total wastewater received at the sewage treatment plant exceeds treatable limits, as established by the city, for such wastewater;
  12. Which shall produce discoloration of the sewage treatment plant effluent;
  13. With a volume of flow or concentration of wastes constituting "slugs" as defined in Section 13.08.040;
  14. Any substance which may cause the treatment plant's effluent or any

other product of the treatment plant such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to city's facilities cause the plant to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used;

15. Any substance which may cause the treatment plant to violate its NPDES permit or the receiving water quality standards;

16. Pollutants which create a fire or explosive hazard in the city's wastewater collection and/or treatment systems, including, but not limited to, wastestreams with a closed-cup flashpoint of less than one hundred forty (140) degrees F (sixty (60) degrees C) using the test methods specified in 40 CFR Part 261.21.

G. A detrimental environmental impact or a nuisance in the waters of the state or a condition unacceptable to any public agency having regulatory jurisdiction over the city; discoloration or any other condition in the quality of the city's treatment works effluent in such a manner that receiving water quality requirements established by city's NPDES permit cannot be met;

H. Conditions at or near the city's treatment works which violates any statute or any rule, regulation, or ordinance of any public agency or state or federal regulatory body;

I. Quantities or rates of flow which overload the city's collection or treatment facilities or cause excessive city collection or treatment costs. (Prior code § 4245)

**Section 13.08.490 Prohibitions on storm drainage and ground water.**

Storm water, ground water, rain water, water well development water, monitoring well discharge, swimming pool filter backwash, street drainage, subsurface drainage, irrigation drainage, or yard drainage shall not be discharged through direct or indirect connections to a community sewer. The city shall require cessation of such discharge if found to be existing. (Prior code § 4246)

**Section 13.08.500 Prohibition on unpolluted water.**

Unpolluted water, including, but not limited to, cooling water, process water or blow-down from cooling towers or evaporative coolers, or surface drainage from streets, curb and gutter or parking lots, shall not be discharged through direct or indirect connection to a public sanitary sewer. All installations of air-conditioning systems require the issuance of a permit therefore by the city and the payment of customary building and/or plumbing permit fees to the city prior to commencement of installation. All evaporative coolers shall be furnished with a circulating pump or be drained to yard areas, seepage wells or leaching devices, or storm drains. All new installations of industrial, commercial or residential air conditioning units shall have cooling water discharge recirculated or shall be of such type as not to require cooling water discharge. In no case shall discharge be permitted to be connected to the sanitary sewer system; except, that condensation only from cooling towers may be discharged to the sanitary sewer system by permit only. In no case shall water from evaporative coolers or air conditioning units be allowed to discharge onto public streets, alleys or sidewalks or to in any manner create a public nuisance. (Prior code § 4247)

**Section 13.08.510 Limitations on radioactive wastes.**

No person shall discharge or cause to be discharged, any radioactive waste into a community sewer. (Prior code § 4248)

**Section 13.08.520 Limitations on the use of garbage grinders.**

A. Waste from garbage grinders shall not be discharged into a community sewer except:

1. Wastes generated in preparation of food normally consumed on the premises;

2. Where the user has obtained a permit for that specific use from the city, and agrees to undertake whatever self-monitoring is required to enable the city to equitably determine the user charges based on the waste constituents and characteristics.

B. Such grinders must shred the waste to a degree that all particles shall be carried freely under normal flow conditions prevailing in the community sewer, with no particles greater than one-half inch (1.27 centimeters) in any dimension. Garbage grinders shall not be used for grinding plastic, paper products, inert materials, or garden refuse. The installation and operation of any garbage grinder equipped with a motor of one-half horsepower or greater shall be subject to the review and approval of the city. (Prior code § 4249)

**Section 13.08.530 Limitations on point of discharge.**

No person shall discharge any substances directly into a manhole or other opening in a community sewer other than through an approved side sewer, unless upon written application by the discharger and payment of the applicable charges and fees, the city issues a permit for such direct discharges. (Prior code § 4250)

**Section 13.08.540 Holding tank waste and septic tank waste.**

A discharger proposing to discharge holding tank waste and septic tank waste into the septage receiving station must secure a permit. No discharge shall be allowed to any location except the septage receiving station. If a permit is granted for discharge of such waste, the discharger shall pay the applicable user charges and fees and shall meet such other conditions as required by the city. (Prior code § 4251)

**Section 13.08.550 Limitations on wastewater strength.**

A. No person or industrial user shall discharge wastewater containing in excess of the following instantaneous maximum allowable limitations:

<b>Pollutant</b>	<b>Instantaneous Maximum Allowable Discharge Limit (mg/l)</b>
Arsenic	0.05
Boron	1.60
Cadmium	0.02
Chromium	3.44
Copper	1.97
Cyanide	0.16

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Lead	0.30
Mercury	0.02
Nickel	2.86
Silver	0.76
Zinc	0.64
Pentachlorophenol	0.15

B. Notwithstanding the limitations that are set forth in subsection (A) of this section:

1. The city may impose more restrictive standards or requirements on discharges if it is deemed necessary to comply with the objectives of this ordinance, specific prohibitions or the terms of the city's NPDES permit;

2. The city may authorize discharges containing higher concentrations of specific pollutants on a site-specific basis, provided that the concentrations of such discharges shall not cause pass through or interference. Upon approval by the city, site-specific limitations shall be established through the terms specified in the discharger's industrial discharge permit. The city may impose mass limitations in addition to, or in place of, concentration based limitations. However, no special agreement shall be allowed to contravene federal, state or local pretreatment standards.

C. No person or industrial user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The city may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate. (Prior code § 4252)

**Section 13.08.560 Limitations on infectious waste.**

A. Infectious wastes which have been rendered noninfectious prior to grinding as specified in Title 22, California Code of Regulations, Section 66840(i) from hospitals, clinics, and mortuaries may be disposed of to the sanitary sewer system subject to the following limitations and requirements:

1. Pathologic specimens may not be disposed of to the sanitary sewer system;

2. The material shall be ground by an approved grinder having the capabilities of meeting or exceeding the following fineness: at least forty (40) percent shall pass a No. 8 sieve; at least sixty-five (65) percent shall pass a No. 3 sieve, and one hundred (100) percent shall pass a 3/8-inch screen opening;

3. Ground organic kitchen waste from hospital food preparation and disposal facilities excluding all paper and plastic items may be discharged into the sanitary sewer system;

4. Disposable hypodermic needles, syringes, and associated articles following their use in hospitals, out-patient clinics, medical and dental offices, etc., may not be discharged to the sanitary sewer system;

5. The materials must not violate any other requirements of these rules and regulations.

B. The following shall not be discharged to the sanitary sewer by any means:

1. Solid wastes generated in the rooms of patients who are isolated because of a suspected or diagnosed communicable disease;

2. Recognizable portions of the human anatomy;
3. Wastes excluded by other provisions of this title except as specifically permitted in this section.

C. All hospitals within the limits of the city desiring to dispose of a ground "infectious waste" by discharge into facilities of the city shall first have a valid nonsignificant discharge permit. All applicants for such permits shall fill out completely the application form, pay the appropriate fee, receive a copy of the city regulations governing discharge of ground hospital wastes, and shall agree in writing to abide by the regulations. The nonsignificant discharge permit shall be valid for a period not to exceed four years from date of issuance.

D. Nothing in this section shall be construed to limit the authority of the health officer of Tulare County to define wastes as being infectious. (Prior code § 4253)

**Section 13.08.570 Traps required.**

Grease, oil and sand traps shall be provided when, in the opinion of the City, they are necessary for the protection of the sewerage system from liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such traps shall not be required for buildings used solely for residential purposes. Such traps shall be required, for example, on discharges from all service stations, automotive repair garages, car washes, restaurants, eating establishments and food preparation establishments, and such other commercial or industrial establishments as the city may designate. (Prior code § 4254)

**Section 13.08.580 Construction of traps.**

All traps shall be of a type and capacity approved by the city, and shall be so located as to be readily and easily accessible for cleaning and inspection. Restaurant traps shall be gas-tight, of a type approved for restaurant use by the division of building safety. Traps for all other facilities, including service stations and garages, shall be in accordance with the adopted plan of the city for such traps or shall be the approved equal thereof as determined by the director. (Prior code § 4255)

**Section 13.08.590 Maintenance of traps.**

When installed, all grease, oil and sand traps shall be maintained by the owner, at owner's expense, in continuously efficient operation at all times. (Prior code § 4256)

**Section 13.08.600 Pretreatment of wastes.**

The admission into the public sewers of any waters or wastes having (a) a five-day biochemical oxygen demand greater than three hundred fifty (350) milligrams per liter; (b) containing more than three hundred fifty (350) milligrams per liter of suspended solids; (c) having the characteristics described in Section 13.08.550 (C) or constituent levels in excess of those enumerated in Section 13.08.550 (A); or (d) having an average daily flow greater than .05 MGD, or one percent of the average daily sewage flow of the city, shall be subject to the review and approval of the city. When necessary in the opinion of the city the discharger shall provide, at his/her expense, such pretreatment as may be necessary to: (a) reduce the BOD discharge to three hundred fifty (350) mg/l and suspended solids to three hundred fifty (350) mg/l; (b) reduce objectionable characteristics or constituents to within the maximum limits provided in Section 13.08.550; or (c) control the quantities and rates of discharge of such water or wastes. Plans, specifications, and any other pertinent information relating to proposed

pretreatment facilities shall be submitted for the approval of the city and no construction of such facilities shall be commenced until said approval is obtained in writing. Material which shall readily settle, such as sand, glass, metal filings and diatomaceous earth, for example, or floatable material which is readily removable shall be removed from wastewater prior to discharge to the public sanitary sewer system. The review and approval of such plans and/or proposed operation procedures shall in no way relieve the discharger from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city and in accordance with federal and state standards, under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported in writing to and be approved by the city. (Prior code § 4257)

**Section 13.08.610 Maintenance of pretreatment facilities.**

When preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at owner's expense. (Prior code § 4258)

**Section 13.08.620 Monitoring facilities.**

The city may require the discharger to construct, at discharger's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer or internal drainage systems and may also require sampling or metering equipment to be provided, installed, and operated at the dischargers expense. The monitoring facility shall be situated on the discharger's premises. If the monitoring facility is inside the discharger's fence, there shall be accommodations to allow access for city personnel, such as a gate secured with a city lock. There shall be ample room in or near such sampling manhole to allow accurate sampling and compositing of samples for analysis. The manhole, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the discharger, regardless of whether located on private or public property. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with city requirements, construction standards and specifications. (Prior code § 4259)

**Section 13.08.630 Inspection and sampling.**

The city shall inspect the facilities of any discharger to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The city, state and EPA shall have the right to set up on the discharger's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a discharger has security measures in force which would require proper identification and clearance before entry into their premises, the discharger shall make necessary arrangements so that upon presentation of suitable identification, personnel from the city, state and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. (Prior code § 4260)

**Section 13.08.640 Notification of violation.**

If sampling performed by an industrial user indicates a violation, the industrial user must notify the city within twenty-four (24) hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of such analysis to the city within thirty (30) days after becoming aware of the violation. The industrial user is not required to resample if the city performs monitoring at the facility at least once each month for the parameter in violation. (Prior code § 4261)

**Section 13.08.650 Notification of the discharge of hazardous waste.**

A. Any industrial user who commences the discharge of hazardous waste shall notify the city, the EPA Regional Waste Management Division Director and the state hazardous waste authorities in writing of any discharge into the city's wastewater collection and treatment system of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the industrial user discharges more than ten kilograms of such waste per calendar month, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of the constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than ten days after the discharge commences. Notifications of changed discharges must be submitted in accordance with the provisions of this chapter. This notification requirement does not apply to pollutants reported under the requirements of discharge permits issued by the city.

B. In case of any new regulations under Section 3001 of the Resource Conservation and Recovery Act (RCRA) identifying additional characteristics of hazardous waste or listing any additional substances as a hazardous waste, the industrial user shall notify the city, the EPA Regional Waste Management Division Director and the state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

C. In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical. (Prior code § 4262)

**Section 13.08.670 Special agreement--Public facilities.**

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city and any other public corporation or entity, whereby the city undertakes to provide for the construction, acceptance, maintenance or operation of facilities for the collection, pumping or other means of transmission of sewage from the public agencies, pursuant to any appropriate legal authorization. However, no special agreement shall be allowed to contravene federal, state or local pretreatment standards. (Prior code § 4264)

**Section 13.08.680 Federal requirements limitations.**

Users in industrial categories subject to the categorical pretreatment standards development by the EPA under the Act are required to comply with pretreatment

standards promulgated pursuant to Section 307. The city may issue standards more stringent than the federal standards if the director determines that the limitations in the federal standards are not sufficient to: (1) protect the operation of the city's treatment facilities, or (2) comply with water quality standards or effluent limitations specified in the city's national pollutant discharge elimination system (NPDES) permit. (Ord. 2000-18 §§ 1 (part), 2 (part), 2000: prior code § 4265)

**Section 13.08.690 Regional water quality control board requirement limitations.**

Source control of industrial discharges shall be accomplished by use of a permit and monitoring system as described herein. Discharge of industrial waste from any person within the city onto land or to any natural outlet may be permitted only if the discharge complies with all requirements of the regional water quality control board and of all other local, state and federal laws and regulations. (Prior code § 4266)

**Section 13.08.700 Other governmental agency jurisdictions.**

Nothing contained in this section shall be construed to limit any additional requirements that may be imposed by the county health officer, by the regional water quality control board, fish and game, or by other governmental agencies having jurisdiction thereof. (Prior code § 4267)

**Section 13.08.709A Article 9. Permits and Fees**

**Section 13.08.710 Permit required.**

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance or perform any work on any plumbing or drainage system under the jurisdiction of the city without first obtaining a written permit from the city. (Prior code § 4270)

**Section 13.08.720 Application for permit.**

Any person, legally entitled to apply for and receive a permit, shall make such application on forms provided by the city for that purpose. Applicant shall give a description of the character of the work proposed to be done and the location, ownership, occupancy and use of the premises in connection therewith. The city may require plans, specifications or drawings and such other information deemed necessary. If the city determines that the plans, specifications, drawings, descriptions or information furnished by the applicant are in compliance with the ordinances, rules and regulations of the city, the permit applied for shall be issued upon payment of the required fees as hereinafter fixed and/or as adopted by council resolution in implementation or modification hereof. (Prior code § 4271)

**Section 13.08.730 Compliance with permit.**

After approval of the application, evidenced by the issuance of a permit, no change shall be made in the location of the sewer, the grade, materials or other details from those described in the permit or as shown on the plans and specifications for which the permit was issued, except with written permission from an authorized representative of the city. (Prior code § 4272)

**Section 13.08.740 Agreement.**



The applicant's signature on an application for any permit, as set forth in Section 13.08.720, shall constitute an agreement to comply with all of the provisions, terms and requirements of this and other applicable ordinances, rules and regulations of the city, and with the plans and specifications filed with the application, if any, together with such corrections or modifications as may be made or permitted by the city, if any. Such agreement shall be binding upon the applicant and may be altered only upon a written request for the alteration from the applicant, approved by the city. (Prior code § 4273)

**Section 13.08.750 Basic connection charge.**

The city requires property developers, subdividers and individuals making connection to the city sanitary sewer system to pay a fee per connection.

A. Developers and subdividers shall pay to the city an amount, as set by resolution of the city council, for connection to the sanitary sewer system. Payment shall be made at such time as actual development is approved by the city.

B. At the time of connection to the city sewer system, residential property shall be assessed at an amount, as set by resolution of the city council, per lot for connection to the city sewer system, where such residential properties were not previously assessed on an acreage basis.

C. Properties, other than those for which connection has been requested by or required of a developer or individual, shall only be assessed at such time as connection is made to the city sewer system. Public bodies or such organizations as the city council may determine as nonprofit, and not land developers for profit, shall not be assessed until such time as connection is made to the city sewer system.

D. The city reserves to itself the right to assess additional fees for commercial or industrial properties where such additional fees are, in the opinion of the council, warranted by increased flows.

E. Fees established by the council are based upon the average costs of trunk sewers and oversize sewers paid for by the city in typical areas subject to service by the city. Review of the existing fees may be initiated by the council from time to time as necessary to meet increasing costs or changed conditions of providing trunk sewer or oversize service to areas being considered by the city for sanitary sewer service. Any revision of the fee schedule shall be approved by resolution adopted by the council.

F. The council is in no way committed to annexation of any particular area by virtue of the offer of the aforementioned fees by persons owning or developing areas proposed to be annexed to the city. The questions of annexation or of provision of a trunk sewer or oversize sewer to any area shall, in each instance, be resolved by the city council for the benefit of the city.

G. The above shall in no way abrogate any of the provisions of any other ordinance governing sewer service charges or fees currently in effect or hereafter adopted. (Prior code § 4274)

**Section 13.08.755 Timing of fee payment.**

A. Notwithstanding the requirements of Section 13.08.750, the city council may, by resolution, authorize the payment of the fee at a time other than that identified in Section 13.08.750.

B. In adopting the resolution identified in subsection A of this section, the city council shall make the following findings:

1. That the state of the economy in the city is such that the deferment of the fee required by this chapter will stimulate the economy and enhance the provision of jobs; and

2. That the deferment of the fee required by this chapter will not materially affect the ability of the city to deliver its five year capital improvement program.

C. In adopting the resolution identified in subsection A of this section, the city council shall:

1. Identify the point in time at which the fee shall be paid; provided, that in no event shall the deferral be extended beyond the time of the final inspection or issuance of the certificate of occupancy, whichever occurs first;

2. Identify to which major land use category (i.e., residential, commercial, office and/or industrial) the resolution applies;

3. Identify whether or not a contract shall be entered into by and between the property owner, or lessee if the lessee's interest appears of record, and the city prior to the issuance of the building permit. If a contract is required to be executed, it shall be processed and recorded in accordance with Government Code Section 66007(c). In lieu of entering into a contract, if one is required, the feepayer may provide such other form of surety instrument guaranteeing payment of the fee as may be acceptable to the city engineer or his/her designee and the city attorney;

4. Impose a penalty, equal to one hundred (100) percent of the amount of the fees deferred, on any party who fails to pay the deferred fee by the point in time specified in such resolution; and

5. Provide that a party who fails to pay such deferred fees by the point in time specified in such resolution shall further forfeit the future right to defer such fees on parcels in which such party has a financial interest.

D. Companies classified within the following Standard Industrial Codes shall be able to pay their development impact fees over five years without interest or administrative fee. The first installment of twenty (20) percent shall be due upon occupancy and the balance shall be paid in five equal annual installments thereafter and shall be collected on the property tax roll. The collection of the balance due on the property tax roll shall not preclude the earlier payment of any outstanding balance.

- 2000--2099 Food processing
- 2200--3999 Certain other manufacturers
- 4200--4299 Trucking and warehousing
- 4500--4599 Air transportation
- 4700--5199 Transportation services and warehouse trade

(Ord. 9818 § 2, 1998)

**Section 13.08.760 Treatment connection charge.**

A separate charge is established to recover capital costs for future use in the treatment facility from those for whom the capacity has been provided. Each new discharger who connects to the public sewer shall, prior to issuance of a permit, pay to the city a sum of money to be determined yearly by the city council, which sum shall represent repayment by that discharger for future capacity provided for dischargers use. The payment of this fee shall in no way affect that discharger's monthly sewer service charges or any other charges and fees established by this chapter. (Prior code § 4275)

**Section 13.08.770 Timing of fee payment.**

A. Notwithstanding the requirements of Section 13.08.760, the city council may, by resolution, authorize the payment of the fee at a time other than that identified in Section 13.08.760.

B. In adopting the resolution identified in subsection A of this section the city council shall make the following findings:

1. That the state of the economy in the city is such that the deferment of the fee required by this article will stimulate the economy and enhance the provision of jobs; and

2. That the deferment of the fee required by this article will not materially effect the ability of the city to deliver is five year capital improvement program.

C. In adopting the resolution identified in subsection A of this section, the city council shall:

1. Identify the point in time at which the fee shall be paid; provided, that in no event shall the deferral be extended beyond the time of the final inspection or issuance of the certificate of occupancy, whichever occurs first;

2. Identify to which major land use category (i.e., residential, commercial, office and/or industrial) the resolution applies;

3. Identify whether or not a contract shall be entered into by and between the property owner, or lessee if the lessee's interest appears of record, and the city prior to the issuance of the building permit. If a contract is required to be executed, it shall be processed and recorded in accordance with Government Code Section 66007(c). In lieu of entering into a contract, if one is required, the fee payer may provide such other form of surety instrument guaranteeing payment of the fee as may be acceptable to the city engineer or his/her designee and the city attorney;

4. Impose a penalty, equal to one hundred (100) percent of the amount of the fees deferred, on any party who fails to pay the deferred fee by the point in time specified in such resolution; and

5. Provide that a party who fails to pay such deferred fees by the point in time specified in such resolution shall further forfeit the future right to defer such fees on parcels in which such party has a financial interest.

D. Companies classified within the following Standard Industrial Codes shall be able to pay their development impact fees over five years without interest or administrative fee. The first installment of twenty (20) percent shall be due upon occupancy and the balance shall be paid in five equal annual installments thereafter and shall be collected on the property tax roll. The collection of the balance due on the property tax roll shall not preclude the earlier payment of any outstanding balance.

2000--2099	Food processing
2200--3999	Certain other manufacturers
4200-4299	Trucking and warehousing
4500-4599	Air transportation
4700-5199	Transportation services and warehouse trade

(Ord. 9818 § 3, 1998)

**Section 13.08.780 Special connection charges.**

Whenever sewers serving a property have been previously constructed under the provisions of Article 5 of this chapter, cost recovery payments in accord with the procedures outlined in that article 5 shall be recovered prior to sewer connection permit issuance. (Prior code § 4276)

**Section 13.08.790 Additional connection charges.**

In addition to any other charges established herein, the city may establish additional connection charges for any sewer connection when, in the opinion of the city council, the circumstances of such connection necessitate the payment of charges over and above those established herein. (Prior code § 4277)

**Section 13.08.800 Classes of permits.**

Permit classes are as follows:

- A. Building sewer permit;
- B. Public sewer construction permit;
- C. Private sewage disposal system permit;
- D. Industrial discharge permit;
- E. Nonsignificant discharge permit;
- F. Special use sewer permit. (Prior code § 4278)

**Section 13.08.810 Permits and inspection charges.**

Permit and inspection charges and requirements shall be established by resolution of the city council as follows:

A. Building Sewer Permit. A lump sum fee as required by Section 15.04.010, shall be paid to the city for inspecting the system from the end of the building drain to a public sewer or private sewage-disposal system.

B. Public Sewer Construction Permit. A fee as required by Section 16.36.170 shall be paid to the city for inspecting the installation of sewer mains that shall become a public sewer.

C. Private Sewage Disposal System Permit. A fee as set by resolution of the city council for evaluating design adequacy and inspection of installation shall be paid to the city for the issuance of a permit for the construction of a new private sewage disposal system under the terms of Article 4 of this chapter. Should the installation be of excessive magnitude or complexity, the city may impose such additional charges as required to provide sufficient funds to cover all costs incurred by the city.

D. Industrial Discharge Permit. The permit fees shall be based on time, materials and analyses required to process the permit and shall be paid to the city for each industrial discharge permit.

1. Prior to consideration of any industrial discharge permit, each industrial user shall furnish the following information on forms to be provided by the city:

- a. Name and address of applicant;
- b. Volume of wastewater to be discharged;
- c. Wastewater constituents and characteristics including but not limited to those mentioned in Section 13.08.550;
- d. Average and thirty (30) minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
- e. Site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation;
- f. Description of activities, facilities and plant processes on the premises including all types of materials which are or could be discharged;
- g. Any other information deemed by the city to be necessary to evaluate the permit application.

2. The city shall evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue an industrial discharge permit subject to the terms and conditions provided herein.

3. Industrial discharge permits shall contain the following:

- a. The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- b. The average and maximum allowable wastewater constituents and characteristics;
- c. Limits on rate and time of discharge, or requirements for flow regulations

and equalization;

d. Requirements for installation of inspection, metering, and sampling facilities;

e. Pretreatment requirements;

f. Specifications for monitoring programs which shall include sampling, number, types and standards for tests and reporting schedule. Sampling and pollutant analysis shall be performed in accordance with the procedures established under Section 304 (h) of the Act, detailed in 40 CFR 136;

g. i. Requirements for submission of technical reports or discharge reports, including but not limited to baseline monitoring reports, compliance schedule progress reports, ninety (90) day compliance reports, and periodic reports on continued compliance (see Sections 13.08.824 to 1308.827 of this ordinance) as may be required from industrial users to assess compliance with federal, state and local limitations and standards with permit conditions, and, where applicable, with compliance schedule milestones or deadlines. In addition, all users shall submit to the city notices of potential problem discharges including slug loading;

ii. Reports submitted to the city by industrial users must be signed and certified by an authorized representative of the discharger. The name of such individual(s) shall be presented to the city for approval prior to issuance of any permit. A change in the authorized representative without prior notification to and approval by the city may result in rescission of the discharge permit. All baseline monitoring reports and other reports related to compliance with categorical pretreatment standard deadlines must contain a certification by a qualified professional, indicating whether or not pretreatment standards are being consistently met, and if any additional operation and maintenance and/or pretreatment is required to meet the applicable standards. The reports required pursuant to this Section are subject to the provisions of 18 U.S.C. 1001 relating to fraud and false statements and the provisions of Section 309(c)(2) of the Act governing false statements, representations or certifications in reports required under the Act.

h. Requirements for specific language in the certification by an authorized representative. Said certification shall state,

I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

i. Requirements for maintaining plant records relating to wastewater discharge as specified by the city, and affording the city access thereto;

j. Mean and maximum mass emission rates, or other appropriate limits when incompatible pollutants, as defined by Section 13.08.040, are proposed or present in the user's wastewater discharge;

k. Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

4. Industrial discharge permits shall be issued for a specified time period, not to exceed two years. It shall be the responsibility of permittee to initiate renewal within ninety (90) days prior to permit expiration. Any changes or new conditions in the

permit shall include a reasonable time schedule for compliance.

5. Industrial discharge permits are issued to a specific discharger for a specific operation. If operational changes cause any new, increased or changed discharge, the city may rescind, condition or modify the discharger's industrial discharge permit. An industrial discharge permit shall not be reassigned or transferred or sold to a new owner, new discharger, different premises, or a new or changed operation without the prior approval of the city. Provided, that the city approves of such reassignment, transfer or sale of the permit, the permitted discharger shall provide a copy of the existing permit to the new owner or operator of the facility prior to completing the transaction.

6. Any discharger who violates the following conditions of the permit or of this chapter, or applicable state and federal regulations, is subject to having his permit revoked, after due notice and hearing by the city council.

a. Failure of a discharger to factually report the wastewater constituents and characteristics of his discharge;

b. Failure of the discharger to report significant changes in operations or wastewater constituents and characteristics;

c. Refusal of reasonable access to the discharger's premises for the purpose of inspection or monitoring;

d. Violation of conditions of the permit.

E. Nonsignificant Discharge Permit. The permit fees shall be based on time, material and analyses required to process the permit and shall be paid to the city for each nonsignificant discharge permit. Nonsignificant discharge permits shall be issued to certain small industries and some commercial users whose individual discharges do not significantly impact the treatment system, degrade receiving water quality, or contaminate sludge. Industries that have the potential to discharge a nondomestic or process wastestream but at the present time discharge only sanitary waste, are also included in this group. This group also includes septage waste haulers.

1. Information similar to that required for an industrial discharge permit shall be required for a nonsignificant discharge permit, and shall be furnished on forms to be provided by the city;

2. Nonsignificant discharge permits may contain the same information as industrial discharge permits;

3. Nonsignificant discharge permits shall be issued for a specified time period, not to exceed four years;

4. Nonsignificant discharge permits are issued to a specific discharger for a specific operation, and shall not be reassigned, transferred or sold without the prior approval of the city;

5. Violators of the conditions of the nonsignificant discharge permit shall be subject to the same penalties as violators of the conditions of the industrial discharge permit.

F. Special Use Sewer Permit. Special use permits shall be required under the following circumstances:

1. Storm or drainage water discharge (Section 13.08.490);

2. Discharge of unpolluted waters (Section 13.08.500);

3. Direct discharge to sewer (Section 13.08.530);

4. Monitoring well discharge (Section 13.08.490).

Under any of the above circumstances, or any other special condition that may be determined by the city to warrant a permit, the applicant shall, prior to confirmation of such permit, pay a fee in an amount to be determined on an individual case basis by the city.

G. Reinspection Fee. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. (Prior code § 4279)

**Section 13.08.815 Analytical requirements**

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

**Section 13.08.816 Sample collection**

A. Except as indicated in Section B, below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the city may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

B. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

**Section 13.08.820 Recordkeeping requirements.**

Industrial users shall maintain records of all information resulting from monitoring activities. Records shall be kept for a time period consistent with the requirements of 40 CFR 403.12(h) but in no case for a period of less than three years. Such records shall be made available for inspection and upon demand by the city, state and/or EPA. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user or the operation of the city's pretreatment program or when requested by the state or the Environmental Protection Agency. (Prior code § 4280)

**Section 13.08.823A Article 10 reporting requirements**

**Section 13.08.824 Baseline monitoring reports**

A. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the city a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the city a report which contains the information listed in paragraph B, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

B. Users described above shall submit the information set forth below.

1. Identifying Information. The name and address of the facility, including the name of the operator and owner.
2. Environmental Permits. A list of any environmental control permits held by or for the facility.
3. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
4. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
5. Measurement of Pollutants.
  - a. The categorical pretreatment standards applicable to each regulated process.
  - b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the city, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 13.08.815 of this ordinance.
  - c. Sampling must be performed in accordance with procedures set out in Section 13.08.816 of this ordinance.
6. Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
7. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 13.08.825 of this ordinance.
8. Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Sections 13.08.810D.3.gii and 13.08.810D.3.h of this ordinance.

**Section 13.08.825 Compliance schedule progress reports**

The following conditions shall apply to the compliance schedule required by Section 13.08.824(B)(7) of this ordinance:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- B. No increment referred to above shall exceed nine (9) months nor shall the total time period exceed the allotted time specified in the consent order or compliance order;



C. The user shall submit a progress report to the city no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

D. In no event shall more than (9) months elapse between such progress reports to the city.

**Section 13.08.826 Report on compliance with categorical pretreatment standard deadline**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the city a report containing the information described in Section 13.08.824(B)(4-6) of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Sections 13.08.810D.3.gii and 13.08.810D.3.h of this ordinance.

**Section 13.08.827 Periodic compliance reports**

A. All significant industrial users shall, at a frequency determined by the city but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 13.08.810D.3.h of this ordinance.

B. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

C. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the city, using the procedures prescribed in Section 13.08.816 of this ordinance, the results of this monitoring shall be included in the report.

**Section 13.08.829A Article 10. Sewer Service Charges**

**Section 13.08.830 Purpose and basis.**

Sewer service charges as set forth in this chapter are established to assure that each recipient of waste treatment services within the city sewer service area shall pay its proportionate share of the costs of all waste treatment service provided by the city. The system of charges to be established must, in accordance with the requirements of the federal act and the state Clean Water Grant Program, provide for the following items:

A. Sufficient financing for an adequate operation and maintenance program;

including competent operating personnel.

B. Funds to be reserved for necessary future replacements, improvements, and expansions of the facilities. (Prior code § 4285)

**Section 13.08.840 Setting of rates.**

Specific dollar amounts for sewer service charges for each user classification shall be established by resolution of the city council on a yearly basis following the federally required annual revision of the city's revenue program, with any required adjustments to be effective as set by resolution of the city council. (Prior code § 4286)

**Section 13.08.850 Discharge classification.**

The following basis shall be utilized for the establishment of sewer service charges:

A. Residential (single-family, multiple dwellings, and mobile home parks). Each residential unit shall pay a flat rate per month for each dwelling unit.

B. Commercial and institutional (excluding such commercial establishments as are determined by the director to produce wastewaters with a higher BOD or suspended solids content than Visalia domestic wastewater or to possess other characteristics requiring additional treatment costs). Each licensed business, institutional, and commercial establishment (including businesses and professional offices, motels, schools and hospitals) shall pay in accordance with the rate schedule as set by resolution of the city council.

C. Industrial (including high-strength or additional treatment requirement commercial dischargers as described in subsection (B) of this section).

1. All significant industrial and commercial sources shall be charged on the basis of set amounts for each million gallons of wastewater flow, each pound of BOD, and each pound of suspended solids discharged by individual users per month, in accordance with a rate schedule set by resolution of the city council. Measurement of BOD and suspended solids shall be performed by the city or by a laboratory approved by the city; the frequency and number of tests for each characteristic to be determined by the director. All such testing shall be at the expense of the discharger;

2. All industrial sources determined by the director not to be significant dischargers shall be charged a flat rate per month based on the quantity and strength of their wastewater as determined by the director, in general accordance with the rate schedule for subsection (C)(1) of this section set by resolution of the city council. (Prior code § 4287)

**Section 13.08.860 Flow measurement.**

Flow measurements for rate purposes shall be based upon one hundred (100) percent of daily metered water consumption if all water used is supplied by a public utility company. Otherwise, the amount of sewer usage shall be determined by the director in accordance with the provisions of this chapter. If, in the opinion of the director or the opinion of the discharger, it is necessary to install metering devices in order to accurately determine the sewer usage, such metering devices shall be installed, when directed by the city, at the discharger's cost, and the specifications therefor shall be approved by the city. Flow measurements shall be made at regular intervals or continuously recorded as determined necessary by the city and billings shall be adjusted appropriately. (Prior code § 4288)

**Section 13.08.870 Collection.**

A. "Billing for sewer service for those dischargers governed by Section 13.08.850(A) and 13.08.850(B), and payment thereof shall be to and by the person in whose name water service is rendered to the property, or the owner of the property on written application. In the case of a residence or commercial establishment using well water, the owner of the property is responsible for sewer service charges. The date charges begin to accrue for sewer service is the date water billing is started. In the case of a residence or commercial establishment using well water, the date charges begin to accrue for sewer service is the date of occupancy, title change, or annexation. The date charges for service end is the later of the date the water service or sewer service is terminated. The sewer service charges for dischargers governed by Section 13.08.850(C) shall be paid every month on the basis of measured flow, BOD and suspended solids for the previous month, as billed by the city to the discharger.

B. All service charges shall be retained by the city irrespective of any intra-billing termination date of sewer service, to defer service and administrative costs. Upon written application by the property owner of tenant-occupied property, billing and payment may be to and by such property owner where the refuse service charge is similarly billed and paid. (Ord. 2000-18 §§ 1 (part), 2 (part), 2000: prior code § 4289)

**Section 13.08.880 Late charges.**

A. For each industrial sewer service charge, as defined in Section 13.08.850(A), remaining unpaid more than fifteen (15) days after its due date there may be added and collected therewith a late charge as set by resolution of the city council and any such unpaid charge, together with the late charge shall bear interest at the rate as set by resolution of the city council until paid.

B. In the event that dischargers described in Sections 13.08.850(A) and 13.08.850(B) shall fail to pay any billing within thirty (30) days from the beginning of the calendar month which the billing covers, a late charge as set by resolution of the city council for each such billing month may be added to the bill, and the city may have no authority to accept any payment thereafter without collecting the late charge. This charge shall be collected to defray the cost of billing and bookkeeping involved in late payments. At the discretion of the city, service on outside owner-occupied accounts may be stopped and billed to the owner as a result of delinquency. A restart fee may be required.

C. In the event that the discharger shall fail to pay any charge herein provided by the 15th of the third month following presentation of the bill for such charge to the discharger, the city may, in addition to any other remedies it may have, after due notice in writing, discontinue furnishing sewer service and not resume the same until all delinquent charges hereunder, together with any costs necessitated by the discontinuance and resumption of sewer service, have been fully paid. Any such notice of disconnection or discontinuance of service shall include the name, address, and telephone number of the city division authorized to discuss, and correct where appropriate, any outstanding charges.

D. In addition or in the alternative, and at the option of the city, the city may file a civil action for the collection of any amounts due and unpaid. This remedy shall be cumulative and in addition to the remedy of means of enforcing payment of the sum required to be paid by this chapter stated in subsection (A), (B), (C), (E), (F), (G) or (H) of this section.

E. As an alternate means of collection of amounts due and unpaid at owner-occupied property:

1. Once a year the city council may cause to be prepared a report of

delinquent fees including late charges. The council shall fix a time, date and place for hearing the report and any objections or protests thereto;

2. The council shall cause notice of the hearing to be mailed to the landowners listed on the report not less than ten days prior to the date of the hearing;

3. At the hearing the council shall hear any objections or protests of landowners liable to be assessed for delinquent fees including late charges. The council may make such revisions or corrections to the report as it deems just, after which, by resolution, the report shall be confirmed;

4. The delinquent fees set forth in the report as confirmed shall constitute special assessments against the respective parcels of land and are a lien on the property for the amount of such delinquent fees. A certified copy of the confirmed report shall be filed with the county auditor for the amounts of the respective assessments against the respective parcels of land as they appear on the current assessment roll. The lien is created, and attaches upon recordation, in the office of the county recorder of the county in which the property is situated, of a certified copy of the resolution of confirmation. The assessment may be collected at the same time and in the same manner as ordinary county ad valorem 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 such taxes. All laws applicable to the levy, collection and enforcement of county ad valorem property taxes shall be applicable to such assessment, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attached thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the delinquent fees, as confirmed, relating to such property shall be transferred to the unsecured roll for collection and recorded in the name of the prior property owner following city policies and procedures.

5. The city may, in its discretion, issue separate bills for such special assessment taxes and separate receipts for collection on account of such assessment.

F. At the time the fees become delinquent, until such time as they are fully paid, the delinquent account balance, including late charges, shall constitute an unrecorded lien against the property, and, as such, may be identified during a title search. For commercial businesses, delinquent account balances, including late charges, may be considered an unrecorded lien against the business name and/or owner of the business.

G. In addition to, or in lieu of other collection processes, the city may authorize a third party to discontinue water service as a means of collecting delinquent balances.

H. In addition to, or in lieu of other collection processes, delinquent balances may be processed through a collection bureau. (Ord. 2000-18 §§ 1 (part), 2 (part), 2000: prior code § 4290)

### **Section 13.08.890 Application.**

In the event there are any inequities that arise because of the nature of certain business, commercial accommodations or units under this article, the director shall have the authority to establish any variances in applying this article to alleviate such inequities. Any requirements for pretreatment to bring materials discharged to a sewer to a condition where they may be handled by the sewage system of the city, shall not be

cause for a reduction of the rates and charges outlined herein. (Prior code § 4291)

**Section 13.08.899A Article 11. Administration and Enforcement**

**Section 13.08.900 Violation unlawful.**

A. Following the effective date of this chapter, it shall be unlawful for any person to violate any provision of this chapter, to connect to, construct, install or provide, maintain, use or alter any other means of sewage disposal from any building in said city except by connection to a public sewer in the manner as provided in this chapter, or by installation, provision, usage or maintenance of approved private disposal facilities in accordance with the provisions of this chapter.

B. When the city finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city may fine such user in at least the amount of one thousand dollars (\$1000.00) per day. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

C. Unless otherwise specified in this chapter, any violation of the provisions of subsection (A) of this section shall constitute a misdemeanor. Notwithstanding the classification of a violation of this chapter as a misdemeanor, at the time an action is commenced to enforce the provisions of this chapter, the trial court, upon recommendation of the prosecuting attorney, may reduce the charged offense from a misdemeanor to an infraction pursuant to Section 19(c) of the California Penal Code.

D. Any person convicted of a misdemeanor under this article shall be punished by: (1) A fine not to exceed five hundred dollars (\$500.00) and/or thirty (30) days in the county jail for a first violation; (2) a fine not exceeding one thousand dollars (\$1,000.00) and/or ninety (90) days in the county jail for a second violation of this article within one year; and (3) a fine not exceeding two thousand five hundred dollars (\$2,500.00) and/or six months in the county jail for each additional violation of this article within one year. Each day that a violation continues shall be regarded as a new and separate offense.

E. Any person convicted of any infraction of this article shall be punished by: (1) a fine not exceeding fifty dollars (\$50.00) for a first violation; (2) a fine not exceeding one hundred dollars (\$100.00) for the second violation of this article within one year; and (3) a fine not exceeding two hundred fifty dollars (\$250.00) for each additional violation of this article within one year. Each day a violation continues shall be regarded as a new and separate offense. (Prior code § 4295)

**Section 13.08.910 Inspection and sampling.**

The city may inspect the facilities of any discharger to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Owners and/or occupants of premises where wastewater is created or discharged shall allow city representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection or sampling or in the performance of any of their duties. The city shall have the right to set up on the discharger's property such devices as are necessary to conduct sampling or metering operations. Where a discharger has security measures in force which would require proper identification and clearance before entry into their premises, the discharger shall make necessary arrangements with security guards so that, upon presentation of suitable identification, personnel from the

city shall be permitted to enter without delay for the purposes of performing their specific responsibilities. The purposes of such inspection may include, but are not limited to:

- A. Determination of the size, depth and location of any sewer or storm drain connection;
  - B. Determination of the outlet of any sewer or storm drain connection by depositing testing materials in any plumbing fixture attached thereto and flushing the same, if necessary;
  - C. Determination by measurements and samples of the quantity and nature of sewage or wastewater being discharged into any sewer, storm drain or water course;
  - D. Inspection testings and sampling of the discharge of any device used to prevent the discharge into any sewer, storm drain, or water course of illegal waste or illegal quantities of waste, such as floor drains, traps or other clarifiers, also, of those devices used to grind, shred, pulverize, or otherwise treat garbage or industrial waste before discharging same into a sewer or storm drain;
  - E. Determination of the location of roof, swimming pool and surface drains, and whether they are connected to a street gutter, storm drain or sewer;
  - F. Determination of the nature and quantity of flow in any open water course or storm drain;
  - G. Inspection and copying of records of monitoring activities and results.
- (Prior code § 4296)

**Section 13.08.920 Notice and correction.**

- A. Any person found to be violating, with respect to violations other than sewer service charge delinquencies, any provision of this or any other ordinance, rule or regulation of the city shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- B. All persons shall be held responsible for any and all damages resulting from the acts of agents or employees. Upon being notified by the city of any violation of this chapter, the person or persons having charge of said work or facilities shall correct the same, within the stipulated time limit, at such person or persons' expense. (Prior code § 4297)

**Section 13.08.925 Consent orders.**

the city may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 13.08.930 and 13.08.980 of this ordinance and shall be judicially enforceable.

**Section 13.08.930 Compliance orders.**

When the city finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other

related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order shall not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

**Section 13.08.935 Public nuisance.**

Continued habitation of any building or continued operation of any industrial facility in violation of the provisions of this chapter, other than those provisions involving sewer service charge delinquencies, is declared to be a public nuisance. The city may cause proceedings to be brought for the abatement of the occupancy of the building or industrial facility during the period of such violation. (Prior code § 4298)

**Section 13.08.940 Disconnection.**

As an alternative method of enforcing the provisions of this chapter, the city shall have the power to disconnect a discharger from the sewer mains of the city five days after written notice, by certified mail, thereof. Upon disconnection, the city shall estimate the cost of disconnection from and reconnection to the system, and the discharger shall deposit the cost, as estimated, of disconnection and reconnection before such discharger connection is reconnected to the system. The city shall refund any part of the deposit remaining after payment of all costs of disconnection and reconnection. (Prior code § 4299)

**Section 13.08.950 Public nuisance--Abatement.**

During the period of any disconnection, habitation of such premises by human beings shall constitute a public nuisance, whereupon the city may cause proceedings to be brought for the abatement of the occupancy of said premises by human beings during the period of such disconnection. In such event, and as a condition of reconnection, there is to be paid to the city a reasonable attorney's fee and cost of suit arising in said action. (Prior code § 4300)

**Section 13.08.960 Means of enforcement only.**

The city declares that Sections 13.08.880 through 13.08.950 are established only as a means of enforcement of the terms and conditions of this chapter and not as a penalty. (Prior code § 4301)

**Section 13.08.970 Accidental discharge/slug control plan.**

A. The city may require any industrial user to develop and implement an accidental discharge/slug control plan. At least once every two years, the city shall evaluate each significant industrial user and determine whether or not such a plan will be required. Any industrial user required to develop and implement an accidental discharge/slug control plan shall submit a plan which addresses, at a minimum, the following:

1. Description of discharge practices, including non-routine batch discharges;
2. Description of stored chemicals;

3. Procedures for immediately notifying the city of any accidental or slug discharge. Such notification must also be given for any discharge of substances prohibited by the city;

4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, and/or measures and equipment for emergency response.

B. Notification of Discharge. Significant industrial and commercial users shall notify the city immediately upon accidentally discharging wastes in violation of this chapter, to enable countermeasures to be taken by the city to minimize damage to the community sewer, treatment facility, treatment processes and the receiving waters. This notification shall be followed, within seven days of the date of occurrence, by a detailed written statement describing the causes of the accidental discharge and the measures being taken to prevent future occurrence. Such notification shall not relieve dischargers of liability for any expense, loss or damage to the sewer system, treatment plant, or treatment process, or for any fines imposed on the city on account thereof under Section 13350 of the California Water Code or for violations of Section 5650 of the California Fish and Game Code.

C. Notices to Employees. In order that employees of significant industrial users be informed of city requirements, such dischargers shall make available to their employees copies of this chapter, together with such other wastewater information and notices which may be furnished by the city from time to time directed toward more effective water pollution control. A notice shall be furnished and permanently posted on the discharger's bulletin board advising employees whom to call in case of an accidental discharge or violation of this chapter.

D. Preventive Measures. Any direct or indirect connection or entry point for accidental discharge of deleterious wastes to the discharger's plumbing or drainage system should be eliminated. Where such action is impractical or unreasonable, the discharger shall appropriately label such entry points to warn against discharge of such wastes in violation of this chapter. (Prior code § 4302)

**Section 13.08.980 Issuance of cease and desist orders.**

When the city finds that a discharge of wastewater has taken place, in violation of prohibitions or limitations of this chapter, or the provisions of an industrial discharge permit, the city may issue an order to cease and desist and direct that those persons not complying with such prohibitions, limitations, or provisions:

- A. Comply forthwith;
- B. Comply in accordance with a time schedule set forth by the city;
- C. Take appropriate remedial or preventive action in the event of a threatened violation. (Prior code § 4303)

**Section 13.08.990 Show cause hearing.**

The city may order a user which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the city and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the



proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least seven (7) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

**Section 13.08.995 Submission of time schedule.**

When the city finds that a discharge of wastewater has been taking place, in violation of prohibitions or limitations prescribed in this chapter, or the provisions of an industrial 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 which the discharger shall take in order to prevent or correct the violation. (Prior code § 4304)

**Section 13.08.1000 Appeals.**

Any discharger, permit applicant, or permit holder affected by any decision, action, or determination made by the director, interpreting or implementing the provisions of this chapter or any permit issued hereunder by the city, may file with the city manager a written request for reconsideration within ten days of such decision, action, or determination, setting forth in detail the facts supporting the discharger's request for reconsideration. The city manager has the discretion to refer any and all appeals to a designated administrative hearing officer for determination. (Ord. 2000-18 §§ 1 (part), 2 (part), 2000: prior code § 4305)

**Section 13.08.1010 City council appeal.**

Appeal decisions made by the city manager, or an administrative hearing officer designated by the city manager, may be appealed to the city council. City council decisions shall be final. (Prior code § 4306)

**Section 13.08.1020 Injunction.**

Whenever a discharge of wastewater is in violation of the provisions of this chapter or otherwise causes or threatens to cause a condition of contamination, pollution or nuisance, or whenever any person violates permit conditions and/or applicable pretreatment standards, the city may petition the superior court for the issuance of a preliminary or permanent injunction or both, as may be appropriate, in restraining the continuance of such discharge. (Prior code § 4307)

**Section 13.08.1030 Liability.**

Any person, firm or corporation, or any partner, officer, agent or employee thereof who deposits or permits to be deposited into the city's sewer system or any facilities tributary thereto any wastes other than those permissible under the terms of the ordinance and the terms of the valid permit granted thereunder, shall be liable for any and all damage caused to the city by virtue of such act, including compensation for damage to the city's facilities and all costs of any legal fees, suits, or judgments against the city which may be attributable to such wastes so discharged. (Prior code § 4308)

**Section 13.08.1035 Administrative fines.**

A. When the city finds that a user has violated, or continues to violate, any

provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city may fine such user in an amount not to exceed [\$1,000.00]. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

B. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent (10%) per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.

C. Users desiring to dispute such fines must file a written request for the city to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the city may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The city may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

E. Revocation of Permit. In the event a discharger shall fail to make arrangements for corrective actions or to pay penalties, as required herein, and shall not have appealed as provided within the time allowed, then the director shall order such discharger's permit immediately suspended, and take such action as necessary to ensure that the discharger complies with the provisions of this section, including but not limited to physically blocking the discharger's access to the sewer system. All such measures shall remain in effect until the discharger has complied with the provisions of this section.

#### **Section 13.08.1040 Civil penalties.**

Notwithstanding the provisions of Section 13.08.900.

A. The city may impose civil penalties upon any discharger who violates any provision of this chapter. Civil penalties shall be in accordance with Section 1.12.010. The purpose for issuing civil penalties under this section is to penalize negligent or willful misconduct, discourage future violations from occurring, encouraging corrective actions and punishing repeat violators.

B. A user who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city in at least the amount of one thousand dollars (\$1,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

C. The city may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

D. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

E. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

F. Notice of Violation. Upon the director's determination that a chargeable violation has occurred, he shall issue to and serve upon, the discharger a notice of violation(s). Such notice shall describe the time, date, place and circumstances of each violation charged, the amount of penalty imposed by the director for each violation, and corrective measures which the discharger is required to undertake as a condition of continuation of discharger's permit. The director shall have discretionary authority to decline to issue notice of violation(s) in cases where violations are insignificantly technical in nature and the public interest would not be served by formal charges. The director shall keep a record of all such discretionary determinations.

G. Discharger Payment or Appeal. Discharger shall pay the penalty and take corrective action described in the notice of violation, or shall make arrangements to pay and take corrective actions. Payment shall be made, or a plan for payment and corrective action shall be made and completed not later than thirty (30) days after service upon the discharge of the notice of violation. Discharger may, in the alternative, within thirty (30) days of service of the notice of violation, file a notice of appeal with the city manager, which notice of appeal shall stay all further action on the notice of violation, and accumulation of interest upon penalties therein, pending final decision by the city manager on the appeal; provided, however, that nothing herein shall be taken to limit the authority of the director to take such action or to make such directives as are reasonable in the circumstances to stop or prevent an ongoing or threatened violation.

H. Revocation of Permit. In the event a discharger shall fail to make arrangements for corrective actions or to pay penalties, as required herein, and shall not have appealed as provided within the time allowed, then the director shall order such discharger's permit immediately suspended, and take such action as necessary to ensure that the discharger complies with the provisions of this section, including but not limited to physically blocking the discharger's access to the sewer system. All such measures shall remain in effect until the discharger has complied with the provisions of this section.

I. City Manager's Authority. Upon an appeal brought to the city manager by a notice of appeal by a discharger charged with the violation, the city manager shall set the matter for hearing. Alternatively, the city manager may refer such appeals to a designated administrative hearing officer. The city manager, or the administrative hearing officer designated by the city manager, shall determine whether the violation has occurred, and whether the civil penalty imposed by the director was reasonable in all the circumstances. The city manager, or the administrative hearing officer designated by the city manager, shall have the authority and set proceedings to affirm or dismiss the allegations, to condition the penalties imposed or the corrective action, or to reduce or increase the fines imposed by the director. Failure of the discharger to comply with the decision of the city manager or the administrative hearing officer designated by the city manager, or make arrangements for compliance satisfactory to the director within fifteen (15) days of the date of the decision, shall result in termination of the discharger's permit, and the director shall thereupon order physical termination of service forthwith, which service shall not be resumed until the order of the city manager or the administrative hearing officer designated by the city manager, has been complied with.

J. Lien. The amount of civil penalties imposed under this section which have remained delinquent for a period of sixty (60) days shall constitute a lien against the real property of the discharger from which the discharge originated resulting in the imposition of the civil penalty. The lien provided herein shall have no force and effect until recorded with the county recorder and when recorded shall be in force and effect for ten years from time of recording unless sooner released, and shall be renewable in accordance with the provisions of Sections 683.110 to 683.220, inclusive, of the Code of Civil

Procedure.

K. Superior Court Action. The city may, at its option, elect to petition the superior court to confirm any other establishing civil penalties and enter judgment in conformity therewith in accordance with the provisions of Sections 1285 to 1297.6, inclusive, of the Code of Civil Procedure. (Ord. 9605 § 26 (part), 1996: prior code § 4309)

**Section 13.08.1050 Criminal penalties for certain violations.**

Notwithstanding the provisions of Section 13.08.900:

A. A discharger who willfully or negligently violates any provisions of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine in at least the amount of one thousand dollars (\$1,000.00) per violation, per day, or subject to penalties in accordance with Section 1.12.010. (Ord. 9605 § 26 (part), 1996: prior code § 4310).

B. A discharger who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor, and be subject to a penalty in at least the amount of one thousand dollars (\$1,000.00) per violation, per day or be subject to penalties in accordance with Section 1.12.010 (Ord. 9605 § 26 (part) 1996: prior code § 4310). This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

**Section 13.08.1060 Penalties for significant noncompliance.**

Notwithstanding civil or criminal penalties, any industrial user found to be in significant noncompliance with applicable pretreatment requirements during the previous twelve (12) months shall be included in an annual public notification in the largest daily newspaper published in the city. (Prior code § 4311)

**Section 13.08.1070 Falsifying of information.**

Any person or persons who knowingly makes any false statements, representation, record, report, plan or other document filed with the city or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or procedure required under this chapter, shall be guilty of a violation of this chapter. (Prior code § 4312)

**Section 13.08.1075 Emergency Suspensions.**

The city may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare or persons. The city may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the city may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or

minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The city may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless the termination proceedings in Section 13.08.1080 of this ordinance are initiated against the user.

B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the city prior to the date of any termination hearing under Section 13.08.1080 of this ordinance.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

**Section 13.08.1080 Termination of Service.**

The city may revoke any industrial discharge permit, or immediately terminate, or cause to be immediately terminated, wastewater service to any premises if a violation of any provision of this chapter causes or threatens to cause a condition of contamination, pollution, or nuisance as defined in this chapter. (Prior code § 4313)

**Section 13.08.1089A Article 12. Special Regulations**

**Section 13.08.1090 Protection from damage.**

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the city sewerage system. (Prior code § 4316)

**Section 13.08.1100 Confidential information.**

All information and data regarding a discharger obtained from reports, questionnaires, permit applications, permits or monitoring programs, and from inspections, shall be available to the public or other governmental agency without restriction unless the discharger specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods which would be detrimental to the discharger's competitive position. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use in making studies and shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics shall not be recognized as confidential information. (Prior code § 4317)

**Section 13.08.1110 Special agreements.**

Special agreements and arrangements between the city and any persons or agencies regarding wastewater treatment and sewerage facilities may be entered into when in the opinion of the city unusual or extraordinary circumstances compel special terms and conditions. However, no special agreements between the city and any user shall be allowed to contravene federal, state or local pretreatment standards. (Prior code § 4318)

City of Visalia

Pretreatment Program  
Enforcement Policy  
Procedures Manual

March 2006

The City of Visalia Enforcement Policy Procedures Manual was developed as a mechanism for enforcing against violations of the City of Visalia's Wastewater Ordinance, the City of Visalia's approved Pretreatment Program, Federal General Pretreatment Regulations, Federal Categorical Standards and City of Visalia Wastewater Discharge Permits. Enforcement actions are intended to be progressive in nature with initial responses that are intended to be appropriate in relation to the nature and severity of the violation and the overall degree of noncompliance. The long term effectiveness of the Enforcement Policy Procedures Manual can be measured by:

- Whether the noncomplying source returns to compliance as expeditiously as possible;
- Whether the enforcement response establishes the appropriate deterrent effect for the particular violator and for other potential violators;
- Whether the enforcement response promotes fairness of government treatment as between comparable violators, as well as between complying and noncomplying parties.

The EPA Pretreatment Compliance Monitoring and Enforcement Guidance Manual was used as a source document in the development of the City of Visalia's Enforcement Policy Procedures Manual. This guidance manual provides a definition of significant noncompliance (SNC) that includes criteria patterned after those used in the NPDES Program. Officially, any violation of Pretreatment Program requirements is an instance of noncompliance for which the industrial user is liable for enforcement including penalties. A working definition of significant noncompliance (SNC) is industrial user violations which meet one or more of the following criteria:

1. Violations of wastewater discharge limits.
  - a. Chronic violations. Sixty-six percent or more of the measurement exceed the same daily maximum limit or the same average limit in a 6-month period (any magnitude of exceedance).
  - b. Technical Review Criteria (TRC) violations. Thirty-three percent or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a 6-month period.

There are two groups of TRCs:

Group I for conventional pollutants  
(BOD, TSS, fats, oil, and grease)                      TRC = 1.4

Group II for all other pollutants                              TRC = 1.2

- c. Any other violation(s) of an effluent limit (average or daily maximum) that the Control Authority believes has caused, alone or in combination with other discharges, interference (e.g. slug loads) or pass-through; or endangered the health of the sewage treatment personnel or the public.
  - d. Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- 2. Violations of time schedule milestones, contained in a local control mechanism or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
  - 3. Failure to provide reports for time schedules, self-monitoring data, or categorical standards (baseline monitoring reports, 90-day compliance reports, and periodic reports) within 30 days from the due date.
  - 4. Failure to accurately report noncompliance.
  - 5. Any other violation or group of violations that the Control Authority considers to be significant.

The table of Enforcement Policy Procedures found later in this manual is designed to be used in instances of noncompliance for all industrial users. Significant Industrial Users are defined in 40 CFR 403.3 (t) as:

- A. All categorical industrial users.
- B. Any noncategorical industrial user that:
  - Discharges 25,000 gallons per day or more of process wastewater (“process wastewater” excludes sanitary, noncontact cooling and boiler blowdown wastewaters).
  - Contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic (BOD, TSS, etc) capacity of the treatment plant.
- C. Has a reasonable potential, in the opinion of the Control or Approval Authority, to adversely affect the POTW treatment plant (inhibition, pass-through of pollutants, sludge contamination, or endangerment of POTW workers).



A nonsignificant industrial user is defined as industry or commercial business that does not meet the 40 CFR 403 definition of a significant industrial user and also meets at least one of the following criteria:

- A. Has a treatment system that treats a process wastewater (e.g. grease trap, silver recovery system; pH adjustment, etc.);
- B. Requires a special waste handling permit condition clause for a process wastewater or a waste stream that has a strong potential for discharge to the sanitary sewer system (e.g. silver recovery clause requiring waste fixer to be hauled off site for treatment);
- C. Requires a narrative waste stream permit condition prohibition for one or more waste streams (e.g. prohibition of dry cleaning process waste discharge including still oil and separator water to the sanitary sewer system);
- D. Is identified as being in the L1-3 Food Edible Products/Process category. These industries are few in number and have the greatest potential to be reclassified as significant industrial users through increased process wastewater flow;
- E. Is identified as being in the L1-2 Food Preparation category with a preordinance clause in their existing Wastewater Discharge Permit allowing them to operate without installing a grease trap. The 10 businesses in this situation will eventually be eliminated by business closure/change of ownership attrition.

Major violations are defined as those that fulfill at least one of the following:

- Achieve the federal definition of significant noncompliance (SNC);
- Impede the determination of compliance status;
- Have the potential to cause or may have actually caused adverse environmental effects; health problems or interference with POTW treatment capability.

Minor violations are those that do not meet the threshold requirement of major violations.

## TABLE OF ENFORCEMENT POLICY PROCEDURES

### SAMPLING, MONITORING AND REPORTING

<u>NONCOMPLIANCE EVENT</u>	<u>CIRCUMSTANCES</u>	<u>INITIAL RESPONSE</u>
1. Failure to sample, monitor or report (routine reports).	First event in a year.	Phone call or informal meeting requiring a report within 10 days.
	Second event in a year.	Failure to respond letter requiring a report within 21 days.
	Third and subsequent events in a year.	Notice of Violation requiring a report within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper.
2. Failure to notify of known SIU effluent limit violation or slug discharge.	First event in a year with no pass through, interference, incompatibility, damage or personnel endangerment caused	Phone call or informal meeting requiring a report within 10 days.
	Second event in a year with no pass through, interference, incompatibility, damage or personnel endangerment caused	Failure to Respond letter requiring a report within 21 days.
	Third and subsequent events in a year with no pass through, interference, incompatibility, damage or personnel endangerment caused	Notice of Violation requiring a report within 30 days. If no action resolving notice of violation in 45 days then publication in newspaper.
3. Failure to notify of known SIU effluent limit violation or slug discharge.	Any instance in which pass through, interference, incompatibility, damage to the POTW and or personnel endangerment is caused – SNC.	Emergency suspension with possible injunction.
4. Tampering with effluent flow meters, samplers or monitoring equipment	Isolated or infrequent (once in 2 quarters)	Notice of Violation requiring an explanation within 30 days.
	Frequent (twice or more in 2 quarters).	Consent Order, Compliance Order and/or Administrative Fine.
5. Failure to return wastewater discharge permit application by deadline. (Significant Industrial User)	First week overdue.	Phone call requiring submission within 7 days.
	Second week overdue	Notice of Violation requiring submission within 7 days and administrative fine. If no action resolving Notice of Violation in 45 days then publication in newspaper.

<u>NONCOMPLIANCE EVENT</u>	<u>CIRCUMSTANCES</u>	<u>INITIAL RESPONSE</u>
6. Failure to return wastewater discharge permit application by deadline. (Nonsignificant Industrial User)	Overdue	Certified letter requiring submission within 30 days.
	No submission within 30 days	Notice of Violation requiring submission within 7 days and administrative fine.
7. Ordinance or administrative permit violation (non-effluent limit violation).	Isolated (once in a quarter).	Phone call or informal meeting explaining proper techniques.
	Infrequent (twice in a quarter).	Letter explaining proper techniques.
	Frequent (3 or more times in a quarter).	Notice of Violation requiring resolution of problem in 30 days. If no action resolving the Notice of Violation received in 45 days then publication in newspaper.
8. Minor sampling, monitoring or reporting deficiencies (computational or typographical errors).	First event in a year.	Phone call or informal meeting requiring corrections to be made and/or submitted in 14 days.
	Second event in a year.	Letter requiring corrections to be made and/or submitted within 21 days.
	Third and subsequent events in a year.	Notice of Violation requiring correction to be made and/or submitted within 30 days.
9. Unintentional failure to sample all pollutants as required by permit in a representative manner (including batch discharge events) and/or handle samples properly	First event in a year.	Phone call or informal meeting explaining proper techniques.
	Second event in a year.	Letter explaining proper techniques.
	Third and subsequent events in a year.	Notice of Violation requiring resolution of the problem in 30 days. If no action resolving the Notice of Violation is received in 45 days then publication in newspaper.

<u>NONCOMPLIANCE EVENT</u>	<u>CIRCUMSTANCES</u>	<u>INITIAL RESPONSE</u>
10. Intentional failure to sample all pollutants as required by permit in a representative manner (including batch discharge events) and/or handle samples properly.	Isolated (once in 3 years).	Notice of Violation requiring correction and explanation within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper.
	More than once in 3 years – SNC.	Consent Order, Compliance Order and/or Administrative Fine.
11. Major sampling or monitoring deficiencies.	First event in a year.	Phone call or informal meeting requiring corrections to be made and/or submitted in 14 days.
	Second event in a year.	Letter requiring corrections to be made and/or submitted within 21 days.
	Third and subsequent events in a year or continuous. If continuous and remains uncorrected for 30 days or more – SNC.	Notice of Violation requiring correction to be made and/or submitted within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper. If SNC, then Consent Order, Compliance Order and/or Administrative Fine.
12. Reports that are improperly signed or certified.	First event in year.	Phone call or informal meeting requiring corrections to be made and/or submitted in 14 days.
	Second event in a year.	Letter requiring corrections to be made and/or submitted within 21 days.
	Third and subsequent events in a year or continuous. If continuous and remains uncorrected for 30 days or more – SNC.	Notice of Violation requiring correction to be made and/or submitted within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper. If SNC, Consent Order, Compliance Order and/or Administrative Fine.
13. Incomplete record-keeping violations (missing information)	First event in year	Phone call or informal meeting explaining proper techniques.
	Second event in a year.	Letter explaining proper techniques.
	Third and subsequent events in a year or continuous. If continuous and remains uncorrected for 30 days or more – SNC.	Notice of Violation requiring resolution of the problem in 30 days. If no action resolving the Notice of Violation is received in 45 days then publication in newspaper.

<u>NONCOMPLIANCE EVENT</u>	<u>CIRCUMSTANCES</u>	<u>INITIAL RESPONSE</u>
14. Failure to utilize proper analytical methods.	First event in a year.	Phone call or informal meeting requiring corrections to be made and/or submitted in 14 days.
	Second event in a year.	Letter requiring corrections to be made and/or submitted within 21 days.
	Third and subsequent events in a year or continuous. If continuous and remains uncorrected for 30 days or more – SNC.	Notice of Violation requiring correction to be made and/or submitted within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper. If SNC, then Consent Order, Compliance Order and/or Administrative Fine.
15. Failure to report additional sampling results	First event in a year.	Phone call or informal meeting requiring corrections to be made and/or submitted in 14 days.
	Second event in a year.	Letter requiring corrections to be made and/or submitted within 21 days.
	Third and subsequent events in a year or continuous. If continuous and remains uncorrected for 30 days or more – SNC.	Notice of Violation requiring correction to be made and/or submitted within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper. If SNC, then Consent Order, Compliance Order and/or Administrative Fine.
16. Failure to maintain a copy of wastewater discharge permit on site.	First event in a year.	Phone call or informal meeting requiring correction to be made in 14 days.
	Second event in a year.	Letter requiring correction to be made within 21 days.
	Third and subsequent events in a year or continuous. If continuous and remains uncorrected for 30 days or more – SNC.	Notice of Violation requiring correction to be made within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper. If SNC, then Consent Order, Compliance Order and/or Administrative Fine.

<u>NONCOMPLIANCE EVENT</u>	<u>CIRCUMSTANCES</u>	<u>INITIAL RESPONSE</u>
17. Late reports (no minimum number of days) Exception: If industrial user's private contract laboratory is cause of late report.	First event in a year.	Phone call or informal meeting requiring corrections to be made and/or submitted in 14 days.
	Second event in a year.	Letter requiring corrections to be made and/or submitted within 21 days.
	Third and subsequent events in a year or continuous. If continuous and remains uncorrected for 30 days or more – SNC.	Notice of Violation requiring correction to be made and/or submitted within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper. If SNC, Consent Order, Compliance Order and/or Administrative Fine.
18. Reporting false information.	Isolated (once in 3 years).	Notice of Violation requiring correction and explanation within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper.
	More than once in 3 years – SNC.	Consent Order, Compliance Order and/or Administrative Fine.

**COMPLIANCE SCHEDULES (CONSTRUCTION PHASES OR PLANNING)**

	<u>NONCOMPLIANCE EVENT</u>	<u>CIRCUMSTANCES</u>	<u>INITIAL RESPONSE</u>
19.	Failure to submit a time schedule.	At any time.	Second Notice of Violation requiring a response in 15 days. If no action resolving the Notices of Violation has occurred within 45 days of the initial Notice of Violation then publication in newspaper – SNC.
20.	Missed time schedule milestone.	Will not cause late final date or other milestone dates.	Phone call to determine status. Progress report with explanation to be required within 21 days.
		Will result in other missed milestone. Violation for good or valid cause.	Phone call to determine status. Progress report with explanation to be required within 21 days.
		Will result in other missed milestones. No good or valid cause.	Notice of Violation requiring rescheduled compliance milestones within 14 days. If no action resolving the Notice of Violation has occurred within 45 days then publication in newspaper.
21.	Missed time schedule completion date.	Violation due to force majeure (strike, Act of God, etc.)	Phone call requiring documentation of good and valid cause within 14 days. Also require new completion date as soon as possible. If necessary set new accelerated milestones.
		Up to 90 days outstanding. Failure or refusal to comply without good or valid cause.	Notice of Violation requiring the submission of a new completion date within 14 days. If there is no response resolving the Notice of Violation within 45 days then publication in newspaper.
		90 days or more outstanding. Failure or refusal to comply without good or valid cause	Consent Order, Compliance Order and/or Administrative Fine.
22.	Recurring compliance schedule violations.	First recurrence.	Notice of Violation requiring an explanation of the violation and the intended actions to prevent recurrence.
		Second Recurrence.	Consent Order, Compliance Order and /or Administrative Fine.

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23.	Failure to install monitoring equipment.	Up to 90 days outstanding.	Notice of Violation requiring the installation of monitoring equipment within 30 days. If there is no response resolving the Notice of Violation within 45 days then publication in newspaper.
		90 days or more outstanding – SNC.	Consent Order, Compliance Order and/or Administrative Fine requiring immediate monitoring (using outside contracts if necessary) and the installation of equipment within a minimal time.

**EFFLUENT LIMITS**

24.	Exceeding final discharge limits (categorical, local or prohibited).	Any discharge violation in which SNC discharge criteria are not achieved.	Notice of violation requiring corrective action or a time schedule within 30 days. If no action resolving notice of violation in 45 days then publication in newspaper.
		Any discharge violation in which SNC discharge criteria are not achieved that causes harm to the environment or POTW.	Emergency suspension with possible injunction, civil penalties and/or criminal penalties.
		Any discharge violation in which SNC discharge criteria are achieved without known damages to the environment or POTW.	Consent Order, Compliance Order and/or Administrative Fine.
		Any discharge violation in which SNC discharge criteria are achieved with known damages to the environment or POTW.	Emergency suspension with possible injunction, civil penalties and/or criminal penalties.
25.	Exceeding interim discharge limits (categorical or local).	Any discharge violation without known damages to the environment or POTW.	Notice of Violation requiring corrective action or a time schedule within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper.
		Any discharge violation in which SNC discharge criteria are not achieved that causes harm to the environment or POTW.	Consent Order, Compliance Order and/or Administrative Fine or emergency suspension with possible Cease and Desist Order, injunction, civil penalties and/or criminal penalties depending on the extent of the damages.
		Any discharge in which SNC discharge criteria are achieved with known damages to the environment or POTW.	Consent Order, Compliance Order and/or Administrative Fine or emergency suspension with possible Cease and Desist Order, injunction, civil penalties and/or criminal penalties depending on the extent of the damages.



<u>NONCOMPLIANCE EVENT</u>	<u>CIRCUMSTANCES</u>	<u>INITIAL RESPONSE</u>
26. Reported slug discharge.	Isolated without damages to the environment or POTW.	Notice of Violation requiring corrective action or a time schedule within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper.
	Recurring without known damages to the environment or POTW.	Consent Order, Compliance Order and/or Administrative Fine.
	Any instance with known damages to the environment or POTW.	Emergency suspension with possible Cease and Desist Order, injunction, civil penalties and/or criminal penalties.
27. Discharge without a permit or approval.	Discharger unaware of permit being required and without damages to the environment or POTW.	Notice of Violation requiring discontinuation of discharge until a wastewater discharge permit has been issued.
	Discharger continues to discharge to sewer after being notified to discontinue and without damages to the environment or POTW.	Emergency suspension with possible Cease and Desist Order.
	Failure to apply for a wastewater discharge permit after initial notification of application requirements.	Notice of Violation requiring submission of a wastewater discharge permit application within 7 days.
	One time that results in known damages to the environment or POTW or continuing violation – SNC.	Emergency suspension with possible Cease and Desist Order, injunction, civil penalties and/or criminal penalties.
	Continuing violation that results in known damages to the environment or POTW.	Emergency suspension with possible Cease and Desist Order, injunction, civil penalties and/or criminal penalties.
28. pH of discharge in violation of discharge limits.	First measurement in a quarter in violation of local pH limits.	Phone call or informal meeting requiring corrective action to be made within 14 days.
	Second measurement in a quarter in violation of local pH limits.	Letter requiring correction to be made within 21 days.
	Third and subsequent measurements in a quarter in violation of local pH limits.	Notice of Violation requiring corrective action or a time schedule within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper.
	Any measurement that is in violation of federal discharge limits. pH less than 5.0 (40 CFR 403.5 (b) (2)).	Notice of Violation requiring corrective action or a time schedule within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper.
	Any single measurement that meets the state definition of hazardous waste due to corrosivity. pH less than or equal to 2.0 or greater than or equal to 12.5 (Title 22 California Code of Regulations, SEC 66261.22 (a) (1)).	Notice of Violation requiring corrective action or a time schedule within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper.

<u>NONCOMPLIANCE EVENT</u>	<u>CIRCUMSTANCES</u>	<u>INITIAL RESPONSE</u>
29. Entry to nondomestic discharger premises denied	At any time.	Notice of Violation requiring immediate access. If still denied access then emergency suspension with possible Cease and Desist Order.
30. Nondomestic discharger withdraws consent for an inspection.	At any time.	Notice of Violation requiring access for inspection. If still denied access then emergency suspension with possible Cease and Desist Order.
31. Nondomestic discharger denies city inspectors the right to copy records	At any time.	Notice of Violation requiring access to records within 7 days for the purpose of copying.

**NONCOMPLIANCE DETECTED THROUGH INSPECTIONS OR FIELD INVESTIGATIONS**

32. Minor violation noted during inspection	Isolated - one or two during single inspection.	Discuss corrective action at time of inspection and visually reinspect within one month.
	Three or more during a single inspection.	Discuss corrective action at time of inspection. Follow-up with a letter addressing corrective action. Visually reinspect within one month.
33. Major violation noted during inspection.	Isolated – one instance during a single inspection. No evidence of negligence or intent.	Notice of Violation requiring corrective action within 30 days. Visual reinspection after 30 days. If no action resolving the Notice of Violation in 45 days then publish in newspaper.
	More than one instance during a single inspection or evidence of negligence or intent – SNC.	Consent Order, Compliance Order and/or Administrative Fine.
34. Minor violation of permit condition.	Isolated – one or two during a single inspection. No evidence of negligence or intent.	Discuss corrective action at time of inspection. Follow-up with a letter addressing corrective action. Visually reinspect within one month.
	Three or more during a single inspection or evidence of negligence or intent.	Notice of Violation requiring corrective action within 30 days. Visual reinspection after 30 days. If no action resolving the Notice of Violation in 45 days then publish in newspaper.

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35. Major violation of permit condition.

Isolated – one instance during a single inspection. No evidence of negligence or intent.

Notice of Violation requiring corrective action within 30 days. Visual reinspection after 30 days. If no action resolving the Notice of Violation in 45 days then publish in newspaper.

More than one instance during a single inspection or evidence of negligence or intent – SNC.

Consent Order, Compliance Order and/or Administrative Fine.

## **ENFORCEMENT ESCALATION**

### **INFORMAL ENFORCEMENT ACTIONS**

<u>INITIAL RESPONSE</u>	<u>TIME FRAME (1)</u>	<u>NEXT ENFORCEMENT LEVEL</u>
1. Phone call or informal meeting.	7 to 14 days.	Failure to respond letter or a letter requiring corrections.
2. Failure to respond letter or a letter requiring corrections.	21 days.	Notice of Violation.
3. Notice of Violation(2)	30 days	Consent order, compliance order and/or administrative fine. Specific sequence at the discretion of Public Works Manager or designee. If no response to notice of violation in 45 days then publication in newspaper.
4. Consent order, compliance order and/or administrative fine.	At the discretion of Public Works Manager or designee. Not to extend the deadline for compliance established for a pretreatment standard or requirement	Cease and Desist Order with time schedule for corrective action.

### **FORMAL ENFORCEMENT ACTIONS (3)**

5. Cease and Desist Order.	At the discretion of the Public Works Department Head.	Beyond the Cease and Desist Order the specific sequence of formal enforcement actions deployed is at the discretion of the Public Works Department Head, the City Attorney and/or the City Council.
6. Civil suit for injunctive relief and/or civil penalties (4).	At the discretion of the City Attorney and/or City Council.	
7. Criminal suit.	At the discretion of the City Attorney and/or City Council.	
8. Termination of Service (Revocation of Permit).	At the discretion of the Public Works Department Head, the City Attorney and/or the City Council.	

Footnotes:

- (1) Time frames are the amount of time in which nondomestic dischargers must respond to an informal enforcement action.
- (2) Repeat discharge violations will be issued Notices of Continued Violation if compliance schedule submission due dates have not been reached or if compliance schedule actions have not been completed.
- (3) The City of Visalia may conduct show cause meetings to clarify or resolve violations prior to proceeding with formal enforcement actions.
- (4) Prior to a civil suit the City Attorney may opt to declare the violating industry a public nuisance which calls for the City to commence court action for an abatement of the building occupancy.

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## **Evaluation of City of Visalia's Enforcement Policy Procedures Manual**

Discharger: City of Visalia, California  
Location: 336 North Ben Maddox Way, Visalia, CA 93292-6631  
Contacts: Grant Knight, Quality Assurance Supervisor  
Evaluation Date: 17 June 2003  
Evaluated By: I-Hsin Lee, Tetra Tech, Inc.



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## 1. Executive Summary

The City of Visalia's (City's) *Enforcement Policy Procedures Manual* (the Manual) was evaluated by Tetra Tech, Inc., as part of the City's Pretreatment Compliance Inspection (PCI). This report describes the primary concerns generated by the review of the City's Manual.

The City's Manual was completed in 1989. It was however, never adopted by the City nor submitted to the U.S. Environmental Protection Agency (EPA) or the Central Valley State Water Resources Control Board (Regional Board) for review and approval. The review of the City's Manual revealed several deficiencies. These deficiencies include

- Inadequate enforcement authority in the City's sewer use ordinance
- Failure to include enforcement responses for several commonly anticipated violations, such as unpermitted discharges, effluent limit discharges that cause harm to the environment or publicly owned treatment work (POTW), several common monitoring and reporting violations, compliance schedule violations, and denial of entry.

In addition, several sections in the Manual need further clarification of enforcement time frames and definitions.

## 2. Introduction

40 CFR 403.8(f)(5) requires POTWs with approved pretreatment programs to develop and implement an enforcement response plan (ERP). This plan must contain detailed procedures indicating how a POTW will investigate and respond to all instances of nondomestic user noncompliance. The plan must, at a minimum,

- Describe how the POTW will investigate instances of noncompliance;
- Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of violations and the time period within which responses will take place;
- Identify by title, the official(s) responsible for each type of response; and
- Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in 40 CFR 403.8(f)(1) and (2).

The City Manual was completed on 20 October 1989; however, during the 2-3 April 2003 PCI, the City's Quality Assurance Supervisor indicated that the Manual was never signed or dated by the City Council. A City staff member stated that during the closing comments of the 12 December 1990 PCI, the auditor, from the Regional Board, indicated that the City's Manual would be submitted to EPA for review and approval. The City never received a formal approval letter from the Regional Board. Furthermore, City staff



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indicated that during the 25 May 1993 pretreatment compliance audit (PCA), auditors indicated that the City had procedures that defined the appropriate enforcement response and time frames for initiating the responses to different types of violations. City staff was uncertain whether the comment from the May 1993 PCA indicated an official approval of the City's Manual. It should be noted that regardless of whether the Regional Board has required the City to develop, adopt, and implement an ERP, 40 CFR 403.8(f)(5) requires the City to do so.

As part of the April 2003 PCI conducted by the Regional Board and Tetra Tech, Inc., the City's Manual was reviewed. This report summarizes the findings of the review and describes the elements in the Manual that are not consistent with federal requirements. In addition, the report provides recommendations to enhance the effectiveness of the City's enforcement response procedures.

### **3. Sewer Use Ordinance: Enforcement Authority**

The City's Manual contains several enforcement responses that are not listed or described in the City's Sewer Service System Ordinance (Ordinance), Chapter 13.08. The City's Manual, it lists the following enforcement responses to violations:

- Phone call or informal meeting
- Failure to respond letter
- Notice of violation letter
- Compliance schedule issuance
- Cease and desist order
- Judicial action with possible termination of services
- Judicial action with penalty
- Criminal investigation

The City's Ordinance does not authorize the use of compliance schedules, judicial actions, and criminal investigations. 40 CFR 403.8(f)(1) requires the City to have adequate authority to enforce the requirements of sections 307(b) and (c), 402(b)(8) of the Clean Water Act. Therefore, the City is required to review its Ordinance to ensure that it authorizes the range of enforcement responses listed in its Manual. If the City's review of its Ordinance finds that it is lacking in authorization, the City is required to revise either its Manual or the Ordinance accordingly. It should be noted that any change in the City's Ordinance that relaxes the City's legal authority is considered a substantial modification to its approved pretreatment program and must be submitted to the Regional Board for review and approval [40 CFR 403.18].

Section 13.08.990 of the Ordinance authorizes the use of "time schedule" to prevent or correct a violation. The use of time schedules appears to be similar to the use of compliance schedules. Therefore, it is strongly recommended that the City replace the use of compliance schedules in the Manual with references to time schedules.

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## 4. Anticipated Types of Enforcement and Escalation of Enforcement

40 CFR 403.8(f)(5) requires that the ERP specify types of escalating enforcement actions for all anticipated types of violations. The Manual fails to include several common anticipated violations.

### 4.1 *Unpermitted Discharges*

The Manual does not establish enforcement actions for all unpermitted discharges. The City has established enforcement actions for unpermitted discharges that cause harm to the environment or POTW (addressed in the Manual as Noncompliance Event #18). An unpermitted discharge is one in which a significant nondomestic discharger is discharging without a required permit. The following are some of the possible violations for this type that are not described in the Manual:

- Discharger is unaware of requirement and the unpermitted discharge did not cause harm
- Failure to apply for permit after initial notification of the application requirements

40 CFR 403.8(f)(1)(iii) requires the City to have the authority to control through permit, the contribution to the City by each significant nondomestic discharger. Additionally, Section 13.08.710 of the Ordinance states that no authorized person is allowed to use the City's public sewer without first obtaining a written permit from the City. Therefore, the City is required to revise its Manual to include applicable enforcement actions for violations of this requirement.

### 4.2 *Exceedance of Local or Federal Pretreatment Standard*

The City's Manual fails to establish enforcement actions for all possible circumstances of a violation of local, local interim, or federal discharge limits (Noncompliance Events #15 and #16). The City's Manual indicates that "any" pretreatment standard violation in which significant noncompliance (SNC)[as defined at 403.8(f)(2)(vii)] discharge criteria are not achieved will lead to a notice of violation requiring corrective action or a compliance schedule. "Any" discharge violation resulting in SNC discharge criteria without damage to the environment or POTW will lead to a cease and desist order. In addition, "any" discharge violation resulting in SNC discharge criteria with damages to the environment or POTW will lead to judicial action with applicable penalties. This section of the Manual does not establish appropriate enforcement actions for a discharge violation nor resulting in SNC discharge criteria but causes harm to the environment or POTW.

Since the City's Manual establishes the appropriate types of enforcement based on the discharger's SNC statute, the City is required to revise its Manual to include appropriate enforcement actions for all anticipated types of effluent violations.

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### **4.3 Monitoring and Reporting Violations**

The City's Manual does not establish enforcement actions for several monitoring and reporting violations. The following are possible monitoring and reporting violations that were not addressed in the Manual include:

- Reports that are improperly signed or certified
- Reports that are improperly signed or certified after initial notification
- Incomplete record-keeping
- Failure to use proper analytical methods
- Failure to report additional sampling results
- Failure to keep permit on-site

40 CFR 403.8(f)(2)(vi) requires the City to investigate instances of noncompliance with pretreatment requirements as indicated in reports and notices required under 40 CFR 403.12. Therefore, the City is required to revise its Manual to include appropriate enforcement actions for these types of violations.

Noncompliance Event #8 in the Manual establishes enforcement responses for "failure to sample representatively and/or handle samples properly." This section does not include enforcement responses instances when a discharger is found to intentionally handle samples improperly. 40 CFR 403.8(f)(5)(ii) requires the City to have appropriate enforcement responses for all anticipated types of violations. Therefore, City is required to include an appropriate enforcement action for this type of monitoring violations.

Furthermore, due to the Manual's wording, it could not be determined whether this noncompliance event was for failure to sample all pollutants as required by permit, or for failure to sample during actual nondomestic discharge events (batch dischargers), or both. It is strongly recommended that the City clarify the definition of "failure to sample representatively."

In addition, Noncompliance Event #9 in the Manual establishes enforcement responses for "major or gross" sampling, monitoring, or reporting deficiencies, such as missing information or late reports. A definition of "major or gross" could not be found in the Manual. For that reason, the minimum number of days a report must be late to be considered a major reporting deficiency could not be ascertained. The City is required to specify its definition of "major or gross."

### **4.4 Compliance Schedule Violations**

Noncompliance Events #12 and #13 in the Manual describe several possible compliance schedule violations. The Manual, however, does not include a description of enforcement responses for recurring compliance schedule violations. 40 CFR 403.8(f)(5)(ii) requires the City to have appropriate enforcement responses for all types of anticipated violations, and violations of compliance schedules are common violations.

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Therefore, City is required to revise its Manual to include appropriate enforcement response for this type of violation.

#### **4.5 Denial of Entry Violations**

The Manual does not establish enforcement responses to violations in which a nondomestic discharger denies entry or withdraws consent for an inspection, or denies City inspectors the right to copy records. The City is required to revise its Manual to include appropriate enforcement actions for these violations.

#### **4.6 Miscellaneous Clarifications**

The City's Manual page 16 establishes "time frames" for informal enforcement actions. It could not be determined whether these are time frames in which nondomestic dischargers must respond to an informal enforcement action or if it is the time frame in which the City must issue an enforcement response. The City is required to clarify the meaning of "time frame" in the Manual. It should be noted that it is recommended that no more than 30 days be allowed to elapse between the detection of the violation(s) and the initiation of an enforcement response. Furthermore, 40 CFR 403.12(g) requires a significant industrial user (SIU) to notify the City within 24 hours of becoming aware of the violation(s); the SIU must perform repeat sampling and analysis, and submit the resampling results to the City within 30 days of becoming aware of the noncompliance.

### **5. Designation of Officials for Enforcement Responses**

40 CFR 403.8(f)(5) requires that ERPs indicate the official(s) authorized to implement an enforcement response. The City's Manual has adequately designated the authorized POTW personnel responsible for initiating specific enforcement responses. The Manual indicates that the City's Quality Assurance Supervisor is authorized to implement informal enforcement actions, such as telephone calls and informal meetings, failure to respond letters, notice of violation letters, and compliance schedules. Formal enforcement actions, such as cease and desist orders, can be implemented by the head of the City's General Services Department. Civil suits for injunctive relief, civil penalties, and criminal suits can be implemented by either the City Attorney or City Council. Termination of services can be executed by, either, the head of the General Services Department, the City Attorney, or the City Council.

### **6. Summary of Findings**

Listed below are the primary requirements and recommendations resulting from the evaluation of the City's Manual. Please refer to the specific sections of the report (as referenced) for more information pertaining to each finding.

1. The City's Ordinance does not authorize the use of compliance schedules, judicial actions, and criminal investigations. The City is required to review its Ordinance to ensure that it authorizes the range of enforcement responses listed in its Manual. (Section 3., Sewer User Ordinance: Enforcement Authority)
2. Ordinance section 13.08.990 authorizes the use of time schedules to prevent or correct a violation. The use of time schedules appears to be similar to compliance schedules. It is recommended that the City revise the language regarding the use of compliance schedules in its Manual with references to time schedules for consistency. (Section 3., Sewer Use Ordinance: Enforcement Authority)
3. The Manual does not establish enforcement actions for all unpermitted discharges. The City is required to revise its Manual to include applicable enforcement actions for these violations. (Section 4.1, Unpermitted Discharges)
4. The Manual does not establish enforcement actions for all possible circumstances for a discharge limit violation. The City is required to revise its Manual to include applicable enforcement actions for these violations. (Section 4.2, Exceedance of Local or Federal Pretreatment Standards)
5. The Manual does not establish enforcement actions for improperly signed reports, recordkeeping violations, improper use of analytical procedure violations, failure to report additional sampling results, and failure to maintain a copy of the permit. The City is required to revise its Manual to include applicable enforcement actions for these violations. (Section 4.3, Monitoring and Reporting Violations)
6. Noncompliance Event #8 in the City's Manual does not include enforcement responses for the intentional mishandling of samples. The City is required to revise its Manual to include appropriate enforcement actions for this type of violation. (Section 4.3, Monitoring and Reporting Violations)
7. The wording of Noncompliance Event #8 in the Manual is confusing and ambiguous. It is strongly recommended that the City clarify "failure to sample representatively." (Section 4.3, Monitoring and Reporting Violations)
8. A definition of "major or gross" could not be found in the Manual. The City is required to clarify its definition of "major" and "gross." (Section 4.3, Monitoring and Reporting Violations)
9. The Manual does not include enforcement responses for recurring compliance schedule violations. The City is required to revise its Manual to include appropriate enforcement actions for this type of violation. (Section 4.4, Compliance Schedule Violations)
10. The Manual does not establish enforcement responses for violations due to a nondomestic discharger denying entry or withdrawing consent for an inspection.

or denying City inspectors the right to copy records. The City is required to revise its Manual to include applicable enforcement actions for this type of violation (Section 4.5, Denial of Entry Violations)

11. It could not be determined whether the time frames established on page 16 of the Manual are time frames in which nondomestic dischargers must respond to an informal enforcement action or if it is the time frames in which the City must issue an enforcement response. The City is required to clarify the definition of these time frames. (Section 4.6, Miscellaneous Clarifications)



Don H. Hickox  
Secretary for  
Environmental  
Protection

# State Water Resources Control Board

## Office of Chief Counsel

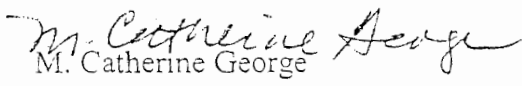
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Gray Davis  
Governor

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.swrcb.ca.gov.*

TO: Jo Anne Kipps  
Senior Water Resources Control Engineer  
Central Valley Regional Water Quality  
Control Board (Fresno)

FROM:   
M. Catherine George  
Staff Counsel  
OFFICE OF CHIEF COUNSEL

DATE: September 11, 2002

SUBJECT: CITY OF VISALIA PRETREATMENT PROGRAM LEGAL ADEQUACY  
REVIEW

In conjunction with the Regional Board's pretreatment compliance audit (PCA) of the City of Visalia's pretreatment program, you asked our office to conduct a legal review of the City of Visalia's (City) sewer ordinance, the Goshen Community Services District (District) sewer ordinance, and two agreements between the City and the District concerning wastewater treatment. The purpose of my comments is to identify necessary changes to the ordinances and to the Wastewater Service Agreement (Agreement) and Memorandum of Understanding (MOU) so that together these documents provide the City with adequate legal authority under the applicable federal pretreatment regulations (set forth in 40 Code of Federal Regulations (CFR) Part 403) to implement and fully enforce its pretreatment program against industrial users in its own and in contributing jurisdictions such as the District.

Accordingly, I have reviewed the City's ordinance (Visalia Municipal Code Chapter 13.08), the Goshen Community Service District's ordinance SO96-1, revised October 16, 1995, the June 5, 1995 Agreement and the March 25, 1999 MOU regarding wastewater pretreatment, both between the City and the District, and have the following comments.

RECEIVED

Comments on the City of Visalia Ordinance

SEP 16 2002

**Definitions**

RWGCB-OVR  
FRESNO, CALIF

*Interference.* After "permit," insert "caused by a discharge, either alone or in conjunction with discharge or discharges from other sources." The definition should also be revised to include the

reference to the Marine Protection, Research, and Sanctuaries Act, as set forth in the Model Ordinance, Section 1.4.L.

*Pass Through.* As written, the language is less stringent than that provided by the federal regulations because the language seems to exclude contributions that do not significantly contribute to the City's violation of its permit. The definition should be revised to delete "significantly contribute" and insert after the words "concentrations which" the phrase "alone or in conjunction with a discharge or discharges from other sources is a cause of a violation of any requirement of the City's permit, including an increase in the magnitude or duration of the violation."

*Industrial User.* The term "industrial discharger" defined in the ordinance should be changed to "industrial user," or the term "industrial user" can be added as an alternative. The federal regulations refer throughout to "user" rather than "discharger." References within the ordinance to the term should also be revised accordingly.

*Significant Industrial User.* The definition of Significant Industrial Discharger should be revised to refer to "user," rather than "discharger" and corresponding changes made in the remainder of the ordinance to reflect the terms used in the federal regulations. In addition, the definition (at 2.) must be revised to reflect that a Significant Industrial User is an industrial user that "Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater)." As written, the definition is less stringent than required under the federal regulations.

## Prohibitions

The ordinance does not appear to contain the required general discharge prohibition. See 40 CFR 403.5(a) and Model Ordinance, Section 2.1A. The general discharge prohibition should state: "No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements."

It appears that subsection C. under 13.08.550 of the ordinance sets forth some of the specific prohibitions required under the federal regulations. The ordinance would be easier to follow if the specific prohibitions were moved to fall under the heading of "Prohibitions on discharges," Section 13.08.480.

## Reporting Requirements

The City needs to add a section on reporting requirements to supplement the information set forth in the ordinance at section 13.08.810.D.3.g. The federal regulations require that a POTW



with an approved pretreatment program require reports for baseline monitoring, compliance schedule progress, compliance with categorical deadlines, and periodic compliance reports for categorical users and significant non-categorical users. 40 CFR 403.12(b)-(e), and 40 CFR 403.12(h). Such a section could be added between Article 9 and Article 10 (or elsewhere as appropriate) and should reflect the information set forth in the U.S. EPA's Model Ordinance in sections 6.1-6.4 and in the applicable regulations. To the extent that the ordinance already lists certain required components of a submittal for issuance of an industrial discharge permit that are also relevant to monitoring and reporting requirements (e.g., section 13.08.810.D.3.h. identifies the contents of an appropriate certification for permit issuance purposes), the City can cross-reference to the already existing sections rather than repeating the information in the new reporting section.

### **Remedies for Noncompliance (Enforcement)**

The City's ordinance does not provide adequate authority to enforce against noncompliance with pretreatment requirements as required in 40 CFR 403.8(f)(1)(vi). Section 13.08.900 does not provide the City with adequate authority to impose the civil and criminal liabilities required in the pretreatment regulations. Under the applicable federal regulations, the City must have the "authority to seek or assess civil or criminal penalties in at least the amount of \$1,000 a day for each violation by Industrial Users of Pretreatment Standards and Requirements." 40 CFR 403.8(f)(1)(vi)(A). While section 13.08.1050 allows the imposition of criminal penalties "[n]otwithstanding the provisions of section 13.08.900," the same qualifying language is missing as to the imposition of civil penalties addressed in section 13.08.1040. Moreover, neither of these sections specifies the minimum authority the City should have. If the City wishes to retain the language in section 13.08.900 as to violations of provisions of the ordinance other than those pertinent to enforcement of its pretreatment program, it should tailor the language of that section to make its intent clear.

### **Emergency Suspensions**

Finally, the federal regulations require that a POTW have the ability to act in an emergency to stop and actual or threatened discharge in a manner more expedient than is allowed under the ordinance's section authorizing the City to seek an injunction. 40 CFR 403.8(f)(1)(vi)(B). While section 13.08.1080, "Termination of Service," arguably would permit the City to take emergency action, U.S. EPA's model ordinance at section 10.7 contains language that more explicitly reflects the necessary authority to act to suspend an industrial user's discharge in an emergency situation.

### **Comments on the Goshen Community Services District Ordinance**

As indicated below, an effective multijurisdictional agreement will require that a contributing jurisdiction such as the District have an effective ordinance that is at least as stringent as that of

the Control Authority (the City) to ensure that the Control Authority has all of the necessary legal authorities to enforce its pretreatment program within the contributing jurisdiction. Ordinarily, the easiest way to ensure that a contributing jurisdiction such as the District has a sufficiently stringent ordinance is for that jurisdiction to incorporate the Control Authority's pretreatment ordinance by reference into its own code. Because in this case the District's ordinance already has adopted all of the pretreatment related provisions from the City's code, it is probably easier to make the revisions required for the City's ordinance as appropriate into the District's own ordinance. All of the required revisions to the City's ordinance described above are also required to be made to the District's ordinance for it to be legally sufficient. In addition, I have a couple of additional changes that are necessary only for the District's ordinance.

#### Definitions.

*Significant Industrial User.* In addition to revisions to this definition already noted, at subdivision (c), "ten (10)" should be replaced with "five (5)."

A definition of Publicly Owned Treatment Works referencing the City of Visalia's facility should be added to the District's ordinance.

#### Comments on the Multijurisdictional Agreement

The City has a Wastewater Service Agreement with the District dated June 5, 1995 (Agreement). The Agreement does not comprehensively address the issues of pretreatment or discharges by industrial users located in the District to the City's POTW. The Agreement does prescribe some limitations on the wastewater that the District can discharge to the City's system (Agreement, section 2.1 Loading Limits). Among these limitations is a requirement that the District's discharge to the City's POTW shall not "[v]iolate the Environmental Protection Agency pretreatment requirements applicable to the City as administered by the Regional Water Quality Control Board." Agreement, section 2.1(c)(4). The Agreement also states that "[t]he District reserves the right to require pretreatment of any and all effluent or waste products of any commercial or industrial dischargers that enters the District system." Agreement, section 2.2. While these few references to pretreatment exist, the Agreement also states that "the issue of pretreatment [ ] will be addressed in a separate document, signed by the parties, and incorporated herein as if set forth in its entirety . . . ." Agreement, section 8.9. From the correspondence and additional documentation the City provided following the PCA, it appears that the Memorandum of Understanding Between the City of Visalia and the Goshen Community Services District Regarding Wastewater Pretreatment Program (MOU), executed on March 25, 1999, is the document anticipated in the Agreement and the document in which the City and the District intend to set forth the pretreatment authorities for the regulation of industrial users in the District.

In order to permit discharges, or contributions, from industrial users located in other jurisdictions (known as contributing jurisdictions) into its system, a POTW must demonstrate that in

accepting contributions from other jurisdictions, it will "operate pursuant to legal authority enforceable in Federal, State or local courts, which authorizes or enables the POTW to apply and to enforce the requirements of sections 307 (b) and (c), and 402(b)(8) of the [Federal Water Pollution Control Act] and any regulations implementing those sections." See 40 CFR section 403.8(f)(1). In other words, the POTW must be able to demonstrate to the Approval Authority (in this case the Board) that it has the legal authority to enforce federal, state and local pretreatment requirements and regulations against *all* industrial users that discharge to the POTW, whether located inside or outside of its jurisdictional boundaries.

As described above, an effective multijurisdictional agreement will require that the contributing jurisdiction agree to adopt a sewer ordinance that is no less stringent than the POTW's. Moreover, an effective multijurisdictional agreement will indicate clearly whether the POTW or the contributing jurisdiction is responsible for enforcing the contributing jurisdiction's ordinance against its industrial users. Generally, the contributing jurisdiction will designate the POTW as its agent for implementation and enforcement purposes. Alternatively, an agreement can provide that the contributing jurisdiction enforce its own ordinance. Under the latter approach, such a commitment by the contributing jurisdiction ordinarily is accompanied by a provision authorizing the POTW to step in and enforce the terms of the contributing jurisdiction's ordinance if the latter fails to do so.

From the MOU, it appears that in this case, the City and the District intend for the City to assume primary responsibility for implementation and enforcement of the City's pretreatment program within the District's jurisdiction. If that is not the case, the City should let us know. Whether or not this is the case, however, there are several areas in which the Agreement and MOU are inadequate.

First, the Agreement or MOU should explicitly obligate the contributing jurisdiction (i.e., the District) to adopt an ordinance that is at least as stringent as the City's ordinance and to make necessary amendments thereto as may be required over time. As indicated above, the review of the City's ordinance shows that the City's ordinance requires revisions in order to be considered legally adequate. Thus, to the extent the District's ordinance contains the same deficiencies as the City's ordinance, the District should revise its ordinance.

Second, the Agreement or MOU should explicitly state whether the City and District intend for the City to have primary responsibility for enforcing all aspects or only specific aspects of its pretreatment program against the District's industrial users. If the District intends to retain some responsibility, the Agreement or MOU should explicitly state that the City can enforce the program against industrial users in the District if the District fails to enforce the program. One of the clearest ways to accomplish this delineation of responsibilities is to have the District assign to the City the right to enforce all of the relevant provisions of the District's ordinance if the District fails to do so.

As written, Article 3 of the MOU provides the City only incomplete authority to take legal enforcement action. The Agreement or MOU should further specify that the entity not primarily responsible for implementation and enforcement has adequate legal remedies (such as indemnification and specific performance) against the responsible entity in the event the responsible entity fails to adequately implement and enforce the pretreatment program against industrial users in the District.

Third, while Article 2 of the proposed amendment provides the City with authority to issue discharge permits to the industrial users located within the District, the language suggests that either the District or the City may issue permits. It is preferable that one entity clearly assumes this role. If it will be undertaken jointly, the amendment should specify which entity assumes the lead role for drafting purposes.

Fourth, while Article 2 of the amendment provides the City with authority to independently enter the facilities of industrial users in the District, it should also ensure that the City has adequate access to records compiled as part of the District's pretreatment program activities.

For these reasons, as written, the Agreement and the MOU do not provide the City with the authority necessary to enable it to fully implement and enforce its pretreatment program against industrial users in the District's jurisdiction. Because the Agreement states that the City and District intend to address pretreatment issues in a separate document, rather than try to amend the existing Agreement or MOU, it may be simplest to develop a new, separate multijurisdictional agreement that would then be explicitly incorporated into the 1995 Agreement. However, the City may propose some other means of accomplishing this.

For an example of a multijurisdictional agreement that contains provisions that satisfy the legal authorities requirements of 40 CFR section 403.8(f) and provide a similarly situated control authority with strong authorities, you might refer the City to a recent agreement between the City of Redding and the County of Shasta that was recently approved by the Regional Board as a component of a substantial modification to the City of Redding's approved pretreatment program. In addition, you may want to refer the City to the U.S. EPA's Guidance Manual for Multijurisdictional Pretreatment Programs published in June 1994 and available on the U.S. EPA's website, for substantive guidance on this topic. Along with describing the elements of an effective multijurisdictional agreement, the Guidance Manual also contains examples of effective multijurisdictional agreements. These reference materials should facilitate the City's ability to ensure it has an effective and legally adequate agreement in place.

### Conclusion

When the revisions to the City's ordinance, the District's ordinance and a revised or new multijurisdictional agreement between the City and the District are complete, they will need to be submitted to the Board for consideration as a substantial modification to the City's approved

pretreatment program under 40 CFR 403.18 using the procedures set forth in 40 CFR 403.11. Alternatively, when new waste discharge requirements are considered, it is possible to include a compliance schedule for completion of the necessary revisions. That way, the pretreatment program can be approved, subject to the completion of the required revisions.

If you, the City or the District have questions or disagree with the proposed changes to the ordinance or agreements, please call me or have them call me at (916) 327-4440 because there may be other ways to address my concerns.

**City of Visalia**  
**Agenda Item Transmittal**

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):** 10j(2)

**Agenda Item Wording:** Adoption of Interim Ordinance 2006-03 establishing prohibited and permitted uses and development standards for a portion of the East Downtown Strategic Plan Area. *(A 4/5 vote is required to adopt this ordinance.)*

**Deadline for Action:** None

**Submitting Department:** Community Development

For action by:

- City Council  
 Redev. Agency Bd.  
 Cap. Impr. Corp.  
 VPFA

For placement on which agenda:

- Work Session  
 Closed Session  
 Regular Session:  
 Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.): 1

**Contact Name and Phone Number:** Mike Olmos 713-4332; Fred Brusuelas 713-4364; Alex Peltzer 636-0200

**Recommendation and Summary:** Staff recommends Council adopt the attached "Interim Ordinance Establishing Prohibited and Permitted Uses and Development Standards for a Portion of the East Downtown Strategic Plan Area". This interim ordinance would be adopted pursuant to California Government Code Section 65858 and would have an initial life of 45 days. An interim ordinance adopted pursuant to Section 65858 requires a four-fifths vote by Council and is effective immediately upon adoption.

Council approved introduction of this ordinance during the meeting of March 6, 2006. At that time, Council also authorized staff to place an action item on a future Council agenda to consider extending reduced parking standards described in the ordinance to the entire downtown area.

On December 19, 2005, Council approved the East Downtown Strategic Plan and authorized several steps towards implementation. The steps included the establishment of an interim ordinance to establish an overlay zone that would prohibit new uses incompatible with the Strategic Plan, modify the list of permitted and conditional uses allowed in a portion of the plan area consistent with the plan concepts, and modify development standards and in lieu parking standards. The interim zone would be in effect until permanent General Plan, zoning, parking, and design district standards can be

developed, reviewed with East Downtown property owners and interested parties, processed pursuant to planning procedures, and eventually considered for adoption by Planning Commission and Council. Staff is working with a consultant on the permanent General Plan and code amendments. The process for adoption is expected to take approximately one year, including preparation of the necessary environmental finding.

A copy of the proposed interim ordinance to establish the East Downtown Overlay Zone is attached. The proposed zone was developed by City staff and the East Downtown urban design consultant Bruce Race, with assistance from Assistant City Attorney Alex Peltzer. On February 13, the proposed zone was reviewed at a meeting with interested property owners in the East Downtown area, and reviewed with the Downtown PBID Board of Directors on February 14. No significant issues were raised during those meetings.

Government Code Section 65858 authorizes cities, including charter cities, to enact an interim zoning ordinance pending the development and adoption of contemplated General Plan and zoning amendments and related development standards. If adopted, the ordinance will have an initial life of 45 days from the date of adoption. As such, if adopted on March 20, the interim ordinance will expire on May 4, 2006, unless extended by future action of Council. After notice and public hearing, Council may extend the interim ordinance for an additional period of 10 months and 15 days, after which the ordinance will expire, unless extended again by Council for one additional year. The maximum life of an interim ordinance with all permitted extensions is 2 years. Given the need for significant amendments to plans and codes to establish permanent requirements to implement the East Downtown Strategic Plan, at least one extension of the interim ordinance will be needed to complete the work.

At least ten (10) days prior to expiration of the interim ordinance or any extension, Council will be required to issue a written report describing the measures taken to alleviate conditions which led to adoption of the interim ordinance. The first written report will appear on the Council agenda of April 17.

**Committee/Commission Review and Actions:** The Planning Commission received an update on the interim ordinance on March 13, 2006.

**Prior Council/Board Actions:** December 19, 2005 – Council approved the East Downtown Strategic Plan and authorized implementation measures, including preparation of the interim ordinance. Council introduced interim ordinance on March 6, 2006.

**Alternatives:**

Revise the interim ordinance as appropriate.

Do not adopt interim ordinance, recognizing that uses incompatible with the Strategic Plan could be established in the East Downtown area before permanent General Plan and code changes are completed.

**Attachments:**

1. Proposed East Downtown Overlay Zone (Ordinance No. 2006-03)
2. Map of Interim Ordinance Area

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):** Move to adopt Ordinance No. 2006-03, an interim ordinance establishing the East Downtown Overlay Zone.

***Financial Impact***

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes ___	No ___

Copies of this report have been provided to:

***Environmental Assessment Status***



**CEQA Review:**

Required? No

Review and Action: Prior:  
Required:

**NEPA Review:**

Required? No

Review and Action: Prior:  
Required:

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

**ORDINANCE NO. 2006-03**

**AN INTERIM ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF VISALIA ESTABLISHING PROHIBITED AND PERMITTED USES AND  
DEVELOPMENT STANDARDS FOR A PORTION OF THE EAST DOWNTOWN STRATEGIC PLAN  
AREA**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VISALIA:**

**SECTION 1 – Preamble and Findings.**

- A. The City of Visalia, by and through its City Council and Planning Department, has commenced a study to identify possible land use changes for the area east of the traditional core downtown office, commercial and retail district. The initial draft of the study, known as the East Downtown Strategic Plan (hereinafter referred to as the “Plan”), has been considered and approved by the City Council. The Plan, as currently drafted, identifies several potential changes to Visalia City ordinances relating to the zoning and development standards applicable to the subject area. Such potential changes would be beneficial to and essential to the safeguarding of the public health, safety and welfare.
- B. Among the general goals of the East Downtown Strategic Plan are the encouragement of developments that mix residential and commercial uses, the provision of development standards that provide for denser and more pedestrian friendly development patterns, and the encouragement of a higher degree of economic development and redevelopment within the area.
- C. Section 65858 of the California Government Code provides that the legislative body of a city may enact an urgency interim ordinance prohibiting uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body or planning department is considering or studying or intends to study within a reasonable time.
- D. The current zoning and development standards that apply to the land within the Plan area allow for the establishment of uses and development of land in a manner that would be contrary to goals of the Plan. It is anticipated that several such projects could and will be proposed before the long-term ordinance proposals can be studied, drafted, proposed and enacted. The City Council finds that such anticipated development projects within the Plan area that would be contrary to the goals of the Plan, and therefore further finds that such development projects constitute a current and immediate threat to the public health, safety or welfare, and that approval of subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat.
- E. The City Council further finds that the above-identified threat to the public health, safety or welfare constitutes an emergency.
- F. In order to immediately address the above-identified threat, while at the same time allowing the greatest degree of economic development within the area encompassed by Plan, the City Council enacts the following interim ordinance in accordance with Section 65858 of the California Government Code and in accordance with the pertinent provisions of the City’s Charter.

**SECTION 2 - Definitions.**

- A. East Downtown Overlay Zone shall refer to the land within the area roughly bounded by Goshen and Murray Streets on the north, Mineral King Avenue on the south, Ben Maddox Way on the east and Bridge Street on the west, and more particularly depicted on the map entitled “East Downtown Overlay Zone.” A copy of the East Downtown Overlay Zone map is attached hereto for reference. The official original map of the East Downtown Overlay Zone is on file with the City Clerk and the Director of Planning, and is adopted and made a part of this ordinance. The actual parcels of land covered by the East Downtown Overlay Zone shall be determined by reference to the map on file, and not by reference to the above general description.
- B. Primary Commercial Street shall refer to the following streets (unless otherwise noted, the entire length of the street that lies within the East Downtown Overlay Zone shall be included in the

Primary Commercial Street designation): Santa Fe Street, Main Street, Burke Street, Oak Street between Bridge Street and 300 feet east of Tipton Street, Mineral King Avenue between Bridge Street and Tipton, and Mineral King Avenue for 300 feet on either side of Burke Street.

- C. Mixed Use Commercial Development shall mean any development of two stories and taller that mixes two or more commercial uses.
- D. Mixed Use Residential Development shall mean any development of two stories and taller that mixes commercial and residential uses.
- E. Live-Work Development shall mean a development of one or more stories that feature a residential component connected to a commercial component and that is designed to allow the resident of the residential component to work or maintain a business in the connected commercial component.

**SECTION 3 – Allowable Land Uses.**

- A. The provisions of Visalia Municipal Code Section 17.18.050, including the uses identified in the matrix referred to therein which would otherwise be applicable, shall have no application to land within the East Downtown Overlay Zone. The only land uses that shall be allowed within the East Downtown Overlay Zone shall be those identified in this section.
- B. The purpose of the East Downtown Overlay Zone is to promote infill development that is compatible with downtown commercial uses and mixed-use neighborhoods identified in the Plan. To the extent this purpose is in conflict with the purposes identified in Visalia Municipal Code Section 17.18.010 that would otherwise be applicable, the purpose stated herein shall prevail.
- C. Nothing in this ordinance shall affect, supersede or alter the provisions of 17.40, relating to the continued existence and one-time expansion, subject to conditional use permit, of non-conforming uses.
- D. If a development, of a type that is listed in this section as being permitted, conditionally permitted or temporarily permitted, would otherwise require a Planned Development Permit according to the provisions of Visalia Municipal Code Chapter 17.26, such development shall comply with that chapter and obtain a Planned Development Permit in addition to complying with this ordinance.
- E. No residential uses, whether part of a purely residential development or a Mixed Use Residential development, shall be allowed on the ground floor of any building on any parcel that has frontage on any Primary Commercial Street.
- F. The first floor of any development located on any parcel that has frontage on any Primary Commercial Street shall be limited to the uses identified by asterisks in the list of permitted and conditionally permitted uses set forth in sub paragraph G below.
- G. The following uses shall be designated as Permitted, Conditional or Temporary within the East Downtown Overlay Zone, and such designations shall have the same meaning and effect as provided in Title 17 of the Visalia Municipal Code:

**PERMITTED, CONDITIONALLY PERMITTED, TEMPORARY AND FIRST FLOOR USES**

P=Permitted use

C=Conditional use

T=Temporary use

\*=use allowed or conditionally allowed on the first floor Primary Commercial Street

<b>Agricultural</b>	
Farmers Market	C*
<b>Auditoriums</b>	C*
<b>Banks and Financial Institutions</b>	
Walk-up automatic teller	P*
Branch office with out drive-up	P*

Branch office with drive-up	C
Main office	P

**Barber, Hairstylist, Tanning Centers  
Massage Therapists, and Day Spas**

Stand alone	P*
Located with primary permitted use	P
Tattooist located within above use	P

**Bed and Breakfast Accommodations**

Traditional	P
Inns	P*

**Bus Depots**

Stations (passenger service)	C*
Public and private transfer point	C*

**Catering Services** P

**Christmas Tree Sales** T

**Other Seasonal Commercial Uses/**

**Special Events** T\*

**Churches and Other Religious Institutions**

Up to 200 seats	C
-----------------	---

**Clothing/Costume Rental** P\*

**Communications**

Radio and TV Broadcasting Studio -with antenna off-site	P
--	---

**Daycare, Licensed**

Adult	
-six or fewer adults	P
-7 to 12 adults	P
-13 or more adults	C

Children	
-eight or fewer children	P
-9 to 14 children	P
-15 or more children	C

In conjunction with primary permitted use	P
---	---

**Eating and Drinking Establishments**

Bars/Taverns	
--bars	C*
-micro breweries/restaurant brewing, limited	P*
-bottling or packaging, consumption on premises or distribution	

locally in kegs	C*
Cafeterias	C
Pizza/Sandwich Shops	
-Serving wine/beer	P*
-No alcohol	P*
Fast Food without Drive-thru	P
Ice Cream Shop	P*
Night Clubs/Discotheques	C*
Sit-down Restaurant/Café	
-with or without full bar using less than 25% of public area	P*
-full bar using greater than 25% of public area	C*
Specialty Foods Store	P*
<b>Florist</b>	P*
<b>Galleries-Art/Photography/Crafts</b>	P*
<b>Home Business (live-work)</b>	P
<b>Hotels and Motels</b>	C*

<b>Laundry/Dry Cleaners</b>
-----------------------------

-cleaning plant	C
-pick-up point	P*
-self service	P

<b>Manufacturing/Assembling</b>
---------------------------------

Cabinetmaker/carpenter shops w/ retail	C
Printing and publishing	
-desktop, blueprint, photocopy	C
-publishing, printing, and/or binding	C
Raw Materials Manufacture with retail component	
-kiln works for clay products	C

<b>Medical Facilities/Services</b>
------------------------------------

Convalescent hospitals/ nursing homes	C
Clinics (medical groups, urgent care/walk-ins, dental, counseling, rehabilitation)	C
Dialysis centers	C
Opticians – Dispensing	P

### ***Mixed-use Commercial***

Development two stories and taller  
which mixes commercial uses C\*

**Museums** P\*

<b>Offices</b>	
----------------	--

General Business and Professional	
-less than 2,000 SF	P
-more than 2,000 SF	C
Medical	C
Chiropractor	C
Counseling/psychologist	
-individuals	P
-groups	C
Temporary (construction) Trailers	T

**Parking Facilities for Off-site Uses** C

**Park and Ride** C

### ***Photocopy Services/Desktop Publishing***

With printing press C  
Without printing press P\*

### ***Photography/Photo Services***

Photography Studio P\*  
Photography Labs  
-with retail on site P\*  
-retail drop-off/pick-up P

### ***Planned Unit Developments***

(subject to Chapter 17.26) C\*

**Private Clubs and Lounges** C

### ***Private Postal Service***

Mail boxes, mailing service P\*

<b>Public Community Services (Public or Government Ownership)</b>	
---	--

Community and Recreational Centers	C
Fire Stations	C
Police Stations and Substations	P
Post Office	C
Public Buildings, Offices and Grounds	C

Public Libraries	P
Public Parks/Playgrounds	P

Railroads	
-----------	--

Passenger Stations	P*
--------------------	----

Recreation Facilities	
-----------------------	--

Athletic and Health Clubs	P*
Bowling Alleys	C
Circus, Carnivals, Fairs, Festivals	
Revivals/Assemblies	T
Dance and Music Studios	P*
Martial Arts	C*
Pool Halls/Billiard Parlors	C*
Video Machines/Coin Operated Games	
-1 to 4 machines	C
Other Recreational Facilities	C

### Residential Uses

Single Family Subdivisions	
-under 20 units per acre	C
-over 20 units per acre	P
Multi-family (townhouses, apartments, condominiums)	
-under 20 units per acre	C
-over 20 units per acre	P
Mixed-use Residential	
-projects two stories and over	
which mix commercial and residential	
uses	C*

Retail	
--------	--

General Merchandise	
-less then/equal to 20,000 SF	P*
-greater than 20,000 SF	C*
Building/Landscape Materials	
-floor and wall coverings	C
Garden Centers/Nurseries	
-located within primary use	C
-stand alone	C
Glass Stores	C
Hardware Stores	
-less than 10,000 SF	P*
Paint Stores	C
Home Improvement	C
Drug Store/Pharmacy	
-including general retail	
merchandise	C*
-not including general retail	
merchandise	P*
Food Stores	
-convenience-7,000 SF or less	C*
-liquor store	C*
-specialty food store	P*
-supermarket/grocery stores	C*
Wine Tasting	P*

Appliances	
-small	P*
-large	P
Furniture and Finishes	
-new	P*
-secondhand	P*
Magazine/Newspaper Sales (freestanding booth/stand/kiosk)	
-indoor	P*
-outdoor	P*
Pawnshops	C
Pet Stores	C*
Secondhand Thrift Stores	
-up to 2,000 SF	P*
-greater than 2,000 SF	C*

<b>Schools, Public and Private</b>
------------------------------------

Pre-school/After School Care	C
Elementary Schools, K-6 or K-8	C

<b>Service Commercial</b>
---------------------------

Appliances, Electrical Equipment, Tools (repair)	
-small	C
Locksmiths	C
Pet Grooming	C
Printing Service	C
Tailor, Dressmaking, Alterations	C

<b>Theaters</b>
-----------------

Auditoriums	C*
Movie	C*
Live Performance	C*

<b>Utilities</b>
------------------

Business Offices	P
------------------	---

<b>Veterinary Services</b>
----------------------------

Animal Care Clinic (no boarding)	C*
----------------------------------	----

<b>Other</b>
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Other Uses Similar in Nature and Intensity as Determined by the City Planner	C*
Business which Initially Employ more than 750 Employees	C

#### SECTION 4 - Development Standards

- A. The development standards established by this section shall be applicable to all developments within the East Downtown Overlay Zone. If the standards established by this section are in conflict with the provisions of Visalia Municipal Code Chapter 17.30, then the provisions of this section shall prevail. Otherwise, the provisions of Visalia Municipal Code Chapter 17.30 shall also be applicable to the developments subject to this ordinance.



- B. The parking standards in this section shall apply to all developments within the East Downtown Overlay Zone. If the standards established by this section are in conflict with the provisions of Visalia Municipal Code Chapter 17.34, then the provisions of this section shall prevail. Otherwise, the provisions of Visalia Municipal Code Chapter 17.34 shall also be applicable to the developments subject to this ordinance.
- C. If use of off-site or in-lieu parking to satisfy parking requirements for a development is either required or allowed by the Development Standards established by this Section, then the provisions of Article 2 of Chapter 17.30 of the Visalia Municipal Code shall govern all aspects of the use of in-lieu parking for the subject development, including but not limited to the manner in which in-lieu parking fees are calculated and imposed. Further, the area to which the in-lieu parking program established by Chapter 17.30 applies, as established by Visalia Municipal Code Section 17.30.025, is hereby expanded to include all lands within the East Downtown Overlay Zone.
- D. In general, buildings associated with Mixed Use Residential and Mixed Use Commercial Developments shall, to the greatest extent practicable, be located at the sidewalk (i.e., with zero setback) in order to contribute to the continuity of pedestrian edges. Buildings associated with Live-Work Developments may be located facing the sidewalk or be set back as residential development would be; however, if located on a Primary Commercial Street, buildings should be located at the sidewalk.
- E. Development Standards. The following are the development standards that are applicable to development within the East Downtown Overlay Zone:

**Required Setbacks**

<u>Type of Use</u>	<u>Primary Comm. Street</u>	<u>Street Frontage</u>	<u>Rear at Resid.</u>
Commercial and Mixed-use	16' from curb max. or zero feet from PL, whichever is greater	16' from curb max. or zero feet from PL, whichever is greater	15' min.
Residential/Live-Work	NA	15' from PL max.	10' min.

**Parking Requirements**

<b>Type Of Use</b>	<b>Total Rqd.</b>	<b>On-site</b>	<b>Off-site/in-lieu Fees</b>
Commercial Retail	4/1,000 SF	up to 50% max	up to 4/1,000 SF
Office	3/1,000 SF	up to 50% max	up to 3/1,000 SF
Commercial Mixed-use	Blended requirement	up to 50% max	up to 2/1,000 SF
Residential Mixed-use	Blended requirement	up to 100%	up to 3/1,000 SF for commercial.
Residential Apartments	1/DU and .25 visitor parking	100 %	NA – All required to be on-site
Residential Townhouses	2/DU for 2+ BR 1/DU for 1BR and Studio	100%	NA – All required to be on-site
Live-Work	2/DU	1/DU	1/DU

**SECTION 5 – Effective Date and Duration**

This ordinance shall go into effect immediately upon adoption by four fifths of the City Council, and shall remain in effect for 45 days thereafter, unless extended by vote of the City Council following notice as specified in Government Code section 65858.

**PASSED AND ADOPTED:**

**17.40.060 Nonconforming uses.**

A nonconforming use is one which lawfully existed prior to the effective date of this chapter, but which is no longer permitted in the zone or design district in which it is located. The continuance of a legal nonconforming use is subject to the following:

A. Change of ownership, tenancy, or management of a nonconforming use shall not affect its legal nonconforming status; provided, that the use and intensity of use does not change.

B. If a nonconforming use is discontinued for a continuous period of one hundred eighty (180) days, it shall lose its legal nonconforming status, and the continued use of the property shall be required to conform with the provisions of the chapter.

C. A nonconforming use of a permanent structure may be continued; provided, there is no increase or enlargement of the area, space or volume occupied by such a nonconforming use, except as provided in Section 17.40.070. In the event no structural alterations are made, a nonconforming use may be changed to another nonconforming use of the same or more restrictive nature, provided that this change occurs within the one hundred eighty (180) day period as indicated in Section 17.44.060(H).

D. Additional development of any property on which a legal nonconforming use exists shall require that all new uses conform to the provision of this chapter.

E. If a nonconforming use is converted to a conforming use, no nonconforming use may be resumed. (Ord. 2001-13 § 4 (part), 2001; prior code § 7545)

**17.40.070 Expansion of nonconforming uses and structures.**

An existing legal nonconforming use or legal nonconforming structure may be minimally expanded or changed subject to the granting of a conditional use permit after a noticed public hearing as specified in Chapter 17.38, and if all of the following findings are made:

A. That such expansion or change is minimal. An expansion or change is considered to be minimal if the expansion comprises generally twenty (20) percent or less additional square footage of structure or site area or twenty (20) percent increase or less in intensity as measured by additional vehicle trips, parking need generation, etc., over what was existing at the time of adoption of an ordinance making the use or structure nonconforming;

B. That such expansion or change will not adversely affect or be materially detrimental to adjoining properties;

C. That there is a need for relief of overcrowded conditions or for modernization in order to properly operate the use;

D. That the use and/or structure is existing and has not been discontinued for a one hundred eighty (180) day continuous period;

E. That the expansion shall not increase the discrepancy between existing conditions and the standards of coverage, front yards, side yards, rear yard, height of structures or distances between structures prescribed in the regulations for the zone in which the structure is located. (Prior code § 7546)

[http://www.amlegal.com/nxt/gateway.dll/California/visalia\\_en/title17zoning/chapt...](http://www.amlegal.com/nxt/gateway.dll/California/visalia_en/title17zoning/chapt...) 02/23/2006

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):** 10k

**Agenda Item Wording:** Authorization to record the final parcel map for Tentative Parcel Map 2005-25, located at the northeast corner of Shirk Street and Doe Avenue. APN 077-100-074

**Deadline for Action:** N/A

**Submitting Department:** Public Works

**Contact Name and Phone Number:**

Andrew Benelli 713-4340  
Ken McSheehy 713-4447

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
- Consent Calendar
- Regular Item
- Public Hearing

Est. Time (Min.):   1  

**Department Recommendation and Summary:** The recommendation is that City Council approve the recordation of the final parcel map of Tentative Parcel Map 2005-25. The final parcel map is creating 2 parcels that are each approximately 26 acres in size. The Remainder parcel has public street frontage on Shirk Street and Parcel 1 has access by means of an easement to Roeben Street. An irrevocable offer of dedication for Doe Avenue is being offered to the City on Parcel 1. Public street improvements to Shirk Street and Doe Avenue will be required when these parcels are further subdivided and specific projects are proposed. McMillin Homes is the subdivider for this parcel map.

**Prior Council/Board Actions:** N/A

**Committee/Commission Review and Actions:** Tentative Parcel Map 2005-25 was approved by the Planning Commission on November 14, 2005.

**Alternatives:** N/A

**Attachments:** 1) location map; 2) tentative parcel map

**City Manager Recommendation:**

**Recommended Motions (and Alternative Motions if expected):**

Move to authorize recordation of the final parcel map of Tentative Parcel Map 2005-25.

***Financial Impact***

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required:\$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

**Copies of this report have been provided to:**

***Environmental Assessment Status***

**CEQA Review:**

Required? Yes	No	X
Review and Action: Prior:	Environmental finding completed for tentative parcel map	
	Required:	

**NEPA Review:**

Required? Yes	No	X
Review and Action: Prior:		
	Required:	

**Tracking Information:** (Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)

**Review and Approval - As needed:**

**Department Head Review (Signature):**

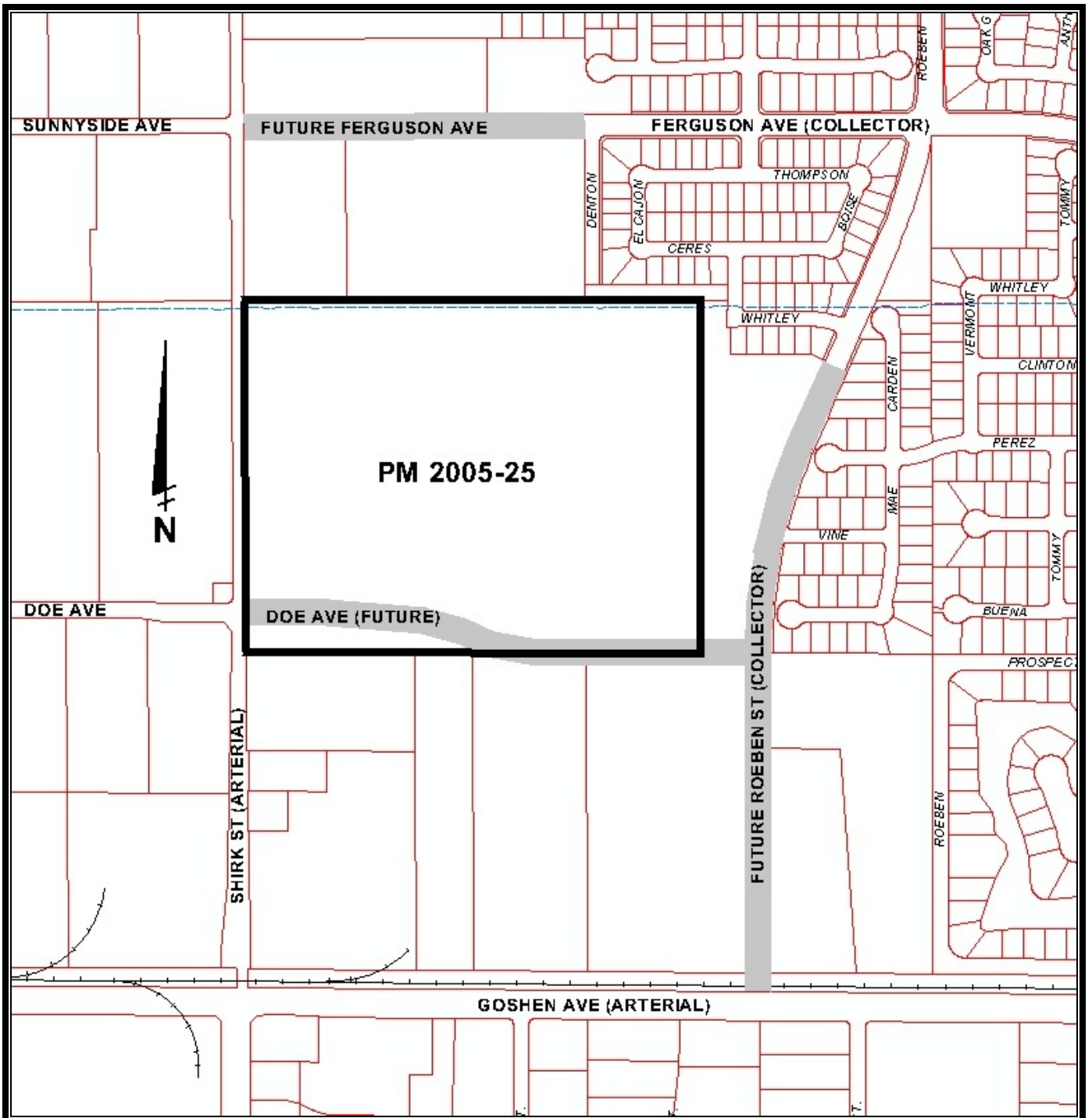
**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

# LOCATION MAP



**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):** 10I(1)

**Agenda Item Wording:** Request authorization to file a Notice of Completion for Oakwest Subdivision Unit No. 5, containing 126 lots, located southeast of Hurley Avenue and Shirk Road.

**Deadline for Action:** March 20, 2006

**Submitting Department:** Public Works Department

**Contact Name and Phone Number:** Andrew Benelli 713-4340,  
Norm Goldstrom 713-4638

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

Est. Time (Min.): 1 Min.

**Department Recommendation and Summary:** The recommendation is that City Council give authorization to file a Notice of Completion as all the necessary improvements for this subdivision have been completed and are ready for acceptance by the City of Visalia. The subdivision was developed by Lennar Fresno, Inc. Lennar Fresno, Inc has submitted a maintenance bond in the amount of \$177,040.42 as required by the Subdivision Map Act to guarantee the improvements against defects for one year.

**Prior Council/Board Actions:** Final Map recording was approved at Council meeting of October 20, 2003.

**Committee/Commission Review and Actions:** The tentative subdivision map for Oakwest Vesting Tentative Subdivision Map was approved by Planning Commission on March 10, 2003.

**Alternatives:** N/A

**Attachments:** Location sketch and vicinity map.

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):**

I hereby authorize filing a Notice of Completion for Oakwest Subdivision Unit No. 5.

**Financial Impact**

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to:

**Environmental Assessment Status**

**CEQA Review:**

Required? Yes No  
Review and Action: Prior: Environmental finding completed for tentative subdivision map.  
Required:

**NEPA Review:**

Required? Yes No  
Review and Action: Prior:  
Required:

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**



**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):** 10I(2)

**Agenda Item Wording:** Request authorization to file a Notice of Completion for Oakwest Subdivision Unit No. 6, containing 72 lots, located southeast of Hurley Avenue and Shirk Road.

**Deadline for Action:** March 20, 2006

**Submitting Department:** Public Works Department

**Contact Name and Phone Number:** Andrew Benelli 713-4340,  
Norm Goldstrom 713-4638

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

Est. Time (Min.): 1 Min.

**Department Recommendation and Summary:** The recommendation is that City Council give authorization to file a Notice of Completion as all the necessary improvements for this subdivision have been completed and are ready for acceptance by the City of Visalia. The subdivision was developed by Lennar Fresno, Inc. Lennar Fresno, Inc has submitted a maintenance bond in the amount of \$58,253.10 as required by the Subdivision Map Act to guarantee the improvements against defects for one year.

**Prior Council/Board Actions:** Final Map recording was approved at Council meeting of June 7, 2004.

**Committee/Commission Review and Actions:** The tentative subdivision map for Oakwest Vesting Tentative Subdivision Map was approved by Planning Commission on March 10, 2003.

**Alternatives:** N/A

**Attachments:** Location sketch and vicinity map.

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):**

I hereby authorize filing a Notice of Completion for Oakwest Subdivision Unit No. 6.

**Financial Impact**

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to:

**Environmental Assessment Status**

**CEQA Review:**

Required? Yes No  
Review and Action: Prior: Environmental finding completed for tentative subdivision map.  
Required:

**NEPA Review:**

Required? Yes No  
Review and Action: Prior:  
Required:

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

## City of Visalia Agenda Item Transmittal

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):** 10I(3)

**Agenda Item Wording:** Request authorization to file a Notice of Completion for Summerfield Phase 1, containing 76 lots, located southeast of Akers Street and Riggin Avenue.

**Deadline for Action:** March 20, 2006

**Submitting Department:** Public Works Department

**Contact Name and Phone Number:** Andrew Benelli 713-4340,  
Norm Goldstrom 713-4638

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

Est. Time (Min.): 1 Min.

**Department Recommendation and Summary:** The recommendation is that City Council give authorization to file a Notice of Completion as all the necessary improvements for this subdivision have been completed and are ready for acceptance by the City of Visalia. The subdivision was developed by Lennar Fresno, Inc. Lennar Fresno, Inc has submitted a maintenance bond in the amount of \$42,238.67 as required by the Subdivision Map Act to guarantee the improvements against defects for one year.

**Prior Council/Board Actions:** Final Map recording was approved at Council meeting of January 21, 2003.

**Committee/Commission Review and Actions:** The tentative subdivision map for Summerfield Phase 1 Vesting Tentative Subdivision Map was approved by Planning Commission on July 5, 2002.

**Alternatives:** N/A

**Attachments:** Location sketch and vicinity map.

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):**

I hereby authorize filing a Notice of Completion for Summerfield Phase 1.

**Financial Impact**

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to:

**Environmental Assessment Status**

**CEQA Review:**

Required? Yes No  
Review and Action: Prior: Environmental finding completed for tentative subdivision map.  
Required:

**NEPA Review:**

Required? Yes No  
Review and Action: Prior:  
Required:

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):** 10I(4)

**Agenda Item Wording:** Request authorization to file a Notice of Completion for Summerfield Phase 2, containing 74 lots, located at the Southeast corner of Akers Street and Riggan Avenue.

**Deadline for Action:** March 20, 2006

**Submitting Department:** Public Works Department

**Contact Name and Phone Number:** Andrew Benelli 713-4340,  
Norm Goldstrom 713-4638

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

Est. Time (Min.): 1 Min.

**Department Recommendation and Summary:** The recommendation is that City Council give authorization to file a Notice of Completion as all the necessary improvements for this subdivision have been completed and are ready for acceptance by the City of Visalia. The subdivision was developed by Lennar Fresno, Inc. Lennar Fresno, Inc has submitted a maintenance bond in the amount of \$58,530.10 as required by the Subdivision Map Act to guarantee the improvements against defects for one year.

**Prior Council/Board Actions:** Final Map recording was approved at Council meeting of March 1, 2004.

**Committee/Commission Review and Actions:** The tentative subdivision map for Summerfield Phase 1 Vesting Tentative Subdivision Map was approved by Planning Commission on July 5, 2002.

**Alternatives:** N/A

**Attachments:** Location sketch and vicinity map.

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):**

I hereby authorize filing a Notice of Completion for Summerfield Phase 2.

**Financial Impact**

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to:

**Environmental Assessment Status**

**CEQA Review:**

Required? Yes No  
Review and Action: Prior: Environmental finding completed for tentative subdivision map.  
Required:

**NEPA Review:**

Required? Yes No  
Review and Action: Prior:  
Required:

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):** 10I(5)

**Agenda Item Wording:** Request authorization to file a Notice of Completion for Rancho Santa Fe Estates Unit No. 1, containing 54 lots, located on the south side of Monte Vista between Burke and Santa Fe Streets.

**Deadline for Action:** March 20, 2006

**Submitting Department:** Public Works Department

**Contact Name and Phone Number:** Andrew Benelli 713-4340,  
Norm Goldstrom 713-4638

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

Est. Time (Min.): 1 Min.

**Department Recommendation and Summary:** The recommendation is that City Council give authorization to file a Notice of Completion as all the necessary improvements for this subdivision have been completed and are ready for acceptance by the City of Visalia. The subdivision was developed by McMillin Rancho Santa Fe Estates LLC. McMillin Rancho Santa Fe Estates LLC, has submitted a maintenance bond in the amount of \$68,196.34 as required by the Subdivision Map Act to guarantee the improvements against defects for one year.

**Prior Council/Board Actions:** Final Map recording was approved at Council meeting of March 15, 2004.

**Committee/Commission Review and Actions:** The tentative subdivision map for Rancho Santa Fe Estates Subdivision was approved by Planning Commission on November 24, 2003.

**Alternatives:** N/A

**Attachments:** Location sketch and vicinity map.

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):**

I hereby authorize filing a Notice of Completion for Rancho Santa Fe Estates Unit No. 1.

**Financial Impact**

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to:

**Environmental Assessment Status**

**CEQA Review:**

Required? Yes No  
Review and Action: Prior: Environmental finding completed for tentative subdivision map.  
Required:

**NEPA Review:**

Required? Yes No  
Review and Action: Prior:  
Required:

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**



**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** March 6, 2006

**Agenda Item Number (Assigned by City Clerk):** 10I(6)

**Agenda Item Wording:** Request authorization to file a Notice of Completion for Conyer Estates Addition, containing 9 lots, located at the northeast corner of Vine Avenue and Conyer Street intersection.

**Deadline for Action:** N/A

**Submitting Department:** Public Works Department

**Contact Name and Phone Number:**

Ed Juarez – 713-4446  
Andrew Benelli – 713-4340

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

Est. Time (Min.): 1 Min.

**Department Recommendation and Summary:** The recommendation is that City Council give authorization to file a Notice of Completion as all the necessary improvements for this subdivision have been completed and are ready for acceptance by the City of Visalia. The subdivision was developed by Joe Y. Gong and Cora Y. Gong of the Gong Family Revocable Trust of June 19, 198 and Tommy Quock Gong, Sara Joy Lau-Gong of the Gong Family Trust of October 23, 1998. Joe Y. Gong and Cora Y. Gong of the Gong Family Revocable Trust of June 19, 198 and Tommy Quock Gong, Sara Joy Lau-Gong of the Gong Family Trust of October 23, 1998 has submitted a maintenance bond in the amount of \_\_\_\_\_ as required by the Subdivision Map Act to guarantee the improvements against defects for one year.

**Prior Council/Board Actions:** Final Map recording was approved at Council meeting of September 7, 2004.

**Committee/Commission Review and Actions:** The tentative subdivision map for Conyer Estates Addition was approved by Planning Commission on November 12, 2004.

**Alternatives:** N/A

**Attachments:** Location sketch and vicinity map.

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):**

I hereby authorize filing a Notice of Completion for Conyer Estates Addition.

**Financial Impact**

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes____ No____	

Copies of this report have been provided to:

**Environmental Assessment Status**

**CEQA Review:**

Required? Yes No  
Review and Action: Prior: Environmental finding completed for tentative  
subdivision map.  
Required:

**NEPA Review:**

Required? Yes No  
Review and Action: Prior:  
Required:

**Tracking Information:** (Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):** 10I(7)

**Agenda Item Wording:** Request authorization to file a Notice of Completion for Project No. 3011-00000-720000-0-9629-2003, the Mill Creek Trail Project.

**Deadline for Action:** None

**Submitting Department:** Parks and Recreation Department

**Contact Name and Phone Number:**

Paul Shepard 713-4209

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

Est. Time (Min.): 3 min.

**Department Recommendation and Summary:** Staff recommends that authorization be given to file a Notice of Completion for Project No. 3011-00000-720000-0-9629-2003, the Mill Creek Trail Project.

This project constructed a 1,740 foot asphalt and concrete path along the south side of Mill Creek between W. Main and Demaree.

The work has been completed on this project by Lockwood General Engineering at a final cost of \$52,491.51. The contract amount for this job was \$54,733.00. The underage of \$2,241.49 (4.1%) was due to one Contract Change Order.

- 1) Less asphalt was needed to complete the project than was indicated in Engineer's Estimate.

**Prior Council/Board Actions:** Award of contract on November 29, 2005.

**Committee/Commission Review and Actions:** None

**Alternatives:** None

**Attachments:** Location Map

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):**

I move to authorize filing the Notice of Completion for Project No. 3011-00000-720000-0-9629-2003 the Mill Creek Trail project.

Copies of this report have been provided to:

***Financial Impact***

**Funding Source:**

Account Number: 3011-00000-720000-0-9629-2003

**Budget Recap:**

Total Estimated cost:	\$56,000	New Revenue:	\$
Amount Budgeted:	\$58,000		
Lost Revenue:	\$		
New funding required:	\$	New Personnel:	\$
Council Policy Change:	Yes _____	No	<u>X</u>

***Environmental Assessment Status***

**CEQA Review:**

Required? Yes  No

Review and Action: Prior:  
Require:

**NEPA Review:**

Required? Yes  No

Review and Action: Prior:  
Require:

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

## City of Visalia Agenda Item Transmittal

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):** 10m

**Agenda Item Wording:** Authorization for the City Manager to work with the Local Government Commission on development of a one day workshop on current planning and development principles, and allocating up to \$10,000 for various expenses associated with such workshop.

**Deadline for Action:**

**Submitting Department:**

**Contact Name and Phone Number:**

Steve Salomon (559) 713-4312

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

Est. Time (Min.): \_\_\_\_\_

**Department Recommendation and Summary:** Authorization for the City Manager to work with the Local Government Commission on development of a one day workshop on current planning and development principles, and allocating up to \$10,000 for various expenses associated with such workshop.

**Background:** On numerous occasions over the last several months, as well as at the Council retreat, there has been discussion about setting aside a time for the Council Members, the Planning Commissioners, the Building Industry Association, the Chamber of Commerce, the Visalia Economic Development Association, staff, interested developers and consultants, other committee and commission members, and the community in general, to discuss and hear presentations on current development concepts.

The Local Government Commission, a nonprofit organization based in Sacramento, has been putting together these kind of workshops for a number of years in various parts of the state. It is anticipated that the workshop would be a full day. It would be held at the Visalia Convention Center and would cover such topics as form-based codes, community design, subdivision standards, walk ability, street design, compact development, parking issues, etc. There would also be speakers from outside the area, including consultants and developers, who have worked on these issues in other parts of the state. There would also be discussion on how various components of the community can work cooperatively together with the development community to create an environment where improved design occurs while maintaining profitability.

A budget is needed to cover various staff expenses for the Local Government Commission, travel and hotel expenses, speaker cost, and other items related putting on the event.

**Prior Council/Board Actions:**

**Committee/Commission Review and Actions:**

**Alternatives:**

**Attachments:**

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):** Move approval for the Authorization for the City Manager to work with the Local Government Commission on development of a one day workshop on current planning and development principles, and allocating up to \$10,000 for various expenses associated with such workshop.

***Financial Impact***

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes _____ No _____	

Copies of this report have been provided to:

***Environmental Assessment Status***

**CEQA Review:**

Required? Yes No  
Review and Action: Prior:  
Required:

**NEPA Review:**

Required? Yes No  
Review and Action: Prior:  
Required:

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** March 20, 2006

**Agenda Item Number (Assigned by City Clerk):** 11

**Agenda Item Wording:**

**a) Certification of Negative Declaration No. 2006-30** which evaluates environmental impacts associated with Annexation No. 2006-01 (Doe) and Contract Cancellation No. 2006-01: a request for the partial cancellation of Williamson Act Land Conservation Contract No. 10765 and the diminishment of Agriculture Preserve No. 3638 by 100 acres. The property is located at the northwest corner of Plaza Drive and Riggin Avenue. **Resolution No. 2006-26 required.**

**b) Initiation of Proceedings for Annexation No. 2006-01 (Doe):**

A request by Russell Doe, applicant (Michael Porte and Lou Ginise, agents) to annex 160 acres into the City limits of Visalia and to amend Tulare County's LAFCO Sphere of Influence by 160 acres. The property is located at the northwest corner of Plaza Drive and Riggin Avenue in the City of Visalia, County of Tulare. (APN: 077-120-004, 009). **Resolution No. 2006-27 and 2006-28 required.**

**Deadline for Action:** None

**Submitting Department:** Community Development and Public Works Dept. - Planning

**Contact Name and Phone Number:** Brandon Smith, Associate Planner 713-4636

For action by:

City Council  
 Redev. Agency Bd.  
 Cap. Impr. Corp.  
 VPFA

For placement on which agenda:

Work Session  
 Closed Session  
Regular Session:  
 Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.): 10

**Department Recommendation and Summary:**

Staff is recommending that the City Council first adopt Negative Declaration No. 2006-30, then initiate a 160-acre annexation and minor Sphere of Influence amendment that will bring vacant land designated for Heavy Industrial land uses into the City limits and into the City's Industrial Park. If approved by Council, staff would then file an application for an annexation and minor Sphere of Influence amendment with the Local Agency Formation Commission (LAFCO).

Description of Site

Annexation No. 2006-01 (Doe) is an approximately 160-acre annexation of privately-owned property and street right-of-way located on the northwest corner of Plaza Drive and Riggin Avenue. The site predominately contains land that is being farmed for row crops. There is an inhabited mobile home and two abandoned houses with accessory structures located on approximately 1.50 acres on the southern portion of the site facing Riggin Avenue. To the north, west, and east is vacant land under County jurisdiction that is under agricultural-related



uses. To the south is vacant land under City jurisdiction that is currently under agricultural-related uses but has been approved for a tentative map to accommodate the VF Corporation Distribution Center and future large-scale industrial uses.

### General Plan Consistency

The entire site is located outside the 98,700 Population Urban Development Boundary but within the current 129,000 Population Urban Development Boundary. The current City limit line is located on the south boundary of the site. The territory proposed for annexation has a General Plan Land Use Designation of Heavy Industrial, and will therefore come into the City limits under the I-H zoning upon annexation. The designation has been in place since the 1991 General Plan Land Use Element Update (see the attached General Plan Land Use Map for all land use designations in the vicinity of the site.)

Heavy Industrial land uses at this site would be consistent with the land use compatibility map of the adopted Visalia Airport Master Plan. According to the map, a portion of the site is located in Compatibility Zone D, which does not place development restrictions for industrial uses that attract people at congregate in a density exceeding 125 persons an acre. The proposed project will not require review by the City or County Airport Commissions.

The property has a Tulare County zoning designation of AE-40 and a General Plan Land Use Designation of Heavy Industrial. (A resolution approved by the County in 1992 allowed the County's General Plan designations to be consistent with the City's General Plan designations for properties inside the UDB.) The County zoning of AE-40, which is an agricultural-based zoning, would not allow for the industrial uses that the City's zones permit. However, due to the County's industrial designation for the area, it is possible for the applicant to request a zone change in the County so that zoning is consistent with its General Plan, thereby allowing industrial development that would require utility service agreements by the City.

### Future Development

The applicants of the annexation, who are represented by primary interest-holder Russell Doe, have an interest to bring the property into the City limits and be made available for industrial prospects seeking large-sized parcels. The action would be necessary so that the Visalia Industrial Park could continue to have an inventory of parcels of sufficient size and configuration "ready to go" to meet the ongoing needs potential industrial prospects. To date, there are no parties who have confirmed to development on the site.

### Williamson Act Designation

The project site contains two separate Williamson Act contracts. The easterly 60-acre parcel is within Williamson Act Agricultural Preserve No. 3051 and is under Land Conservation Contract No. 8813. Under provisions of State Law effective at the time, the City of Visalia protested the formation of this agricultural preserve and contract. The contract was within one mile of the city limits at the time it was executed in 1974. Therefore, the City can choose to not succeed to the contract. Assuming that LAFCO agrees that the contract was successfully protested, the contract and preserve will be eliminated upon annexation and the property owner will not be required to apply for cancellation of the contract.

The City's letter and resolution regarding the establishment of Contract No. 8813 are included as exhibits. An attached map (see colored exhibit at end of report) shows the location of both preserves. In reference to the protested preserve, the map shows the City limits at the time the

preserve was protested by the City on February 4, 1974, as well as a one-mile marker from those City limits.

The westerly 100-acre parcel is within Williamson Act Agricultural Preserve No. 3638 and is under Land Conservation Contract No. 10765. This preserve and contract were not protested by the City of Visalia upon its establishment in 1978 likely because the area was located outside of the City's Urban Improvement Boundary. Thus, upon annexation, this preserve and contract will remain in effect. The applicant has already submitted a request and fees to cancel the 100 acres under contract upon the property's annexation into the City limits in accordance with the Williamson Act. Notices of Non-Renewal were recorded for both Williamson Act contracts on October 3, 2001, meaning that the contracts will expire in 2011.

As part of the annexation agreement requirement, Staff will be requiring that the applicant enter into an indemnification agreement to hold the City harmless against any actions which could be brought regarding the Williamson Act contracts.

Adjacent parcels located to the north, west, and east also contain Agricultural Preserves and Land Conservation Contracts, entered into between 1972 and 1974. The contract to the north and east is Contract No. 8813, the same contract that is on the easterly 60 acres. The entire contract was protested by the City upon its establishment, however the one-mile radius from the City limits only extended as far north as the subject site, meaning that the contract to the north does not have a valid protest. Staff did not find evidence of any protest for the contract to the west. The General Plan designates these properties for Agriculture land use. The property to the north and east is located inside the 129,000 Urban Development Boundary and has a land use designation of Heavy Industrial. The property to the west is outside this boundary and has a designation of Agriculture.

#### Meeting with Department of Conservation

On February 9, 2006, Assistant City Manager Michael Olmos, Assistant City Attorney Alex Peltzer, and Vice Mayor Greg Kirkpatrick attended a meeting in Sacramento regarding the possible local implementation of an exchange program allowed by the Williamson Act. The meeting was hosted by Secretary of Resources Mike Chrisman and attendees also included Department of Conservation Director Bridget Luther and local development interests. The meeting focused on possible formulation of a local program whereby agriculture preserve cancellation requests complying with Williamson Act cancellation findings can be required to purchase permanent land conservation easements on similar agricultural land in our area located in strategic locations where agricultural preservation is a priority. The conservation easement would be in lieu of paying cancellation fees to the state. In essence, the cancellation fees are used to buy local agricultural land conservation easements. Such a program would provide a reasonable and systematic method of addressing contract cancellations necessitated by growth demands while permanently preserving agricultural land in strategic locations around the community. Both Mr. Chrisman and Ms. Luther expressed interest in pursuing this program.

Currently, City staff is researching to see how other cities (i.e. City of Livermore) have implemented such a program and is requesting copies of their policies that regulate the program. Staff's goal will be to prepare a draft program for consideration by Council and the State in sufficient time to be used for Williamson Act cancellations that may be considered for this project in the future.

### Pre-Annexation Agreement

If the Council takes the recommended action of initiating the annexation, staff would be lodging an application for annexation to the Tulare County LAFCO. Before staff will file the application with LAFCO, property owners will be required to sign a Pre-Annexation Agreement which will memorialize the following conditions applicable to the annexation:

- Indemnification to the City and County to defend these agencies harmless from any possible action brought on by the State Department of Conservation regarding the site's protested Williamson Act designation;
- Payment of all associated impact fees at the time that final maps are recorded and/or building permits are issued in association with the proposed project;
- Compliance with the policies and fees contained within the Groundwater Mitigation Ordinance;
- Payment of the General Plan Maintenance Fees upon approval of the annexation by Tulare County LAFCO. Staff has determined that a total of \$46,332 in fees would be associated with the Doe Annexation, based on 156 acres of developable land in the annexation area assessed at a rate of \$297 per developable acre.
- That the purchase of agricultural conservation easements be the preferred method of mitigation in lieu of paying a fee for the cancellation of Williamson Act Contract(s) on the site.

### Sphere of Influence Amendment

An amendment to the Visalia Sphere of Influence is also required from Council in order to bring the entire annexation area into the City limits. At this time, the entire site is located outside of the Sphere of Influence (see General Plan land use map). Approval of the amendment is required from Council and from LAFCO in order for this annexation to be considered and approved by the LAFCO Commission.

The Sphere of Influence amendment will be considered minor because the combined net additional acreage for past amendments and the subject amendment to Visalia's Sphere will not have exceeded 200 acres in a consecutive 5-year period. Two amendments to the Sphere totaling approximately 41 acres were approved by the Council in 2004. The City will be requesting a major Sphere of Influence Amendment to Tulare County LAFCO for the remaining 480 acres of Heavy Industrial-designated land inside the 129,000 UDB with an anticipated annexation request for the area.

Staff believes that findings in support of the annexation and minor Sphere amendment can be made to LAFCO. In addition to the land being inside the City's current Urban Development Boundary, Staff can demonstrate a high level of development activity in the vicinity of the annexation site and amendment area.

The Visalia Economic Development Corporation has supported the annexation, expressing the need to expand the inventory of land in the Industrial Park for large industrial users.

### Environmental Findings

When initiating an annexation, the Council is required to make an environmental finding, in accordance with the California Environmental Quality Act (CEQA). Staff is recommending that the Council certify Negative Declaration No. 2006-30, which was prepared for the annexation. The Negative Declaration document is attached.

This document last revised 3/17/06 11:16 AM

By author: Brandon Smith

File location and name: H:\(1) AGENDAS for Council\2006\032006\Item 11 Annex 2006-01 Doe.doc

**Prior Council/Board Actions:** On June 13, 2005, staff presented the City Council with an update of activities and land use status of the Visalia Industrial Park. Upon completion of the review, the City Council authorized staff to meet with property owners and come back with request(s) to initiate annexations for the 640 acres within the City's adopted Urban Development Boundary along both sides of Plaza Drive, north of Riggins Avenue. The proposed 160 acre annexation is the first of the designated 640 acres designated for annexation by the City Council at the work session.

On January 17, 2006, the Council approved a regular item on the City Council agenda to accept and process the application to annex and allow a Sphere of Influence amendment for the subject property.

**Committee/Commission Review and Actions:** On February 27, 2006, the Planning Commission found that the annexation and Sphere amendment are consistent with the General Plan.

**Alternatives:** None.

**Attachments:**

- Ownership Disclosure Forms
- Resolutions
- City letter and resolution regarding protest of Contract No. 8813
- Negative Declaration No. 2006-030
- Location Sketch
- **Aerial Photo** (Colored map)
- **General Plan Land Use Map** (Colored map)
- **Protest Verification Map** (Colored map)

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):**

I move to adopt Resolution No. 2006- 26 certifying Negative Declaration No. 2006-30, and adopt Resolution No. 2006-27 and 2006-28 initiating Annexation 2006-01 (Doe), and authorizing staff to make application to the Tulare County Local Agency Formation Commission for the annexation and minor Sphere of Influence amendment.

Copies of this report have been provided to:

***Financial Impact***

**Funding Source:**

Account Number: None. Annexation application fees are being paid by the property owner.

**Budget Recap:**

Total Estimated cost: \$	New Revenue:	\$
Amount Budgeted: \$	Lost Revenue:\$	
New funding required: \$	New Personnel:	\$
Council Policy Change: Yes___	No_X__	

***Environmental Assessment Status***

**CEQA Review:**

Required? Yes

Review and Action: Prior:  
Required: Negative Declaration No. 2006-030 must be certified prior to initiation of the annexation.

**NEPA Review:**

Required? No

Review and Action: Prior:  
Required:

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

Signed resolution for Annexation to Tulare Co. LAFCO:

Deliver to contact person by Monday, March 27, 2006

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

RESOLUTION NO. 2006-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA,  
ADOPTING NEGATIVE DECLARATION NO. 2006-030, WHICH EVALUATES  
ENVIRONMENTAL IMPACTS FOR ANNEXATION NO. 2006-01 (DOE) AND CONTRACT  
CANCELLATION NO. 2006-01.

**WHEREAS**, Annexation No. 2006-01 (Doe) is a request by Russell Doe, applicant (Michael Porte and Lou Ginise, agents) to annex 160 acres into the City limits of Visalia and to amend Tulare County's LAFCO Sphere of Influence by 160 acres, and Contract Cancellation No. 2006-01 is a request for the partial cancellation of Williamson Act Land Conservation Contract No. 10765 and the diminishment of Agriculture Preserve No. 3638 by 100 acres (hereinafter "Project"). The property is located at the northwest corner of Plaza Drive and Riggins Avenue in the City of Visalia, County of Tulare (APN: 077-120-004, 009); and

**WHEREAS**, the City Council of the City of Visalia, after twenty (20) days published notice, held a public hearing before said Council on March 20, 2006 for the Project; and

**WHEREAS**, an Initial Study was prepared which disclosed that no significant environmental impacts would result from this Project, and that no mitigation measures would be required for the Project; and

**WHEREAS**, on the basis of this Initial Study, a Negative Declaration has been prepared for the Project pursuant to the California Environmental Quality Act of 1970 (CEQA), as amended; and

**WHEREAS**, the Initial Study and Negative Declaration for the Project were prepared and noticed for review and comment; and

**WHEREAS**, any comments received during the advertised comment period were reviewed and considered in accordance with provisions of CEQA; and

**WHEREAS**, the City Council of the City of Visalia considered the Initial Study and Negative Declaration and found that the Initial Study and Negative Declaration contain and reflect the independent judgment of the City of Visalia; and

**WHEREAS**, pursuant to AB 3158, Chapter 1706 of the Statute of 1990, the City Council of the City of Visalia hereby finds that no evidence has emerged as a result of said Initial Study to indicate that the proposed project will have any potential, either individually or cumulatively, for adverse effect on wildlife resources.

**NOW, THEREFORE, BE IT RESOLVED** that a Negative Declaration was prepared consistent with the California Environmental Quality Act (CEQA) and the City of Visalia Environmental Guidelines.

**BE IT FURTHER RESOLVED** that the City Council of the City of Visalia hereby finds, on the basis of the whole record before it, that there is no substantial evidence that the project will have a significant effect on the environment and hereby adopts Negative Declaration No. 2006-030 which evaluates environmental impacts for Annexation No. 2006-01 (Doe) and Contract Cancellation No. 2006-01. The documents and other material which constitute the record of the proceedings upon which the decisions based are located at the office of the City Planner, 315 E. Acequia Avenue, Visalia, California, 93291.



RESOLUTION NO. 2006-27

A RESOLUTION OF APPLICATION BY THE CITY OF  
VISALIA REQUESTING THE TULARE COUNTY LOCAL  
AGENCY FORMATION COMMISSION TO TAKE PROCEEDINGS  
FOR ANNEXATION NO. 2006-01 (DOE)

**WHEREAS**, the City Council of the City of Visalia, desires to initiate proceedings for annexation to said city of territory illustrated on the attached location map; and

**WHEREAS**, the Council of the City of Visalia desires to annex said territory to the City of Visalia for the following reasons: The annexation will contribute to and facilitate orderly growth and development of both the City and the territory proposed to be annexed; will facilitate and contribute to the proper and orderly layout, design and construction of streets, gutters, sanitary and storm sewers and drainage facilities, both within the City and within the territory proposed to be annexed; and will provide and facilitate proper overall planning and zoning of lands and subdivision of lands in said City and said territory in a manner most conducive of the welfare of said City and said territory; and

**WHEREAS**, this proposal is made pursuant to the Cortese-Knox-Hertzburg Local Government Reorganization Act of 2000, commencing with Section 56000 of the Government Code of the State of California; and

**WHEREAS**, the territory proposed to be annexed is uninhabited; and

**WHEREAS**, the Visalia Planning Commission reviewed this proposal on February 27, 2006, and found it to be consistent with the General Plan; and

**WHEREAS**, the City Council hereby makes the following findings with regard to the project:

1. The annexation is consistent with the policies and intent of the General Plan. Specifically, the site is located inside the City's current Urban Development Boundary.
2. There is no evidence before the Planning Commission that the proposed project will have any potential for adverse effects on wildlife resources, as defined in Section 711.2 of the Department of Fish and Game Code.
3. An Initial Study was prepared for this project, consistent with CEQA, which disclosed that environmental impacts are determined to be not significant, and Negative Declaration No. 2006-030 is hereby certified.
4. The site is currently under agricultural preserves and under Land Conservation Contracts.
5. There is information in the public record to show that the City successfully protested Williamson Act Contract No. 8813 within the site.
6. The Council finds that the General Plan Maintenance Fee for this annexation will be \$46,332.00 which shall be paid upon approval of the annexation by LAFCo.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Visalia as follows:

1. The potential environmental effects of the proposed annexation have been reviewed and the Environmental Coordinator of the City of Visalia has determined that the proposal falls within the scope of issues and impacts addressed in Negative Declaration No. 2006-030, and that no mitigation measures are required.
2. Application is hereby made to the Executive Officer of the Local Agency Formation Commission, County of Tulare, State of California, as proposed in the Proposal Questionnaire and as illustrated in the location map for "Annexation No. 2006-01 (Doe)".
3. Proceedings shall be taken for this annexation proposal pursuant to Title 5, Division 3, Part 3 of the California Government Code and other relevant provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
4. The Council hereby requests waiver of the conducting authority proceedings in accordance with Government Code Section 56663(c).
5. The Council hereby exercises its option to not succeed to Williamson Act Contract No. 8813 encumbering the site.
6. Upon annexation, the territory shall be zoned I-H, consistent with the pre-zonings designated by the General Plan Land Use Map.
7. The City Clerk of the City of Visalia is authorized and directed to file a certified copy of this resolution with the Executive Officer of Tulare County LAFCO.
8. Prior to City lodging an application to LAFCO on behalf of applicant(s), applicant(s) shall enter into an annexation agreement with City which memorializes the required fees, policies, and conditions applicable to the annexation.

RESOLUTION NO. 2006-28

A RESOLUTION OF APPLICATION BY THE CITY OF  
VISALIA REQUESTING THE TULARE COUNTY LOCAL  
AGENCY FORMATION COMMISSION TO TAKE PROCEEDINGS  
FOR A SPHERE OF INFLUENCE AMENDMENT

**WHEREAS**, the City Council of the City of Visalia desires to initiate proceedings for a Sphere of Influence Amendment for the City of Visalia to include territory illustrated on the attached map; and

**WHEREAS**, the Council of the City of Visalia desires to include said territory to the City of Visalia Sphere of Influence for the following reasons:

- The request is consistent with the City's General Plan, Urban Development Boundaries, and land use designations;
- The request will facilitate and contribute to the proper and orderly layout, design and construction of streets, gutters, sanitary and storm sewers and drainage facilities, both within the City and within the territory proposed to be included in the Sphere of Influence;
- The request will provide and facilitate proper overall planning and zoning of lands and subdivision of lands in said City and said territory in a manner most conducive of the welfare of said City; and

**WHEREAS**, this proposal is made pursuant to the Cortese-Knox-Hertzburg Local Government Reorganization Act of 2000, commencing with Section 56000 of the Government Code of the State of California; and

**WHEREAS**, the Visalia City Council has reviewed the request for Annexation No. 2006-01 (Doe) of territory which includes area to be included by the amendment on March 20, 2006, and found it to be consistent with the General Plan; and

**WHEREAS**, the City Council hereby makes the following findings with regard to the project:

1. The amendment is consistent with the policies and intent of the General Plan.
2. There is no evidence before the Planning Commission that the proposed project will have any potential for adverse effects on wildlife resources, as defined in Section 711.2 of the Department of Fish and Game Code.
3. An Initial Study was prepared for this project, consistent with CEQA, which disclosed that environmental impacts are determined to be not significant, and Negative Declaration No. 2006-030 is hereby certified.
4. The site is currently under agricultural preserves and under Land Conservation Contracts.
5. There is information in the public record to show that the City successfully protested Williamson Act Contract No. 8813 within the site.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Visalia as follows:

1. The potential environmental effects of the proposed project have been reviewed and the Environmental Coordinator of the City of Visalia has determined that the proposal falls within the scope of issues and impacts addressed in Negative Declaration No. 2006-030, and that no mitigation measures are required.
2. Application is hereby made via written request to the Executive Officer of the Local Agency Formation Commission, County of Tulare, State of California, for a City of Visalia Sphere of Influence Amendment to include territory illustrated in the attached map.
3. Proceedings shall be taken for this amendment proposal pursuant to Title 5, Division 3, Part 2, Chapter 4 of the California Government Code and other relevant provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
4. Proceedings shall continue for the Annexation of said territory if the Sphere of Influence Amendment is approved by the Local Agency Formation Commission.
5. The City Clerk of the City of Visalia is authorized and directed to file a certified copy of this resolution with the Executive Officer of Tulare County LAFCO.