

ORDINANCE NO. 983 C.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA
AMENDING TITLE V "SANITATION AND HEALTH" OF THE MADERA
MUNICIPAL CODE BY ADDING NEW CHAPTER 3A RELATING TO ORGANIC
WASTE DISPOSAL REDUCTION, RECYCLING, AND SOLID WASTE
COLLECTION**

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

SECTION 1. Chapter 3A is added to Title V of the Madera Municipal Code to read as follows:

**CHAPTER 3A
ORGANIC WASTE DISPOSAL REDUCTION, RECYCLING, AND SOLID WASTE COLLECTION**

- 5.3A.01 - Title of Ordinance.**
- 5.3A.02 - Purpose and findings.**
- 5.3A.03 - Definitions.**
- 5.3A.04 - Requirements for single-family generators.**
- 5.3A.05 - Requirements for commercial businesses.**
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- 5.3A.07 - Requirements for commercial edible food generators.**
- 5.3A.08 - Requirements for food recovery organizations and services.**
- 5.3A.09 - Requirements for haulers and facility operators.**
- 5.3A.10 - Self-Hauler Requirements.**
- 5.3A.11 - Compliance with CALGreen Recycling Requirements.**
- 5.3A.12 - Model water efficient landscaping ordinance requirements (MWEL).**
- 5.3A.13 - Procurement requirements for city departments, direct service providers, and vendors.**
- 5.3A.14 - Inspections and investigations.**
- 5.3A.15 - Enforcement**
- 5.3A.16 - Coordination and Interpretation in Conjunction With Related Solid Waste Ordinances.**
- 5.3A.17 - Effective Date**

5.3A.01 Title of Ordinance.

This chapter shall be entitled "Organic Waste Disposal Reduction, Recycling and Solid Waste Collection." References herein to "ordinance" shall refer to this chapter.

5.3A.02 Purpose and Findings.

The City finds and declares:

- A. State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, *et seq.*,

as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their cities to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment.

- B. State recycling law, Assembly Bill 341 of 2011 (approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste to arrange for recycling services and requires cities to implement a Mandatory Commercial Recycling program.
- C. State organics recycling law, Assembly Bill 1826 of 2014 (approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time), requires businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste, Recycling, and Organic Waste per week to arrange for recycling services for that waste, requires cities to implement a recycling program to divert Organic Waste from businesses subject to the law, and requires cities to implement a Mandatory Commercial Organics Recycling program.
- D. SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The regulations place requirements on multiple entities including cities, residential households, Commercial Businesses and business owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of Statewide Organic Waste disposal reduction targets.
- E. SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires cities to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations. This ordinance will also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange to have the maximum amount of their Edible Food, that would otherwise be disposed, be recovered for human consumption.

5.3A.03 Definitions.

"Blue Container" has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials.

“CalRecycle” means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations.

“California Code of Regulations” or “CCR” means the State of California Code of Regulations. CCR references in this ordinance are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR).

“City” means the City of Madera, California, within its jurisdictional boundaries.

“City Enforcement Official” means the city manager or authorized Designee(s) who is/are partially or wholly responsible for enforcing this ordinance.

“Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6). A Multi-Family Residential Dwelling that consists of fewer than five (5) units is not a Commercial Business for purposes of implementing this ordinance.

“Commercial Edible Food Generator” includes a Tier One or a Tier Two Commercial Edible Food Generator as defined hereinbelow of this Section 5.3A.03 or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).

“Compliance Review” means a review of records by a City to determine compliance with this ordinance.

“Community Composting” means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 50 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8). Additionally, such activity may only be undertaken in accordance with the City’s Zoning Ordinance.

“Compost” has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this ordinance, that “Compost” means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility.

Contamination” or “Contaminated Container” means a container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).

“C&D” means construction and demolition debris.

“Designee” means an entity that a City contracts with or otherwise arranges to carry out any of the City’s responsibilities of this ordinance as authorized in 14 CCR Section 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.

“Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this ordinance or as otherwise defined in 14 CCR Section 18982(a)(18), “Edible Food” is not Solid Waste if it is recovered and not discarded. Nothing in this ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

“Enforcement Action” means an action of the City to address non-compliance with this ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

“Excluded Waste” means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the City and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including, without limitation: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in City’s or its Designee’s reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose City, or its Designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code. Excluded Waste does not include used motor oil and filters, household batteries, universal wastes, and/or latex paint when such materials are defined as allowable materials for collection through the City’s collection programs and the generator or customer has properly placed the materials for collection pursuant to instructions provided by the City or its Designee for collection services.

“Food Distributor” means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).

“Food Facility” has the same meaning as in Section 113789 of the Health and Safety Code.

“Food Recovery” means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

“Food Recovery Organization” means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:

1. A food bank as defined in Section 113783 of the Health and Safety Code;

2. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.
3. A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this ordinance.

“Food Recovery Service” means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

“Food Scraps” means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.

“Food Service Provider” means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

“Food-Soiled Paper” is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, and pizza boxes.

“Food Waste” means Food Scraps, and Food-Soiled Paper.

“Gray Container” has the same meaning as in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and collection of Gray Container Waste. Per the definition provided in 14 CCR Section 18982(a)(28), the Gray Container may be black, or the body and/or lid of the container may be black or gray.

“Gray Container Waste” means Solid Waste that is collected in a Gray Container that is part of a three-container Organic Waste collection service that prohibits the placement of Organic Waste in the Gray Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5).

“Green Container” has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.

“Grocery Store” means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including, without limitation, a

bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).

“Hauler Route” means the designated itinerary or sequence of stops for each segment of the City’s collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).

“Inspection” means a site visit where a City reviews records, containers, and an entity’s collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).

“Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this ordinance.

“Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this ordinance.

“Local Education Agency” means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).

“Multi-Family Residential Dwelling” or “Multi-Family” means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.

“Non-Compostable Paper” includes but is not limited to paper that is coated in a plastic material that will not breakdown in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).

“Non-Local Entity” means the following entities that are not subject to the City’s enforcement authority, or as otherwise defined in 14 CCR Section 18982(a)(42):

1. Special district(s) located within the boundaries of the City .
2. Federal facilities, including, without limitation, military installations, located within the boundaries of the City.
3. Prison(s) located within the boundaries of the City, excepting that private prisons are considered Commercial Businesses and do not fall within this definition.
4. Facilities operated by the State park system located within the boundaries of the City.
5. Public universities (including community colleges) located within the boundaries of the City.
6. County fairgrounds located within the boundaries of the City.
7. State agencies located within the boundaries of the City.

“Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable wastes including but not limited to bottles, cans, metals, plastics and glass, or as otherwise defined in 14 CCR Section 18982(a)(43).

“Notice of Violation (NOV)” means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.

“Organic Waste” means Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).

“Organic Waste Generator” or “Generator” means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).

“Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).

“Printing and Writing Papers” include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).

“Prohibited Container Contaminants” means the following: (i) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the City’s Blue Container; (ii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the City’s Green

Container; (iii) discarded materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in City's Green Container and/or Blue Container; and, (iv) Excluded Waste placed in any container.

"Recovered Organic Waste Products" means products made from California, landfill-diverted recovered Organic Waste processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR Section 18982(a)(60).

"Recovery" means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).

"Recycled-Content Paper" means Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).

"Regional Agency" means regional agency as defined in Public Resources Code Section 40181.

"Remote Monitoring" means the implementation and use of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of Blue Containers, Green Containers, and Gray Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.

"Renewable Gas" means gas derived from Organic Waste that has been diverted from a California landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recycle Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

"Restaurant" means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).

"Route Review" means a visual inspection of containers along a Hauler Route for the purpose of determining Container Contamination and may include mechanical inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).

"SB 1383" means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

"SB 1383 Regulations" or "SB 1383 Regulatory" means or refers to, for the purposes of this ordinance, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

"Self-Hauler" means a person, who hauls Solid Waste, Organic Waste or recyclable material he or she has generated to another person. Self-hauler also includes a person who back-hauls

waste, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by the Generator using the Generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

"Single-Family" means of, from, or pertaining to any residential premises with fewer than five (5) units.

"Solid Waste" has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:

1. Hazardous waste, as defined in the State Public Resources Code Section 40141.
2. Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).
3. Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

"Source Separated" means materials, including commingled recyclable materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of this ordinance, Source Separated shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that Source Separated materials are separated from Gray Container Waste or other Solid Waste/Mixed Waste for the purposes of collection and processing.

"Source Separated Green Container Organic Waste" means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate collection of Organic Waste by the Generator, excluding Source Separated Blue Container Organic Waste; Non-Compostable Paper; Paper Products; Printing and Writing Paper; and any other Organic Waste that an Organics Waste Facility may reject to maintain any organics-related composting

certifications including but not limited to organic carpets and textiles, contaminated wood or lumber, manure, digestate, biosolids, and sludges.

“Source Separated Recyclable Materials” means Source Separated Non-Organic Recyclables and Source Separated Blue Container Organic Waste.

“State” means the State of California.

“Supermarket” means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).

“Tier One Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:

1. Supermarket.
2. Grocery Store with a total facility size equal to or greater than 10,000 square feet.
3. Food Service Provider.
4. Food Distributor.
5. Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this ordinance.

“Tier Two Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:

1. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
2. Hotel with an on-site Food Facility and 200 or more rooms.
3. Health facility with an on-site Food Facility and 100 or more beds.
4. Large Venue.
5. Large Event.
6. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
7. A Local Education Agency facility with an on-site Food Facility.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this ordinance.

“Wholesale Food Vendor” means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).

5.3A.04 Requirements for single-family generators.

Organic Waste Generators shall subscribe to a three container collection service which includes a Blue Container, Green Container and Gray container, and shall comply with the following requirements:

- A. Shall subscribe to City’s Organic Waste collection services for all Organic Waste generated as described in Section 5.3A.04(B). City or its Designee shall have the right to review the number and size of a Generator’s containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; Single-Family Generators shall adjust its service level for its collection services as requested by the City or its Designee. Nothing in this Section prohibits an Organic Waste Generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
- B. Shall participate in the City’s Organic Waste collection service(s) by placing designated materials in designated containers as described below, and shall not place Prohibited Container Contaminants in collection containers.
 - 1. Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container.
- C. Any materials self-hauled must be hauled to facilities permitted to accept Source Separated Green Container Organic Waste (including Food Waste), Source Separated Recyclable Materials, and Gray Container Waste. Nothing in this subsection shall relieve Self-Haulers that generate waste from subscribing to a three container collection service.

5.3A.05 Requirements for commercial businesses.

Generators that are Commercial Businesses, including Multi-Family Residential Dwellings, shall:

- A. Subscribe to City’s three-container collection services and comply with requirements of those services as described below in Section 5.3A.05 (B). City or its Designee shall have the right to review the number and size of a generator’s

containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; Commercial Businesses shall adjust their service level for their collection services as requested by the City or its Designee.

- B. Participants in the City's Organic Waste collection service(s) shall place designated materials in designated containers as described below.
1. Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generator shall not place materials designated for the Gray Container into the Green Container or Blue Container.
 2. Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Sections 3(a) and 3(b) below) for employees, contractors, tenants, and customers, consistent with City's Blue Container, Green Container, and Gray Container collection service or if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 8.12.05.
 3. Excluding Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:
 - a. A body or lid that conforms with the container colors provided through the collection service provided by City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 - b. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and

primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required

4. Multi-Family Residential Dwellings are not required to comply with container placement requirements or labeling requirement in Section 3(b) pursuant to 14 CCR Section 18984.9(b).
5. To the extent practical through education, training, inspection, and/or other measures, excluding Multi-Family Residential Dwellings, prohibit employees from placing materials in a container not designated for those materials per the City's Blue Container, Green Container, and Gray Container collection service or, if a Self-Hauler, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 8.12.05.
6. Excluding Multi-Family Residential Dwellings, semi-annually inspect Blue Containers, Green Containers, and Gray Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
7. Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.
8. Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste (when applicable) and the location of containers and the rules governing their use at each property.
9. Provide or arrange access for City or its Designee to their properties during all Inspections conducted in accordance with 5.3A.14 of this ordinance to confirm compliance with the requirements of this ordinance.
10. Accommodate and cooperate with City's Remote Monitoring program for Inspection of the contents of containers for Prohibited Container Contaminants, which may be implemented by City at a later date, to evaluate generator's compliance with Section 5.3A.05(B). The Remote Monitoring program shall involve installation of Remote Monitoring equipment on or in the Blue Containers, Green Containers, and Gray Containers.
11. At Commercial Business's option and subject to any approval required from the City, implement a Remote Monitoring program for Inspection of the contents of its Blue Containers, Green Containers, and Gray Containers

for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify Prohibited Container Contaminants. Generators may install Remote Monitoring devices on or in the Blue Containers, Green Containers, and Gray Containers subject to written notification to or approval by the City.

12. If a Commercial Business wants to self-haul, meet the Self-Hauler requirements in Section 8.12.05 of the Madera Municipal Code.
13. Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
14. Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 5.3A.07.

5.3A.06 Waivers for generators.

- A. De Minimis Waivers - City may waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements of this ordinance if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in Section 5.3A.06(A)(2) below. Commercial Businesses requesting a de minimis waiver shall:
 1. Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Section 5.3A.06(A)(2) below.
 2. Provide documentation that either:
 - a. The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable container of the business' total waste; or,
 - b. The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable container of the business' total waste.
 3. Notify City if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.

4. Provide written verification of eligibility for de minimis waiver every 5 years if City has approved de minimis waiver.
- B. Physical Space Waivers – The City may waive a Commercial Business’ or property owner’s obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements if the City has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the Organic Waste collection requirements of Section 5.3A.05. A Commercial Business or property owner may request a physical space waiver through the following process:
1. Submit an Exemption Request form to the City’s Public Works Department specifying the type(s) of collection services for which they are requesting a compliance waiver.
 2. Provide documentation that the premises lack adequate space for Blue Containers and/or Green Containers including documentation from its hauler, licensed architect, or licensed engineer.
 3. Provide written verification to the Public Works Department that it is still eligible for physical space waiver every five years if City has approved application for a physical space waiver.

5.3A.07 Requirements for commercial edible food generators.

- A. Tier One Commercial Edible Food Generators must comply with the requirements of this Section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- B. Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.
- C. Commercial Edible Food Generators shall comply with the following requirements:
1. Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
 2. Contract with or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or, (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.

3. Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
 4. Allow City's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.
 5. Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - a. A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - b. A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
 - c. A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - i. The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - ii. The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - iii. The established frequency that food will be collected or self-hauled.
 - iv. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
 6. Commencing no later than July 1, 2022 for Tier One Commercial Edible Food Generators and July 1, 2024 for Tier Two Commercial Edible Food Generators provide an annual Food Recovery report, every July 1st, to the City that includes the records listed in Section 5.3A.070(C)(5)(c).
- D. Nothing in this ordinance shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

5.3A.08 Requirements for food recovery organizations and services.

- A. Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):
 - 1. The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
 - 2. The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
 - 3. The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
 - 4. The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
- B. Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
 - 1. The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
 - 2. The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
 - 3. The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- C. Food Recovery Organizations and Food Recovery Services shall inform generators about California and Federal Good Samaritan Food Donation Act protection in written communications, such as in their contract or agreement established under 14 CCR Section 18991.3(b).
- D. Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the City it is located in the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than July 1st of each year.

- E. In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the County, City, special district that provides solid waste collection services, or its designated entity, Food Recovery Services and Food Recovery Organizations operating in the City shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City shall respond to such request for information within 60 days unless a shorter timeframe is otherwise specified by the City.

5.3A.09 Requirements for haulers and facility operators.

- A. Exclusive franchised hauler(s) providing residential, Commercial, or industrial Organic Waste collection services to Generators within the City's boundaries shall meet the following requirements as a condition of approval of a contract, agreement, or similar contractual authorization with the City to collect Organic Waste:
 - 1. Through written notice to the City annually on or before July 1, 2022, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials and Source Separated Green Container Organic Waste.
 - 2. Transport Source Separated Recyclable Materials and Source Separated Green Container Organic Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2. Notwithstanding the foregoing, hauler shall not be required to transport any containers with Prohibited Container Contaminants to a facility, operation, activity, or property that recovers Organic Waste.
 - 3. Obtain approval from the City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1, and Section 8.12.05 of this Code.
 - 4. Exclusive franchised hauler(s) authorization to collect Organic Waste shall comply with any education, equipment, signage, container labeling, container color, contamination, monitoring, and reporting requirements relating to the collection of Organic Waste contained within its franchise agreement.
- B. Requirements for Community Composting Operations
 - 1. Community Composting operators, upon City request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste

anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days.

5.3A.10 Self-Hauler Requirements.

- A. Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that the City otherwise requires generators to separate for collection in the City's organics and recycling collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.
- B. Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.
- C. Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the City. The records shall include the following information:
 - 1. Delivery receipts and weight tickets from the entity accepting the waste.
 - 2. The amount of material in cubic yards or tons transported by the Generator to each entity.
 - 3. If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.
- D. A residential Organic Waste Generator that self-hauls Organic Waste is not required to record or report information in Section 5.3A.10(C).
- E. Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in Section 5.3A.10(C) to the City if requested and within ten (10) days of such request.
- F. Nothing in this section shall relieve Self-Haulers from the requirement to subscribe and receive regular three-container services.

5.3A.11 Compliance with CALGreen Recycling Requirements.

- A. Persons applying for a permit from the City for new construction and building additions and alternations shall comply with the requirements of this Section and all required components of the California Green Building Standards Code, 24 CCR, Part 11, known as CALGreen, as amended, if its project is covered by the scope of CALGreen or more stringent requirements of the City. If the requirements of CALGreen are more stringent then the requirements of this Section, the CALGreen requirements shall apply.

Project applicants shall refer to City's building and/or planning code for complete *CALGreen requirements*.

- B. For projects covered by CALGreen or more stringent requirements of the City, the applicants must, as a condition of the City's permit approval, comply with the following:
1. Where five (5) or more Multi-Family dwelling units are constructed on a building site, provide readily accessible areas that serve occupants of all buildings on the site and are identified for the storage and collection of Blue Container and Green Container materials, consistent with the three container collection program offered by the City, or comply with provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.
 2. New Commercial construction or additions resulting in more than 30% of the floor area shall provide readily accessible areas identified for the storage and collection of Blue Container and Green Container materials, consistent with the three-container collection program offered by the City, or shall comply with provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.
 3. Comply with CALGreen requirements and applicable law related to management of C&D, including diversion of Organic Waste in C&D from disposal. Comply with all written and published City policies and/or administrative guidelines regarding the collection, recycling, diversion, tracking, and/or reporting of C&D.

5.3A.12 Model water efficient landscaping ordinance requirements (MWELO).

- A. Property owners or their building or landscape designers, including anyone requiring a building or planning permit, plan check, or landscape design review from the City, who are constructing a new (Single-Family, Multi-Family, public, institutional, or Commercial) project with a landscape area greater than 500 square feet, or rehabilitating an existing landscape with a total landscape area greater than 2,500 square feet, shall comply with Sections 492.6(a)(3)(B), (C), (D), and (G) of the MWELO, including sections related to use of Compost and mulch as delineated in this Section.
- B. The compost and mulch use requirements that are part of the MWELO are now also included as requirements of this chapter. Other requirements of the MWELO are in effect and can be found in 23 CCR, Division 2, Chapter 2.7.
- C. Property owners or their building or landscape designers that meet the threshold for MWELO compliance outlined in Section 5.3A.12(A) above shall:
 - 1. Comply with Sections 492.6 (a)(3)(B), (C), (D) and (G) of the MWELO, which requires the submittal of a landscape design plan with a soil preparation, mulch, and amendments section to include the following:
 - a. For landscape installations, Compost at a rate of a minimum of four cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of six (6) inches into the soil. Soils with greater than six percent (6%) organic matter in the top six (6) inches of soil are exempt from adding Compost and tilling.
 - b. For landscape installations, a minimum three- (3-) inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife up to five percent (5%) of the landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such.
 - c. Organic mulch materials made from recycled or post-consumer materials shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local fuel modification plan guidelines or other applicable local ordinances.
 - 2. The MWELO compliance items listed in this Section are not an inclusive list of MWELO requirements; therefore, property owners or their building or landscape designers that meet the threshold for MWELO compliance

outlined in Section 5.3A.12(A) shall consult the full MWELO for all requirements.

- D. If, after the adoption of this ordinance, the California Department of Water Resources, or its successor agency, amends 23 CCR, Division 2, Chapter 2.7, Sections 492.6(a)(3)(B), (C), (D), and (G) of the MWELO September 15, 2015 requirements in a manner that requires jurisdictions to incorporate the requirements of an updated MWELO in a local ordinance, and the amended requirements include provisions more stringent than those required in this Section, the revised requirements of 23 CCR, Division 2, Chapter 2.7 shall also apply and be enforced.

5.3A.13 Procurement requirements for city departments, direct service providers, and vendors.

- A. City departments, and direct service providers to the City, as applicable, must comply with the City's Recovered Organic Waste Product procurement policy and Recycled-Content Paper procurement policy.
- B. All vendors providing Paper Products and Printing and Writing Paper to the City shall:
 - 1. If fitness and quality are equal, provide Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber instead of non-recycled products whenever recycled Paper Products and Printing and Writing Paper are available at the same or lesser total cost than non-recycled items.
 - 2. Provide Paper Products and Printing and Writing Paper that meet Federal Trade Commission recyclability standard as defined in 16 Code of Federal Regulations (CFR) Section 260.12.
 - 3. Certify in writing, under penalty of perjury, the minimum percentage of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to the City. This certification requirement may be waived if the percentage of postconsumer material in the Paper Products, Printing and Writing Paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.
 - 4. Certify in writing, on invoices or receipts provided, that the Paper Products and Printing and Writing Paper offered or sold to the City is eligible to be labeled with an unqualified recyclable label as defined in 16 Code of Federal Regulations (CFR) Section 260.12 (2013).
 - 5. Provide records to the City in accordance with the City's Recycled-Content Paper procurement policy(ies) of all Paper Products and Printing and Writing Paper purchases within thirty (30) days of the purchase (both

recycled-content and non-recycled content, if any is purchased) made by any division or department or employee of the City. Records shall include a copy (electronic or paper) of the invoice or other documentation of purchase, written certifications as required in Sections 5.3A.13(B)(3) and (B)(4) of this ordinance for recycled-content purchases, purchaser name, quantity purchased, date purchased, and recycled content (including products that contain none), and if non-recycled content Paper Products or Printing and Writing Papers are provided, include a description of why Recycled-Content Paper Products or Printing and Writing Papers were not provided.

5.3A.14 Inspections and investigations.

- A. City representatives and/or its designated entity, including Designees are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this ordinance by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow City to enter the interior of a private residential property for Inspection. For the purposes of inspecting Commercial Business containers for compliance with Section 5.3A.05(B) of this ordinance, City may conduct container Inspections for Prohibited Container Contaminants using Remote Monitoring, and Commercial Businesses shall accommodate and cooperate with the Remote Monitoring pursuant to Section 5.3A.05(B)(10) of this ordinance.
- B. Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the City's employee or its Designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement of this ordinance described herein. Failure to provide or arrange for: (i) access to an entity's premises; (ii) installation and operation of Remote Monitoring equipment; or (iii) access to records for any Inspection or investigation is a violation of this ordinance and may result in penalties described.
- C. Any records obtained by a City during its Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

- D. City representatives, its designated entity, and/or Designee are authorized to conduct any Inspections, Remote Monitoring, or other investigations of Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations as reasonably necessary to further the goals of this ordinance, subject to applicable laws.
- E. City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

5.3A.15 Enforcement. [to review/revise]

- A. Violation of any provision of this ordinance shall constitute grounds for issuance of a Notice of Violation and/or assessment of a fine by a City Enforcement Official or representative. Enforcement Actions under this ordinance include, but are not limited to, issuance of an administrative citation and assessment of a fine except that the administrative fine amounts in this chapter shall prevail. In addition to the procedures in this section, the City may enforce this chapter consistent with the procedures in Chapters 1.18, 1.20, and 1.32 of this Code.
- B. Other remedies allowed by law may be used for enforcement, including, but not limited to, civil action or prosecution as misdemeanor or infraction. City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. City may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of City staff and resources.
- C. Responsible Entity for Enforcement
 - 1. Enforcement pursuant to this ordinance may be undertaken by the City Enforcement Official, which may be the city manager or their designated entity, legal counsel, or combination thereof.
 - a. The City Enforcement Official(s) or designee will interpret ordinance; determine the applicability of waivers, if violation(s) have occurred; implement Enforcement Actions; and, determine if compliance standards are met.
 - b. The City Enforcement Official(s) or designee may issue Notices of Violation(s).
- D. Process for Enforcement
 - 1. City Enforcement Official(s) or designee, will monitor compliance with this ordinance randomly and through Compliance Reviews, Route Reviews,

investigation of complaints, and an Inspection program that may include Remote Monitoring. Section 5.3A.14 establishes City's right to conduct Inspections and investigations.

2. City may issue an official notification to notify regulated entities of its obligations under this ordinance.

E. **Penalty Amounts for Types of Violations.** The penalty levels for City-issued Notices of Violation are as follows:

1. **Commercial Business:**

- a. For a first violation, the amount of the base penalty shall be \$100 per violation.
- b. For a second violation, the amount of the base penalty shall be \$200 per violation.
- c. For a third or subsequent violation, the amount of the base penalty shall be \$500 per violation.

2. **Single-Family**

- a. For a first violation, the amount of the base penalty shall be \$50 per violation.
- b. For a second violation, the amount of the base penalty shall be \$100 per violation.
- c. For a third or subsequent violation, the amount of the base penalty shall be \$250 per violation.

F. **Compliance Deadline Extension Considerations.** The City may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with this Section 5.3A.15 if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

1. Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
2. Delays in obtaining discretionary permits or other government agency approvals; or,
3. Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the City is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

- G. Appeals Process. Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation pursuant to the appeals procedures in Chapter 1.28 of this Code.
- H. Education Period for Non-Compliance. Beginning January 1, 2022 and through December 31, 2023, City will conduct Inspections, Remote Monitoring, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance with this ordinance, and if City determines that Organic Waste Generator, hauler, Self-Hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this ordinance and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.
- I. Civil Penalties for Non-Compliance. Beginning January 1, 2024, if the City determines that an Organic Waste Generator, hauler, Self-Hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this ordinance, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to this Section 5.3A.15, as needed. The foregoing shall not apply to violations arising from incidences where a hauler discovers Prohibited Container Contaminants found in containers.
- J. Enforcement Table – Non-Exclusive List of Violations Insert City-specific code section references throughout list.

Table 1. List of Violations

REQUIREMENT	DESCRIPTION OF VIOLATION
Commercial Business and Commercial Business Owner Responsibility Requirement Sections 5.3A.05	Commercial Business fails to provide or arrange for Organic Waste collection services consistent with City requirements and as outlined in this ordinance, for employees, contractors, tenants, and customers, including supplying and allowing access to adequate numbers, size, and location of containers and sufficient signage and container color.
Organic Waste Generator Requirement Sections 5.3A.04 and 5.3A.05	Organic Waste Generator fails to comply with requirements adopted pursuant to this ordinance for the collection and Recovery of Organic Waste.
Hauler Requirement Section 5.3A.09	A hauler providing Residential, Commercial or industrial Organic Waste collection service fails to transport Organic Waste to a facility, operation,

REQUIREMENT	DESCRIPTION OF VIOLATION
	activity, or property that recovers Organic Waste, as prescribed by this ordinance.
Hauler Requirement Section 5.3A.09	A hauler providing residential, Commercial, or industrial Organic Waste collection service fails to obtain applicable approval issued by the City to haul Organic Waste as prescribed by this ordinance.
Hauler Requirement Section 5.3A.09	A hauler fails to keep a record of the applicable documentation of its approval by the City, as prescribed by this ordinance.
Self-Hauler Requirement Section 5.3A.10	A generator who is a Self-Hauler fails to comply with the requirements of 14 CCR Section 18988.3(b).
Commercial Edible Food Generator Requirement Section 5.3A.07	Tier One Commercial Edible Food Generator fails to arrange to recover the maximum amount of its Edible Food that would otherwise be disposed by establishing a contract or written agreement with a Food Recovery Organization or Food Recovery Service and comply with this Section commencing Jan. 1, 2022.
Commercial Edible Food Generator Requirement Section 5.3A.07	Tier Two Commercial Edible Food Generator fails to arrange to recover the maximum amount of its Edible Food that would otherwise be disposed by establishing a contract or written agreement with a Food Recovery Organization or Food Recovery Service and comply with this Section commencing Jan. 1, 2024.
Commercial Edible Food Generator Requirement Section 5.3A.07	Tier One or Tier Two Commercial Edible Food Generator intentionally spoils Edible Food that is capable of being recovered by a Food Recovery Organization or Food Recovery Service.
Organic Waste Generator, Commercial Business Owner, Commercial Edible Food Generator, Food Recovery Organization or Food Recovery Service Sections 5.3A.05 and 5.3A.07	Failure to provide or arrange for access to an entity's premises for any inspection or investigation.
Recordkeeping Requirements for Commercial Edible Food Generator Section 5.3A.07	Tier One or Tier Two Commercial Edible Food Generator fails to keep records, as prescribed by Section 5.3A.07.

REQUIREMENT	DESCRIPTION OF VIOLATION
Recordkeeping Requirements for Food Recovery Services and Food Recovery Organizations Section 5.3A.08	A Food Recovery Organization or Food Recovery Service that has established a contract or written agreement to collect or receive Edible Food directly from a Commercial Edible Food Generator pursuant to 14 CCR Section 18991.3(b) fails to keep records, as prescribed by Section 5.3A.08.

5.3A.16 Coordination and Interpretation in Conjunction with Related Solid Waste Ordinances.

In interpreting this ordinance in conjunction with the City's general solid waste regulations (Municipal Code Chapter 8.12 entitled "Collection, Recycling and Disposal of Solid Waste" and in the event of any conflict between this Chapter 5.3A. and Chapter 8.12 that cannot be reasonably harmonized through the application of lawful principles of statutory construction, the provisions of this Chapter shall control with respect to all issues specific to the regulation of organic and food waste collection, disposal, enforcement, and penalties.

SECTION 2. Effective Date. This ordinance shall become effective thirty days after its adoption.

SECTION 3. Publication. Upon passage, this ordinance or a summary of the same shall be published within fifteen (15) days of passage, pursuant to the laws of the State of California, in the Madera news, a newspaper of general circulation published and circulated in said City of Madera. If a summary of the ordinance is published, the City Clerk shall cause a certified copy of the full text of the proposed ordinance to be posted at City Hall at least five days prior to the meeting at which the ordinance is adopted and again after the meeting at which it is adopted.

The foregoing Ordinance No. 983 C.S. was introduced and given its first reading at a regular meeting of the City Council of the City of Madera held on the 15th day of December 2021 and adopted after a second reading at a regular meeting of the City Council held on 2nd day of February 2022 by the following vote:

AYES: Mayor Garcia, Councilmembers Gallegos, Rodriguez, Montes, Evans, Mejia, and Villegas.

NOES: None.

ABSTENTIONS: None.

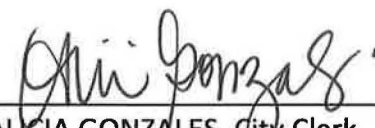
ABSENT: None.

APPROVED:



SANTOS GARCIA, Mayor

ATTEST:



ALICIA GONZALES, City Clerk



ORDINANCE NO. 984 C.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA AMENDING
SECTION 1-6.18 OF TITLE I CHAPTER 6 OF THE MADERA MUNICIPAL CODE
RELATING TO CITY MANAGER AUTHORITY ON CLAIMS AGAINST CITY**

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

SECTION 1. Section 1-6.18 of the Madera Municipal Code is amended to read as follows:

§ 1-6.18 City Manager Authority on Claims.

Pursuant to Government Code Section 935.4, the City Council delegates authority to the City Manager to review all claims for sufficiency and to reject any and all claims. The City Council delegates to the City Manager authority to allow, compromise, or settle claims, including workers' compensation claims, for an amount up to thirty-five thousand dollars (\$35,000) subject to consultation with the City Attorney. The City Council shall have sole authority to allow, compromise, or settle claims for an amount in excess of thirty-five thousand dollars (\$35,000).

Any reference to "City Council" in this Chapter shall apply to claims authority of City Manager under this section.

SECTION 2. CEQA. The City Council finds this ordinance is not a project under the California Environmental Quality Act because it can be seen with certainty that it will not have a significant effect or physical change to the environment. See Title 14, California Code of Regulations, Section 15061 (b) (3).

SECTION 3. PUBLICATION. This ordinance shall be published in accordance with the provisions of Government Code Section 36933.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect thirty (30) days after its passage.

The foregoing Ordinance No. 984 C.S. was introduced and given its first reading at a regular meeting of the City Council of the City of Madera held on the 2nd day of February 2022 and adopted after a second reading at a regular meeting of the City Council held on 16th day of February 2022 by the following vote:

AYES: Mayor Garcia, Councilmembers Gallegos, Rodriguez, Montes, Evans, Mejia, and Villegas.

NOES: None.

ABSTENTIONS: None.

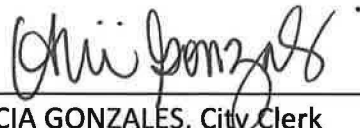
ABSENT: None.

APPROVED:



SANTOS GARCIA, Mayor

ATTEST:



ALICIA GONZALES, City Clerk



ORDINANCE NO. 985 C.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA AMENDING THE
OFFICIAL CITY OF MADERA ZONING MAP TO REZONE THE APPROXIMATELY 0.2
NORTHERN ACRES OF PROPERTY LOCATED AT THE NORTHEAST CORNER OF THE
INTERSECTION OF SUNSET AND ORCHARD AVENUES (APN: 006-182-007) FROM
THE R1 TO THE R3 ZONE DISTRICT.**

THE CITY COUNCIL OF THE CITY OF MADERA ORDAINS AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Madera and this City Council (Council) have held duly noticed public hearings for the rezoning of the approximately 0.2 northern acres of property located at the northeast corner of Sunset and Orchard Avenues (APN: 006-182-007) from the R1 to the R3 Zone District.

SECTION 2. Based on the testimony and information presented at its public hearing, the Council has determined that the proposed rezoning is consistent with the General Plan, as amended, and subsequent development will be in conformance with all standards and regulations of the Municipal Code. The Council has further determined that the adoption of the proposed rezoning is in the best interest of the City of Madera. Such determination is based on the following findings:

FINDINGS:

1. THE PROPOSED REZONE WILL PROVIDE THE REQUIRED CONSISTENCY BETWEEN THE GENERAL PLAN AND ZONING.
2. THE REZONE IS NOT EXPECTED TO BE DETRIMENTAL TO THE HEALTH, SAFETY, PEACE, COMFORT OR GENERAL WELFARE OF THE NEIGHBORHOOD OR THE CITY.
3. CITY SERVICES AND UTILITIES ARE AVAILABLE OR CAN BE EXTENDED TO SERVE THE AREA.

SECTION 3. The Council hereby approves the rezoning of the above-described property by rezoning it from the R1 Zone District in the manner required by Chapter 3 of Title X of the Madera Municipal Code. The Council hereby amends the City of Madera Zoning Map. The amendment is illustrated in the hereto attached Exhibit "A" and "B" which indicates the segment of the City of Madera Zoning Map to be amended.

SECTION 4. Unless the adoption of this amendment to the Zoning Map is lawfully stayed, thirty-one (31) days after adoption of this amendment, the Planning Manager and City Clerk shall cause these revisions to be made to the City of Madera Zoning Map which shall also indicate the date of adoption of this revision and be signed by the Planning Manager and City Clerk.

SECTION 5. This Ordinance shall be effective and of full force and effect at 12:01 a.m. on the thirty-first day after its passage.

* * * * *

EXHIBIT A – Current Zoning

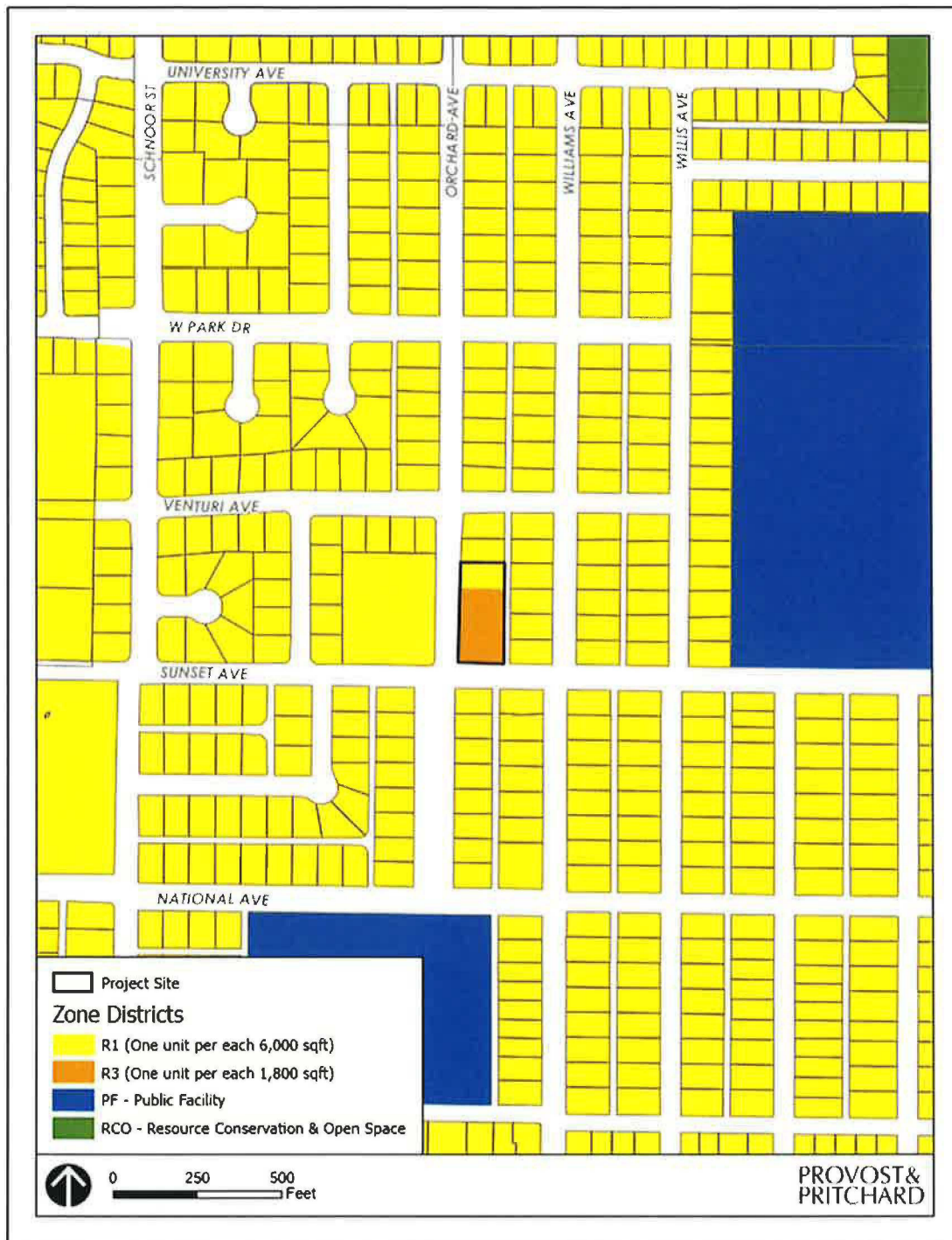
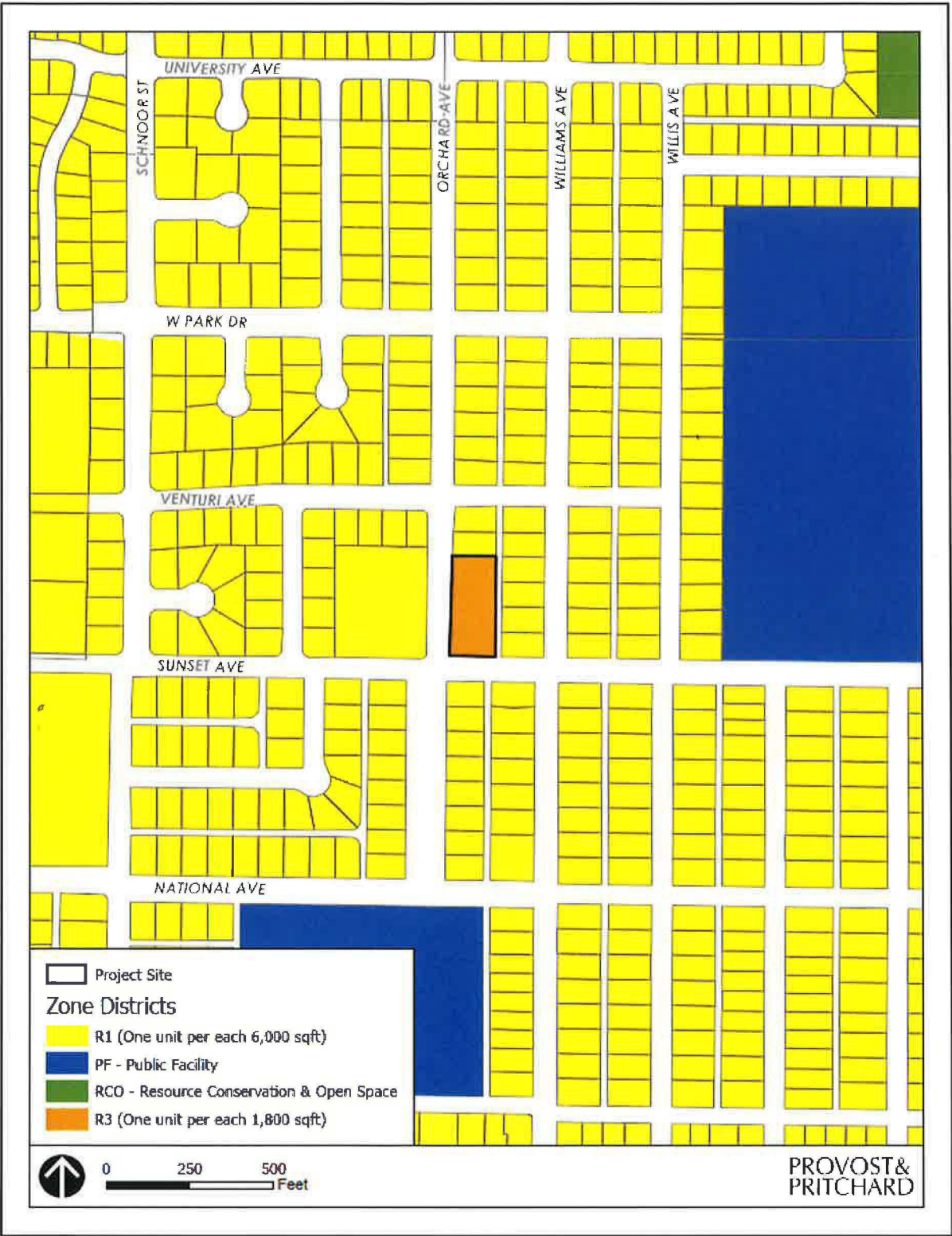


EXHIBIT B – Proposed Zoning



The foregoing Ordinance No. 985 C.S. was introduced and given its first reading at a regular meeting of the City Council of the City of Madera held on the 16th day of February 2022 and adopted after a second reading at a regular meeting of the City Council held on 2nd day of March 2022 by the following vote:

AYES: Mayor Garcia, Councilmembers Gallegos, Rodriguez, Montes, Evans, Mejia, and Villegas.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

APPROVED:


SANTOS GARCIA, Mayor

ATTEST:


ALICIA GONZALES, City Clerk



ORDINANCE NO. 986 C.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA,
CALIFORNIA AMENDING SECTION § 2-3.101 OF TITLE II, CHAPTER 3 OF
THE MADERA MUNICIPAL CODE RELATING TO APPOINTMENTS AND
TERMS TO CITY BOARDS, COMMITTEES, AND COMMISSIONS**

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

SECTION 1. Section 2-3.101 of the Madera Municipal Code is amended to read as follows:

§2-3.101

Unless otherwise specifically provided by statute or a joint powers agreement, the members of all city boards, committees, and commissions shall be appointed and serve as provided herein notwithstanding any other provision of this code, City resolution, or City minute order.

(A) Appointment.

(1) The Mayor is authorized to make appointments to City boards, committees, and commissions subject to approval by the City Council.

(2) For new boards, committees, and commissions comprised of seven members, the Mayor will seek nominations for appointments from each Council Member and the Mayor may make a direct appointment for the at-large seat for consideration by the Council.

(3) For existing boards, committees, and commissions comprised of seven members and as vacancies occur, the Mayor will seek a nomination to fill the vacancy from the Council Member for the Council District who originally nominated the person. The Mayor may also make one direct appointment for the seventh seat for consideration by the City Council.

(4) For boards, committees, and commissions comprised of less or more than seven members and as vacancies occur, a numerical rotation system based on district numbers will be utilized and the Mayor will seek a nomination to fill such vacancy from a Council Member who has not yet made or waived their opportunity to nominate a person to serve on the particular board, committee, or commission. In other words, if the last nomination was from the Council Member for District 3, the Mayor will seek a nomination from the Council Member for District 4.

(5) The Mayor is not required to appoint persons nominated by Council Members.

(6) The Mayor will submit appointees to the City Council for consideration.

(7) The City Council is authorized to approve or reject any appointment made by the Mayor.

(8) Council approval of any appointment shall be made by resolution adopted by four votes of the City Council. The appointment shall be for the remainder of an unexpired term or for a new term.

(9) Upon the City Council's determination not to approve a Mayor's appointee, the Mayor shall proceed to seek another nominee, make another appointment, and submit the appointee to the City Council for consideration and approval as set forth in this section.

(B) Term.

Each board, committee, or commission member appointed as set forth in Section (A) above shall serve a term of four years unless a different term is otherwise provided by law, or until the Council member who nominated such board, committee or commission member is no longer serving as a Council member, whichever period is less. Each appointed member shall serve until his or her successor is appointed and qualified.

SECTION 2. SEVERANCE. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 3. CEQA. The City Council finds this ordinance is not a project under the California Environmental Quality Act because it can be seen with certainty that it will not have a significant effect or physical change to the environment. See Title 14, California Code of Regulations, Section 15061 (b) (3).

SECTION 4. PUBLICATION. This ordinance shall be published in accordance with the provisions of Government Code Section 36933.

The foregoing Ordinance No. 986 C.S. was introduced and given its first reading at a regular meeting of the City Council of the City of Madera held on the 16th day of February 2022 and adopted after a second reading at a regular meeting of the City Council held on 2nd day of March 2022 by the following vote:

AYES: Mayor Garcia, Councilmembers Gallegos, Rodriguez, Montes, Evans, Mejia, and Villegas.

NOES: None.

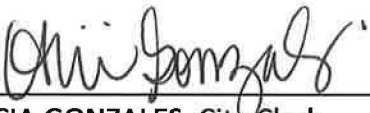
ABSTENTIONS: None.

ABSENT: None.

APPROVED:


SANTOS GARCIA, Mayor

ATTEST:


ALICIA GONZALES, City Clerk



ORDINANCE 987 C.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA
AMENDING SECTION 3-5.08 OF CHAPTER 5 OF TITLE III OF THE MADERA
MUNICIPAL CODE RELATING TO INCREASING STATE SPEED LIMIT IN
CERTAIN ZONES**

WHEREAS, California Vehicle Code Section 22352 establishes prima facie speed limits for streets; and

WHEREAS, California Vehicle Code Section 22357 provides that whenever a local authority determines upon the basis of an engineering and traffic survey that a speed greater than 25 miles per hour would facilitate the orderly movement of vehicular traffic and would be reasonable and safe upon any street other than a state highway otherwise subject to prima facie limit of 25 miles per hour, the local authority may by ordinance determine and declare a speed limit of 30, 35, 40, 45, 50, 55, or 60 miles per hour or a maximum speed limit of 65 miles per hour, whichever is found most appropriate to facilitate the orderly movement of traffic and is reasonable and safe; and

WHEREAS, according to California Vehicle Code (CVC) Section 40802, a "speed trap" is defined as a section of highway or street with a prima facie speed limit that is not justified by an engineering and traffic survey conducted within the time periods specified and the enforcement of the speed limit involves the use of radar or any other electronic device that measures the speed of moving objects; and

WHEREAS, the evidence of a speeding violation based on the maintenance or use of a speed trap is inadmissible in court per CVC Section 40803; and

WHEREAS, in order to establish speed limits and ensure a speed trap is not created, engineering and traffic surveys must be conducted in accordance with CVC Section 627 and the California Manual on Uniform Traffic Control Devices (MUTCD); and

WHEREAS, the City prepared an engineering and traffic survey (E&TS) for designated City streets from 2/12/2021 through 11/25/2021 and the proposed speed limit for each street as established by the 2019 E&TS is provided as Exhibit A; and

WHEREAS, CVC Section 40802(c) allows for engineering and traffic surveys to be valid for a period of seven years if the conditions specified in Section 40802(c), pertaining to officer training and equipment standards, are met; and

WHEREAS, the City has reviewed CVC Section 40802(c) and determined that the Madera Police Officers using radar/lidar equipment for determination of speed have been properly trained and the radar/lidar equipment used meets the required standards and is properly maintained and calibrated.

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

SECTION 1. Subsection (B) of Sec. 3-5.08 of Chapter 5 of Title 3 of the Madera Municipal Code is hereby amended to read as follows:

(B) *Section 16.* It is determined upon the basis of an engineering and traffic survey that the speed permitted by state law upon the following streets is less than is necessary for the safe operation of vehicles thereon by reason of the designation and sign-posting of such streets as through highways and/or by reason of widely-spaced intersections and it is declared that the prima facie limit shall be as set forth in this section on those streets, or parts of streets, designated in this section when signs are erected giving notice thereof:

Item No.	Location	Declared Prima Facie Speed Limit (MPH)
1	Adell Street from Country Club Dr. to "D" Street	40
2	Almond Ave. from Pine Street to Granada Drive	45
3	Almond Ave. from Golden State Hwy to Madera Ave.	40
4	Almond Ave. from Madera Ave. to Stadium Road	40
5	Cleveland Ave. from Gateway Drive to Tulare St.	40
6	Cleveland Ave. from Granada Drive to Schnoor Ave.	40
7	Cleveland Ave. from Granada Dr. to W. City Limits	45
8	Cleveland Ave. from Schnoor Ave. to Freeway 99	40
9	Cleveland Ave. from Tulare Street to Tozer Road	40
10	Clinton Ave. from Lilly St. to Tozer Road	35
11	Country Club Drive from Cleveland Ave. to Clark	40
12	D Street from Central Ave. to Yosemite Ave.	35
13	D Street from Cleveland Ave. to Adell Street	40
14	D Street from Ninth Street to Olive Avenue	35
15	Ellis Street from Lake Street to Chapin Ave.	40
16	Fourth Street from I Street to Pine Street	35
17	Fourth Street from D Street to Lake Street	35
18	Gateway Drive from Cleveland Ave. to Avenue 16	50
19	Gateway Drive from Fresno River to Cleveland Ave.	40
20	Gateway Drive from Ninth Ave. to Olive Ave.	35
21	Granada Drive from Cleveland Ave. to Fresno River	45
22	Granada Drive from Howard Road to Sunset Ave.	35
23	Granada Drive from Howard Road to Industrial Ave.	40
24	Granada Drive from Industrial Ave. to South City Limits	45
25	Granada Drive from Sunset Ave. to Riverview Drive	35
26	Howard Road from Autumn Road to Pine St.	35
27	I Street from 4 th Street to Olive Ave.	35
28	I Street from 4 th Street to Central Avenue	35
29	Industrial Ave. from Granada Dr. to Schnoor Ave.	40

30	Kennedy Street from Lake Street to Tulare Ave.	35
31	Kennedy Street from Tulare Street to City Limits	40
32	Knox Street from Olive Avenue to Tozer Street	40
33	Lake Street from Cleveland Ave. to Ellis Street	40
34	Lake Street from Clinton Ave. to Sunrise Ave.	35
35	Pecan Ave. from Raymond Thomas to Golden State Blvd.	40
36	Pecan Ave. from Madera Ave. to Pine Street	45
37	Pecan Ave. from Schnoor Ave. to Pine Street	45
38	Pine Street from Howard Road to Pecan Street	45
39	Pine Street from Howard Road to Sunset Avenue	30
40	Schnoor Ave. from Dutra Way to Cleveland Ave.	35
41	Schnoor Ave. from Kennedy Street to Cleveland Ave.	40
42	Sherwood Way from Country Club Drive to Sonora Street	40
43	Sherwood Way from Sonora Street to Lake Street	35
44	Storey Road from Yosemite Ave. to City Limits	45
45	Sunrise Ave. from B Street to Lilly Street	40
46	Sunset Ave. from Fourth Street to Granada Drive	35
47	Sunset Ave. from Granada Drive to City Limits	45
48	Tozer Street from Avenue 15 to A Street	45
49	Tozer Street from Yosemite Ave. to Avenue 15	40
50	Tozer Street from Olive Ave. to Knox Street	45
51	Vineyard Ave. from Clinton Ave. to Yosemite Ave.	30
52	Westberry Blvd from Howard Road to Sunset Avenue	45
53	Westberry Blvd from Sunset Avenue to Riverview Drive	40
54	Yosemite Ave. from Gateway Drive to Olive Ave.	35
55	Pecan Avenue from Road 28 to Road 29	45

SECTION 2. If any section, subsection, clause or phase of this Ordinance is for any reason held to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and any section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional or otherwise invalid.

SECTION 3. This Ordinance shall be effective and of full force and effect at 12:01 a.m. on the thirty-first day after its passage or when appropriate signs giving notice thereof are erected upon street and shall not thereafter be revised except upon the basis of an engineering and traffic survey, whichever occurs later.

SECTION 4. Publication. This ordinance shall be published in accordance with the provisions of Government Code Section 36933.

The foregoing Ordinance No. 987 C.S. was introduced and given its first reading at a regular meeting of the City Council of the City of Madera held on the 2nd day of March 2022 and adopted after a second reading at a regular meeting of the City Council held on 16th day of March 2022 by the following vote:


AYES: Mayor Garcia, Councilmembers Rodriguez, Montes, Evans, Mejia and Villegas.

NOES: None.

ABSTENTIONS: None.

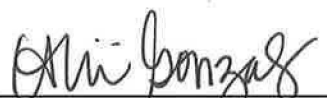
ABSENT: Councilmember Gallegos.

APPROVED:



SANTOS GARCIA, Mayor

ATTEST:



ALICIA GONZALES, City Clerk



ORDINANCE NO. 988 C.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA,
CALIFORNIA AMENDING SECTION 2-1.21 OF CHAPTER 1 OF TITLE
II OF THE MADERA MUNICIPAL CODE REGARDING BY-DISTRICT
ELECTIONS, ADJUSTING THE BOUNDARIES OF CITY COUNCIL
ELECTION DISTRICTS AND CONFIRMING SUCH REVISED COUNCIL
DISTRICT BOUNDARIES**

WHEREAS, the United States Census Bureau is required by Article I, Section 2, of the United States Constitution to conduct an accurate count of the population every ten years; and

WHEREAS, California Elections Code § 21601 requires that following each decennial federal census, and using that census as a basis, the Council shall, by ordinance or resolution, adjust the boundaries of any or all of the Council election districts of the City so that the districts shall be substantially equal in population as required by the United States Constitution, California Constitution, and the Federal Voting Rights Act. In establishing the boundaries of the districts the Council must give consideration to the following factors in the following priority: (a) contiguity of districts, (b) respecting communities of interest, (c) drawing easily identifiable districts through use of natural or artificial boundaries, and (d) compactness of territory in districts; and

WHEREAS, the City of Madera electors adopted Ordinance No. 866 C.S. providing that the City be divided into six Council districts and that Council Members for those districts be elected by district, and said ordinance is codified in Title II, Chapter 1 of the Madera Municipal Code; and

WHEREAS, California Elections Code § 21602 requires that the Council adopt an ordinance amending Council districts no later than April 17, 2022; and

WHEREAS, on September 27, 2021, the Census Bureau sent 2020 Census data to the State of California with an official population estimate of 66,627 residents for the City of Madera; and

WHEREAS, the City Council of the City of Madera ("City Council") held four public hearings on October 20, 2021, November 3, 2021, February 2, 2022, and March 2, 2022, where the Council received briefings from the City's demographic consultant relating to the redistricting process and state and federal redistricting criteria, including the California Elections Code, the Federal Voting Rights Act and the United States Constitution, heard public testimony, and directed staff and the City's demographic consultant to prepare draft Council district maps for consideration; and

WHEREAS, in addition, City staff conducted public outreach by way of print and digital advertisements and public workshops; and

WHEREAS, at the February 2, 2022 and March 2, 2022 public hearings, the Council

received a presentation of several draft maps prepared by the City's demographic consultant for compliance with applicable laws and standards and reviewed additional maps submitted by the public; and

WHEREAS, at the March 2, 2022 public hearing, the City Council agreed on Map 5, designating it as the preferred map and directed that it be presented to the Council for adoption by Ordinance; and

WHEREAS, at each of the public hearings on redistricting, the Council heard testimony relating to “communities of interest,” which led the Council to reach the following determinations about communities of interest on the preferred map, as required under federal and state law:

- (1) The election districts are geographically contiguous. The districts are arrayed in a simple and logical form without any islands and with minimal intrusions from the area of one district into another;
- (2) To the extent practicable, the preferred map respects the geographic integrity of local neighborhoods and local communities of interest. The Council heard testimony about what constitutes communities of interest in the public’s view.
- (3) The election districts are easily identifiable and understandable by residents. The districts in the preferred map form a relatively simple pattern.
- (4) To the extent practicable, the election districts are geographically compact. Their configurations for the most part are compact, simple shapes, with nearby populations included in the same districts.
- (5) The election districts are balanced in terms of total population and voting age population. The districts are well within the one-person/one-vote deviations permitted under federal and state voting rights laws.
- (6) The election districts conform to concentration of minority voters. The preferred map creates six majority/minority voting districts.

WHEREAS, all information in the staff reports, maps, presentations, Council debate and public testimony referenced above is hereby incorporated into this decision and serves as evidentiary basis for these findings and legislative decision.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MADERA DOES ORDAIN AS FOLLOWS:

SECTION 1. This Ordinance is adopted following four noticed City Council public hearings as required by California Elections Code section 21607.1 and in compliance with the federal law,

the California Fair Maps Act, and the Madera Municipal Code.

SECTION 2. Amendment. Section 2-1.21 (Establishment of Council districts) of Chapter 1 (City Council) of Title II (Administration) of the Madera Municipal Code is hereby amended to read as follows:

§ 2-1.21 ESTABLISHMENT OF COUNCIL DISTRICTS.

(A) The voter-approved districting plan adopted by Ordinance 890 C.S. and establishing six Council districts shall be adjusted by ordinance of the City Council to equalize population among the districts within one year after each census has been completed and the census data provided to the city. The adjusted boundaries and the number of each of the six electoral districts for City Council are set forth in subsection (C), including a map of the districts. Any districting plan shall be adopted by ordinance subject to referendum. The City Clerk is authorized to make non-substantive technical adjustments to the district boundaries not affecting the population of any district, the eligibility of candidates, or the residence of elected officials within any district.

(B) Effective for all by-district Council offices newly elected at the November 8, 2022, General Municipal Election and at each General Municipal Election thereafter, each Council district shall be assigned a district number, with districts numbered one through six as indicated in subsection (C). The Council members of the three even-numbered districts shall be elected by-district in November of 2024 and every four years thereafter for a term of four years. The Council members of the remaining three odd-numbered districts shall be elected by-district in November 2022 and every four years thereafter for a term of four years. Except as set forth in subsection (D) below, all persons appointed to fill vacancies on the City Council and all persons elected to fill vacancies on the City Council at a special municipal election shall reside within the district to which they are appointed or elected.

(C) District Boundaries. The Council member districts of the City shall have the following legal boundaries:

1. District 1.

The region bounded and described as follows: All of that portion of Madera County bounded and described as follows: Beginning at the point of intersection of the Madera city line and Ave 14, and proceeding northerly and westerly along the Madera city line to the Madera city line and Rd 23, and proceeding northerly and easterly along the Madera city line the Madera City line and Ave 17, and proceeding easterly and northerly along the Madera city line to the Madera city line and Schmidt Creek Wy, and proceeding easterly and southerly along the Madera city line to the Madera city line, and proceeding easterly along the Madera city line to the Madera city line and Arnold Wy and proceeding southerly along the Madera city line to the Madera city line and Sharon Blvd, and proceeding southerly along the Madera city line and Sharon Blvd to Ellis Street, and proceeding westerly along Ellis Street to Avenue 16, and proceeding southerly along N

Schnoor St to Foxglove Way, and proceeding westerly along Foxglove Way to N Granada Dr, and proceeding southerly along N Granada Dr to W Cleveland Ave, and proceeding easterly along W Cleveland Ave to N Schnoor St, and proceeding southerly along N Schnoor St to Sunset Ave, and proceeding easterly along Sunset Ave to N Pine St, and proceeding southerly along N Pine St to Howard Rd, and proceeding westerly along Howard Rd to Mainberry Dr, and proceeding northerly along Mainberry Dr to Sunset Ave, and proceeding westerly along Sunset Ave to Westberry Blvd, and proceeding southerly along Westberry Blvd to Westgate Dr, and proceeding westerly along Westgate Dr to Kent Dr, and proceeding southerly along Kent Dr to Winter Wy, and proceeding westerly along Winter Wy to Kent Dr, and proceeding southerly along Kent Dr to Ren Way, and proceeding easterly along Ren Way to Westberry Blvd, and proceeding southerly along Westberry Blvd to Ave 14, and proceeding westerly along Ave 14 to the Madera city line and northerly and westerly along the Madera city line to the point of beginning.

2. District 2.

The region bounded and described as follows: All of that portion of Madera County bounded and described as follows: 1. Beginning at the point of intersection of Kent Dr and Ren Way, and proceeding northerly along Kent Dr to Winter Wy,, and proceeding easterly along Winter Wy, to Kent Dr, and proceeding northerly along Kent Dr to Westgate Dr, and proceeding easterly along Westgate Dr to Westberry Blvd, and proceeding northerly along Westberry Blvd to Sunset Ave, and proceeding easterly along Sunset Ave to Mainberry Dr, and proceeding southerly along Mainberry Dr to Howard Rd, and proceeding easterly along Howard Rd to W Olive Ave, and proceeding easterly along W Olive Ave to Olive Ave, and proceeding easterly along Olive Ave to W Olive Ave, and proceeding easterly along W Olive Ave to unnamed Ramp, and proceeding easterly along unnamed Ramp to W Olive Ave, and proceeding easterly along W Olive Ave to S Madera Ave, and proceeding southerly along S Madera Ave to the Parkwood/Madera census designated place/city line, and proceeding southerly along the Parkwood/Madera census designated place/city line to the Madera city line, and proceeding westerly along the Madera city line to Ave 14, and proceeding easterly along Ave 14 to Howard Rd, and proceeding northerly along Howard Rd to Westberry Blvd, and proceeding northerly along Westberry Blvd to Ren Way, and proceeding westerly along Ren Way to the point of beginning. 2. As well as all of the region bounded by the Madera city line. 3. Except for all of the region bounded by the Madera city line.

3. District 3.

The region bounded and described as follows: All of that portion of Madera County bounded and described as follows: Beginning at the point of intersection of Foxglove Way and N Granada Dr, and proceeding easterly along Foxglove Way to N Schnoor St, and proceeding northerly along N Schnoor St to Ave 16, and proceeding westerly along Ave 16 to State Rte 99, and proceeding southerly along State Rte 99 to nonvisible boundary, and proceeding northerly along nonvisible boundary to unnamed Ramp, and proceeding southerly along unnamed Ramp to nonvisible boundary, and proceeding northerly along nonvisible boundary to the Madera city line, and proceeding easterly along the Madera

city line to Austin St, and proceeding southerly along Austin St to E Cleveland Ave, and proceeding easterly along E Cleveland Ave to N Lake St, and proceeding southerly along N Lake St to Fresno River, and proceeding westerly along Fresno River to N D St, and proceeding southerly along N D St to E 3rd St, and proceeding westerly along E 3rd St to W 3rd St, and proceeding westerly along W 3rd St to N H St, and proceeding northerly along N H St to Union Pacific RR, and proceeding westerly along Union Pacific RR to N I St, and proceeding northerly along N I St to Roberts Ave, and proceeding westerly along Roberts Ave to N Pine St, and proceeding southerly along N Pine St to N Park Dr, and proceeding easterly along N Park Dr to Foster Ave, and proceeding southerly along Foster Ave to Sunset Ave, and proceeding westerly along Sunset Ave to N Schnoor St, and proceeding northerly along N Schnoor St to W Cleveland Ave, and proceeding westerly along W Cleveland Ave to N Granada Dr, and proceeding northerly along N Granada Dr to the point of beginning.

4. District 4.

The region bounded and described as follows: All of that portion of Madera County bounded and described as follows: Beginning at the point of intersection of Austin St and E Cleveland Ave, and proceeding northerly along Austin St to the Madera city line, and proceeding easterly/southerly along the Madera city line to Raymond Rd, and proceeding southerly along Raymond Rd to Tozer St, and proceeding easterly along Tozer St to Fresno River, and proceeding westerly along Fresno River to N Lake St, and proceeding northerly along N Lake St to E Cleveland Ave, and proceeding westerly along E Cleveland Ave to the point of beginning.

5. District 5.

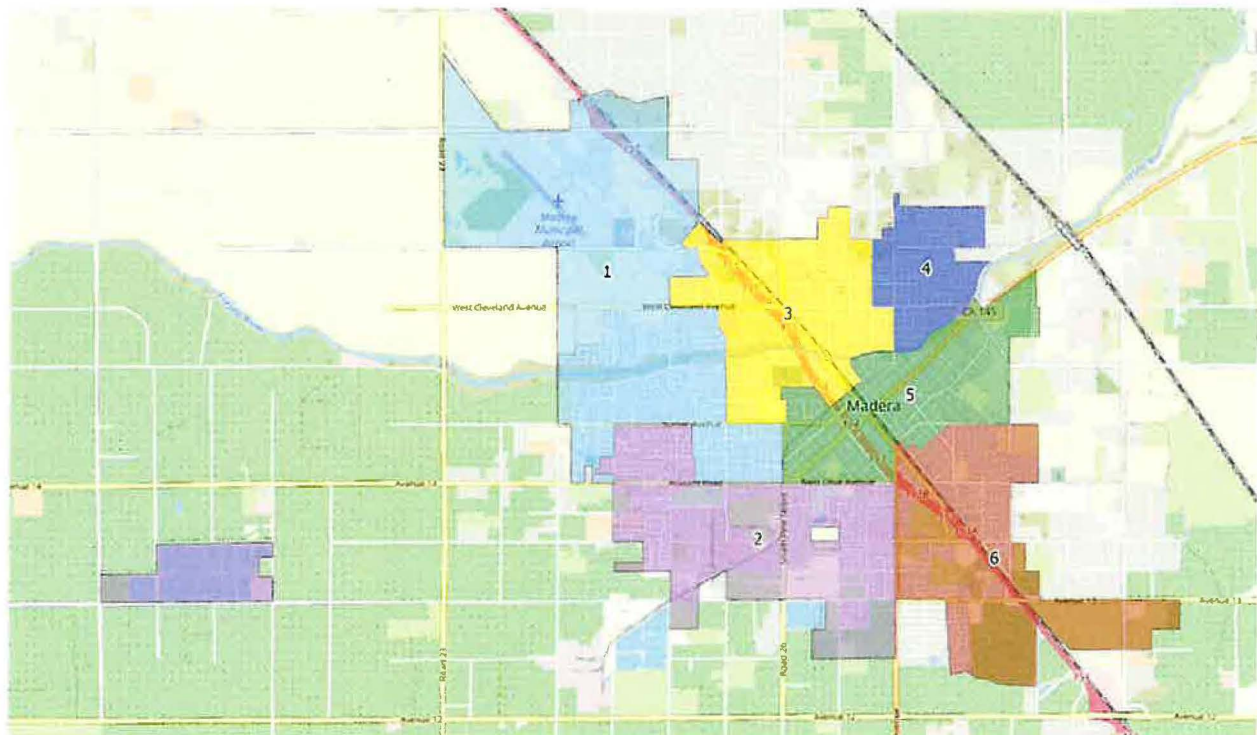
The region bounded and described as follows: All of that portion of Madera County bounded and described as follows: Beginning at the point of intersection of Roberts Ave and N Pine St, and proceeding easterly along Roberts Ave to N I St, and proceeding southerly along N I St to Union Pacific RR, and proceeding easterly along Union Pacific RR to N H St, and proceeding southerly along N H St to W 3rd St, and proceeding easterly along W 3rd St to E 3rd St, and proceeding easterly along E 3rd St to N D St, and proceeding northerly along N D St to Fresno River, and proceeding easterly along Fresno River to Tozer St, and proceeding westerly along Tozer St to Raymond Rd, and proceeding northerly along Raymond Rd to the Madera city line, and proceeding easterly/southerly along the Madera city line to Sunrise Ave, and proceeding westerly along Sunrise Ave to E 11th St, and proceeding westerly along E 11th St to S D St, and proceeding northerly along S D St to E 10th St, and proceeding westerly along E 10th St to S E St, and proceeding northerly along S E St to E 9th St, and proceeding westerly along E 9th St to S Gateway Dr, and proceeding southerly along S Gateway Dr to S Madera Ave, and proceeding southerly along S Madera Ave to W Olive Ave, and proceeding westerly along W Olive Ave to unnamed Ramp, and proceeding westerly along unnamed Ramp to W Olive Ave, and proceeding westerly along W Olive Ave to Olive Ave, and proceeding westerly along Olive Ave to W Olive Ave, and proceeding westerly along W Olive Ave to N Pine St, and proceeding northerly along N Pine St to Sunset Ave, and proceeding easterly along Sunset

Ave to Foster Ave, and proceeding northerly along Foster Ave to N Park Dr, and proceeding westerly along N Park Dr to N Pine St, and proceeding northerly along N Pine St to the point of beginning.

6. District 6.

The region bounded and described as follows: All of that portion of Madera County bounded and described as follows: Beginning at the point of intersection of E 9th St and S Gateway Dr, and proceeding easterly along E 9th St to S E St, and proceeding southerly along S E St to E 10th St, and proceeding northerly along E 10th St to S D St, and proceeding southerly along S D St to E 11th St, and proceeding easterly along E 11th St to Sunrise Ave, and proceeding easterly along Sunrise Ave to Ave 14 1/2, and proceeding easterly along Ave 14 1/2 to the Madera city line, and proceeding easterly along the Madera city line to the Parksdale/Madera census designated place/city line, and proceeding westerly along the Parksdale/Madera census designated place/city line to the Madera city line, and proceeding southerly along the Madera city line to the Parkwood/Madera census designated place/city line, and proceeding westerly along the Parkwood/Madera census designated place/city line to S Madera Ave, and proceeding northerly along S Madera Ave to S Gateway Dr, and proceeding northerly along S Gateway Dr to the point of beginning.]

The foregoing district boundaries are depicted on the "City Council District Boundaries Map" in Ordinance ____ C.S. and on file in the City Clerk's Office. These boundaries will remain in effect until amended by ordinance as set forth herein and required by law.



(D) Notwithstanding any other provision of this Section, and pursuant to California Elections Code § 21606 (a) and (b), each of the Council Members currently in office at the time this Ordinance takes effect shall continue in office until the expiration of the full term to which he or she was regularly elected or appointed. Any vacancy in or recall election for a Council term currently in effect shall be filled based on the Council districts in effect at the time the current Council term was last regularly elected.

SECTION 3. Continuation of Council Elections by District. City Council elections shall continue to be conducted "by districts" in six districts as set forth herein, with a Mayor separately elected at-large. The term 'by district' shall mean election of members of the legislative body by voters of the district alone," as provided in Government Code § 34871(d).

SECTION 4. Conflicting Provisions. All ordinances and resolutions, or parts thereof in conflict with this Ordinance are hereby repealed.

SECTION 5. Effectuation. The City Manager and City Clerk are directed to take all necessary steps to give effect to this Ordinance. If necessary to facilitate the implementation of this Ordinance, the City Clerk or his or her designee is authorized to make technical adjustments to the election district boundaries that do not substantively affect the populations in the districts, the eligibility of candidates, or the residence of elected officials within any district. The City Clerk shall consult with the City Manager and City Attorney concerning any technical adjustments deemed necessary and shall advise the City Council of any such adjustments required in the implementation of the districts.

SECTION 6. Transmittal to County. The City Clerk is hereby directed to provide a certified copy of this Ordinance to the Madera County Registrar of Voters and of the GIS Shapefile reflecting the adjusted boundaries for use in subsequent Madera City Council Elections.

SECTION 7. Compliance with California Environmental Quality Act. This activity is exempt from environmental review under the California Environmental Quality Act ("CEQA") (Pub. Resources Code, § 21000 et seq.) pursuant to State CEQA Guidelines, (Cal. Code Regs., tit. 14, § 15000 et seq.) §§ 15061(b)(3), 15320, and 15378(b)(3). The redistricting process is an organizational and administrative activity of the City, does not have the potential to result in either a direct or reasonably foreseeable indirect physical change in the environment, and is therefore not a project for purposes of CEQA. (State CEQA Guidelines, §§ 15061(b)(3); 15378(b)(5).) In the event the transition process does constitute a project, it is categorically exempt under the Class 20 (Changes in the Organization of Local Governments) categorical exemption. (State CEQA Guidelines, § 15320.) None of the exceptions to the exemptions found in State CEQA Guidelines, § 15300.2 apply.

SECTION 8. Severability. If any section, subsection, subdivision, sentence, or clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part

thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases are declared unconstitutional, invalid, or ineffective.

SECTION 9. Effective Date. This Ordinance shall become effective thirty (30) days from its adoption.

SECTION 10. Publication. The City Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published in a newspaper of general circulation printed and published within the City of Madera, pursuant to all legal requirements.

* * *

The foregoing Ordinance No. 988 C.S. was introduced and given its first reading at a regular meeting of the City Council of the City of Madera held on the 16th day of March 2022 and adopted after a second reading at a regular meeting of the City Council held on 6th day of April 2022 by the following vote:

AYES: Mayor Garcia, Councilmembers Gallegos, Rodriguez, Montes, Evans, Mejia and Villegas.

NOES: None.

ABSTENTIONS: None.

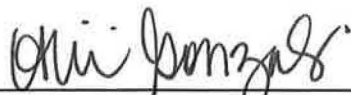
ABSENT: None.

APPROVED:



SANTOS GARCIA, Mayor

ATTEST:



ALICIA GONZALES, City Clerk



ORDINANCE NO. 989 C.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA
AMENDING SECTION 2-2.303 OF TITLE II, CHAPTER 2 OF THE MADERA
MUNICIPAL CODE RELATING TO THE CIVIL SERVICE COMMISSION**

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

SECTION 1. Section 2-2.303 of the Madera Municipal Code is amended to read as follows:

§2-2.303 CIVIL SERVICE COMMISSION.

(A) There is created a Civil Service Commission (Commission) to consist of seven members to be appointed as provided in §2-3.101.

(B) Chairperson.

Annually, the Commission shall, by majority vote, designate one of its members as the chair of the Commission in a manner consistent with the Civil Service Commission Rules of Procedure.

(C) Qualifications.

Members of the Civil Service Commission shall be residents of the city. No person shall be appointed to the Commission who holds any employment with the city. Nor shall any member be employed by or under the direct supervision of any current member of the City Council.

SECTION 2. SEVERANCE. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 3. CEQA. The City Council finds this ordinance is not a project under the California Environmental Quality Act because it can be seen with certainty that it will not have a significant effect or physical change to the environment. See Title 14, California Code of Regulations, Section 15061 (b) (3).

SECTION 4. PUBLICATION. This ordinance shall be published in accordance with the provisions of Government Code Section 36933.

The foregoing Ordinance No. 989 C.S. was introduced and given its first reading at a regular meeting of the City Council of the City of Madera held on the 6th day of April 2022 and adopted after a second reading at a regular meeting of the City Council held on 20th day of April 2022 by the following vote:

AYES: Mayor Garcia, Councilmembers Gallegos, Montes, Evans and Villegas.

NOES: None.

ABSTENTIONS: None.

ABSENT: Councilmember Rodriguez and Mejia.

APPROVED:



SANTOS GARCIA, Mayor

ATTEST:



ALICIA GONZALES, City Clerk



ORDINANCE NO. 990 C.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA
AMENDING THE OFFICIAL CITY OF MADERA ZONING MAP TO REZONE
APPROXIMATELY 0.27 ACRES OF PROPERTY LOCATED AT 801 SOUTH
GATEWAY DRIVE (APN: 011-111-005) FROM THE I – INDUSTRIAL TO THE
C2 – HEAVY COMMERCIAL ZONE DISTRICT**

WHEREAS, Hardev Singh (“Owner”) owns the property at 801 South Gateway Drive (APN: 011-111-005) in Madera, California (“site”); and

WHEREAS, the Owner has submitted application REZ 2021-02 to the City of Madera (City) to rezone approximately 0.27 acres at 801 South Gateway Drive; and

WHEREAS, the rezone is compatible with the neighborhood and is not expected to be detrimental to the health, safety, peace, comfort or general welfare of the neighborhood or the City; and

WHEREAS, the project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA) Guidelines, Section 15301 (Existing Facilities); and

WHEREAS, the proposed rezone will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code; and

WHEREAS, the Planning Commission received and reviewed application REZ 2021-02 at a duly noticed meeting on March 8, 2022, wherein the public was provided an opportunity to comment, and evidence, both written and oral, was considered by the Planning Commission; and

WHEREAS, after its hearing, the Planning Commission adopted Resolution No. 1909 recommending to the City Council of the City of Madera the approval of REZ 2021-02 as conditioned; and

WHEREAS, concurrently with the consideration of REZ 2021-02, the Planning Commission approved Conditional Use Permit 2021-15 (CUP 2021-15), Variance 2022-01 (VAR 2022-01) and Site Plan Review 2021-23 (SPR 2021-23) and submitted said approvals to City Council; and

WHEREAS, conditional approval of CUP 2021-15, VAR 2022-01 and SPR 2021-23 by the Planning Commission are contingent to City Council approval of REZ 2021-02; and

WHEREAS, under the City's Municipal Code, the City Council is authorized to review and approve rezones on behalf of the City; and

WHEREAS, the City provided notice of the City Council hearing as required by law; and

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MADERA ORDAINS AS FOLLOWS:

SECTION 1. Recitals. The foregoing recitals are true and correct and incorporated herein by reference.

SECTION 2. Public Hearing. The City Council received the submittals from the Planning Commission and held a duly noticed public hearing on April 6, 2021 on the rezoning of the Site as shown in Exhibit "A."

SECTION 3. Findings. Based upon the record before it at the public hearing, the City Council determines the adoption of the proposed rezoning ordinance as recommended by the Planning Commission is in the best interest of the City of Madera. The City Council finds REZ 2021-02 is consistent with the City's Zoning Ordinance to promote the growth of the City in an orderly and sustainable manner and to ensure consistency with the City General Plan. The City Council hereby makes the following findings:

1. THE PROPOSED REZONE WILL PROVIDE THE REQUIRED CONSISTENCY BETWEEN THE GENERAL PLAN AND ZONING.
2. THE REZONE IS NOT EXPECTED TO BE DETERMENTAL TO THE HEALTH, SAFETY, PEACE, COMFORT OR GENERAL WELFARE OF THE NEIGHBORHOOD OR THE CITY.

SECTION 4. Approval of Rezone. The City Council hereby approves REZ 2021-02 and hereby amends the City of Madera Zoning Map as provided for in Chapter 3 of Title X of the Madera Municipal Code as illustrated in the hereto attached Exhibit "A" which indicates the segment of the City of Madera Zoning Map to be amended.

SECTION 5. Effective Date of Rezone. Unless the adoption of this amendment to the Zoning Map is lawfully stayed, thirty-one (31) days after adoption of this amendment, the

Planning Manager and City Clerk shall cause these revisions to be made to the City of Madera Zoning Map which shall also indicate the date of adoption of this revision and be signed by the Planning Manager and City Clerk.

SECTION 6. Effect Date of Ordinance. This Ordinance shall be effective and of full force and effect at 12:01 a.m. on the thirty-first day after its passage.

SECTION 7. Posting. The City Clerk shall certify to the passage and adoption of this Ordinance by the City Council of the City of Madera and shall cause this Ordinance to be published or posted in accordance with Government Code Section 36933 as required by law.

The foregoing Ordinance No. 990 C.S. was introduced and given its first reading at a regular meeting of the City Council of the City of Madera held on the 6th day of April 2022 and adopted after a second reading at a regular meeting of the City Council held on 20th day of April 2022 by the following vote:


AYES: Mayor Garcia, Councilmembers Gallegos, Montes, Evans and Villegas.

NOES: None.

ABSTENTIONS: None.

ABSENT: Councilmember Rodriguez and Mejia.

APPROVED:



SANTOS GARCIA, Mayor

ATTEST:

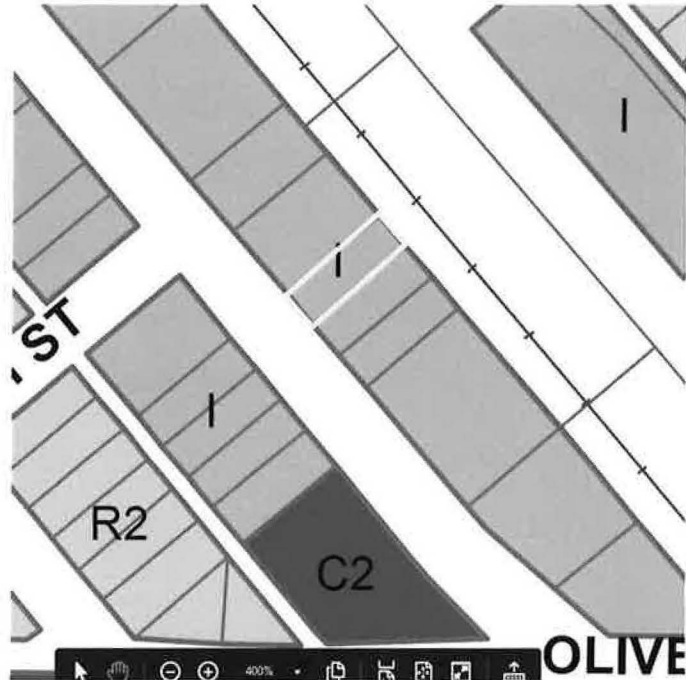


ALICIA GONZALES, City Clerk

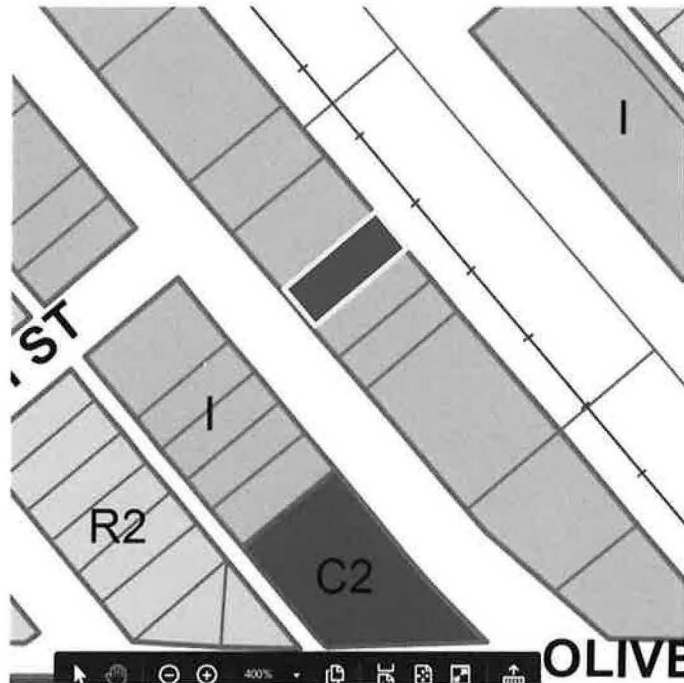


Exhibit A: Existing and Proposed Zoning

Existing Zoning (below)



Proposed Zoning (Below)



ORDINANCE NO. 991 C.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA AMENDING THE OFFICIAL CITY OF MADERA ZONING MAP TO REZONE APPROXIMATELY 1,883 ACRES WITHIN THE VILLAGES AT ALMOND GROVE SPECIFIC PLAN, WHOSE LOCATION IS BOUNDED BY AVENUE 17 ON THE NORTH, ROAD 22 ON THE WEST, THE FRESNO RIVER ON THE SOUTH, AND ROAD 23 AND ROAD 24 ON THE EAST, FROM AGRICULTURAL RURAL EXCLUSIVE - 40 ACRES (ARE-40) AND AGRICULTURAL RURAL EXCLUSIVE - 20 ACRES (ARE-20), AS WELL AS PD 4500 (PLANNED DEVELOPMENT, ONE UNIT PER 4,500 SQUARE FEET OF SITE AREA), TO THE SPECIFIC PLAN (SP) ZONE DISTRICT.

THE CITY COUNCIL OF THE CITY OF MADERA ORDAINS AS FOLLOWS:

SECTION 1. At its meeting on April 20, 2022, the City Council approved General Plan Amendment 2017-02 (General Plan Amendment), and also approved Specific Plan No. 2017-01 known as the "The Villages at Almond Grove Specific Plan" (Specific Plan) located on approximately 1,883 acres in the west of the City of Madera bounded by Avenue 17 on the north, Road 22 on the west, the Fresno River on the south, and Road 23 and Road 24 on the east. As part of that meeting, the City Council also certified an Environmental Impact Report (SCH #2018081051) (EIR) and adopted a mitigation monitoring and reporting program (MMRP) for the project. The Planning Commission of the City of Madera previously held a hearing on April 5, 2022 and recommended approval of, among others, the General Plan Amendment and Specific Plan. Additionally, the Planning Commission recommended approval of Pre-Zoning/Rezoning 2017-05 (Prezone/Rezone) to prezone the property within the County of Madera that is currently zoned Agricultural Rural Exclusive - 40 Acres (ARE-40) and Agricultural Rural Exclusive - 20 Acres (ARE-20) and rezone the smaller area within City limits that is currently zoned PD 4500 (Planned Development, one unit per 4,500 square feet of site area), to the Specific Plan (SP) Zone District. The City Council desires to approve the Prezone/Rezone.

SECTION 2. Based on the testimony and information presented at its public hearing, the City Council finds that Pre-Zone/Rezone No. 2017-05 i) is consistent with the Specific Plan and General Plan goals, objectives, and policies, and will provide the required consistency between the General Plan, as amended, and zoning; ii) is consistent with the purpose of the zoning ordinance to promote and protect the public's health, safety, peace, comfort, convenience and general welfare; iii) is necessary to promote public necessity, convenience, general welfare, and good zoning practices; iv) the project would provide open space, light, air, privacy, convenience of access, aesthetic values, protection of environmental values, and protection of public and private improvements; v) City services are either available or can be extended to serve the area; and vi) adoption is in the best interests of the City. The Plan area is currently zoned by Madera County Agricultural Rural Exclusive - 40 Acres (ARE-40) and Agricultural Rural Exclusive - 20 Acres (ARE-20). The entire plan area would be pre-zoned by the

City of Madera consistent with City zoning as identified in the Specific Plan. Such determinations are based on the administrative record including the following:

- a. General Plan and Specific Plan Consistency. The Prezone/Rezone is consistent with the goals, policies, and objectives, including the General Plan Housing Element and EIR Table 4.11.A: General Plan Policies Related to Land Use and Planning. The Prezone/Rezone will allow for implementation of the Specific Plan, as is consistent with the General Plan land use designation of "Specific Plan Area," which allows the Plan to develop land use standards and regulations tailored to the Plan Area. This change will assist the implementation of the goals, objectives, and policies of the General Plan regarding provision of housing and promote future residential growth.

The Prezone/Rezone is a necessary step to ensuring viable development that would also assist in the implementation of the Housing Element goals and policies in providing opportunity site for necessary housing. For example, the project addresses the City's current and projected housing needs through the provision of approximately 10,783 additional residential dwelling units in close proximity to mixed uses, commercial uses, and village centers. This is a substantial residential component and would provide a significant portion of the housing stock anticipated by the General Plan Housing Element, etc., for the City of Madera for years to come. Further, the project provides a range of single and multi-family homes, including village country estates (54 units), village low density (4,784 units), village medium density (3,579 units), village high density (2,366 units), and the opportunity for mixed use residential in conjunction with commercial and office uses, etc. More than half of the residential units (5,945 total units) are planned for medium or high density, which promotes affordability for those with lower or fixed income needs. As such, the project would address the City's current and projected housing needs for all segments of the community by providing a range of single and multi-family homes.

Further, the mixed-use nature of the Specific Plan as implemented by the Prezone/Rezone encourages diversification and development of the City's economic base. The Specific Plan provides substantial diversification in terms of residential versus commercial uses. Additionally, within the commercial uses there is a broad diversification that provide various types of sales taxes (restaurants, entertainment, automobile sales, etc.) in conjunction with higher tax rates associated with high-quality retail. The project will provide significant benefits to the City and community in terms of creating both short and long-term employment opportunities for the residents of the City including construction work and long-term jobs including in the commercial and entertainment industries, which are reasonably expected to result in more personal income associated with higher-quality retail, and which income will likely to be spent locally, resulting in additional tax revenues and economic development. This is consistent with General Plan Goal SUS-1 (establish and maintain a diverse and sustainable local economy), as well as Policy SUS-11 (abundant commercial opportunities and development of a strong local workforce), Policy SUS-13: (support operation of local businesses that supply goods and services needed in City); and

Policy SUS-15 (promote, attract, and retain jobs that pay a living wage and reduce the need for residents to commute to work outside the City.) The employment opportunities are designed to also encourage the use of ridesharing (consisted with General Plan Policy CI-37), facilitate employment opportunities that minimize the need for vehicle trips (General Plan Policy CI-42) and promote jobs that reduce the need for residents to commute to work outside the City (General Plan Policy SUS-15).

The implementation of the Specific Plan through this rezone also complies with General Plan Policy LU-14, in that the project has prepared a Public Facilities Financing Plan (PFFP) that articulates infrastructure and public facilities requirements, their costs, financing mechanisms, and the feasibility of the financial burden. General Plan Policy CD-20 calls for the comprehensive planning of Villages that is consistent with overall City standards, which has been met here. Finally, the Prezone/Rezone is consistent with the Specific Plan specific policies including those related to conformity with Building Blocks principles; agricultural buffers; the provision of a Village core area providing for an integrated mix of uses, including park and open space uses, along the Fresno river; development designed to take advantage of river frontage, alignment of arterials, and compliance with the Airports Land Use Master Plan.

- b. The Prezone/Rezone will promote and protect the public's health, safety, peace, comfort, convenience and general welfare. As discussed above, the Prezone/Rezone implements the Specific Plan, which is consistent with the General Plan. All aspects of these documents, including the Specific Plan's Public Facilities Financing Plan (PFFP), work together to promote the public welfare including housing, jobs, convenience of access, aesthetic values, protection of environmental values, protection of public and private improvements, etc.
- c. City Services. As extensively discussed in the EIR, City services are available or can be extended to serve the area. Additionally, the City has approved the PFFP, which i) articulates infrastructure and public facilities requirements, their costs, financing mechanisms, and the feasibility of the financial burden; and ii) analyzes backbone infrastructure and public service needs and funding capacity at the Village level, as defined in Figure LU-3 of the Land Use Element of the General Plan.

SECTION 3. Given that all of the findings can be made, the City Council approves Pre-Zone/Rezone No. 2017-05, to prezone the property within the County of Madera that is currently zoned Agricultural Rural Exclusive - 40 Acres (ARE-40) and Agricultural Rural Exclusive - 20 Acres (ARE-20) and rezones the smaller area within City limits that is currently zoned PD 4500 (Planned Development, one unit per 4,500 square feet of site area), to the Specific Plan (SP) Zone District. The City Council hereby amends the City of Madera Zoning Map as illustrated in Attachment "A," which is attached and incorporated by reference and which indicates the segment of the City of Madera Zoning Map to be amended. To the extent not already annexed, territory annexed to the City subject to Pre-Zone/Rezone No. 2017-05 shall be automatically added to the City of Madera's official zone map. Pre-zoning shall be recorded on the official zone map in the same

manner as change of zoning district amendments, but shall be identified by the use of parentheses enclosing the district symbols. Such pre-zoning classification shall become the effective zoning of the property at the same time that the annexation becomes effective.

SECTION 4. Based on the testimony and information presented at its public hearing, the City Council finds that the City previously prepared and certified the EIR for The Villages at Almond Grove Specific Plan. The EIR identified that implementation of the proposed project would require certain approvals, including approval of pre-annexation zoning and rezoning. This pre-annexation zoning and rezoning was included within the scope of the project, and was environmentally assessed in the EIR. The pre-annexation zoning and rezoning does not change the environmental assessment of the EIR. Further, the EIR was certified on April 12, 2022. The City Council further finds that no subsequent review is required under CEQA Guidelines section 15162 since that time as no substantial changes have been proposed in the project which will require major revisions of the previously certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Likewise, no substantial changes have occurred since that time with respect to the circumstances under which the project is undertaken which will require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. There is also no new information, which was not known and could not have been known at the time of the EIR that the project will have significant effect not discussed in the EIR. As such, the City Council finds Pre-Zoning/ Rezoning 2017-05 has already been fully assessed in accordance with CEQA, no subsequent review is required under CEQA Guidelines section 15162, and no further action or review is required under CEQA.

SECTION 5. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

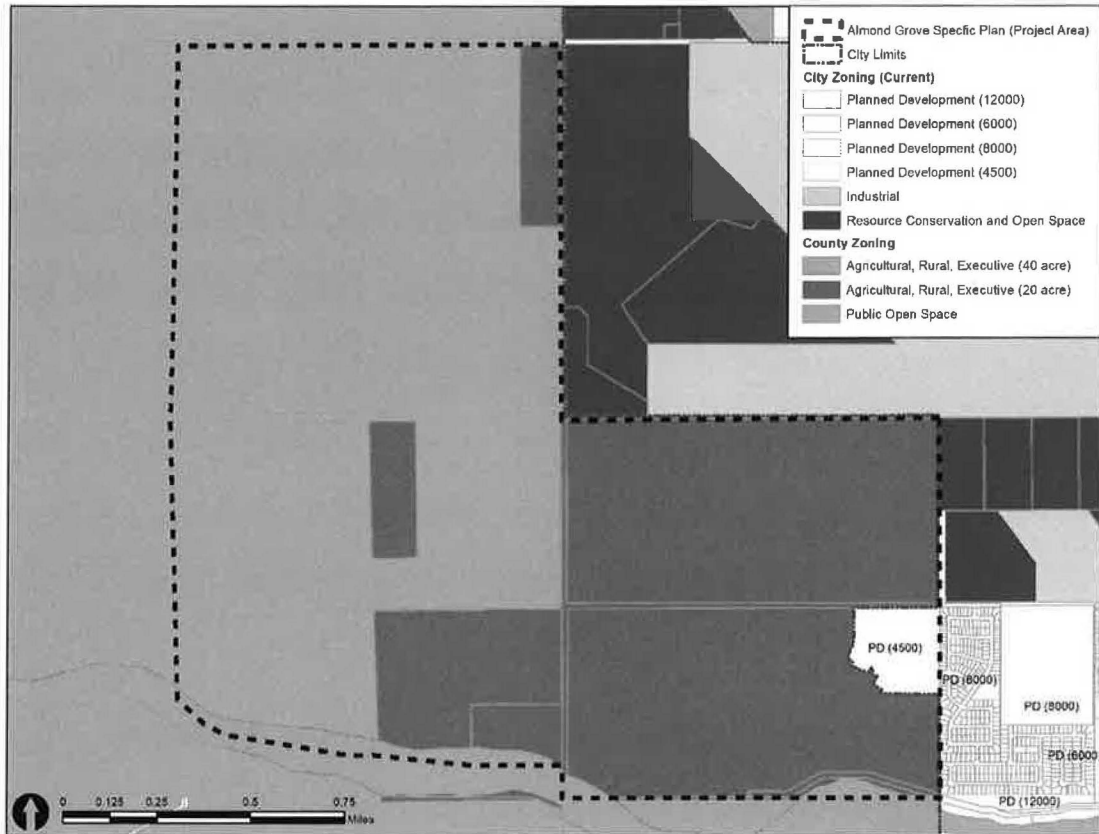
SECTION 6. Unless the adoption of this amendment to the Zoning Map is lawfully stayed, thirty-one (31) days after adoption of this amendment, the Planning Manager and City Clerk shall cause these revisions to be made to the City of Madera Zoning Map which shall also indicate the date of adoption of this revision and be signed by the Planning Manager and City Clerk.

SECTION 7. This Ordinance shall be effective and of full force and effect at 12:01 a.m. on the thirty-first day after its passage.

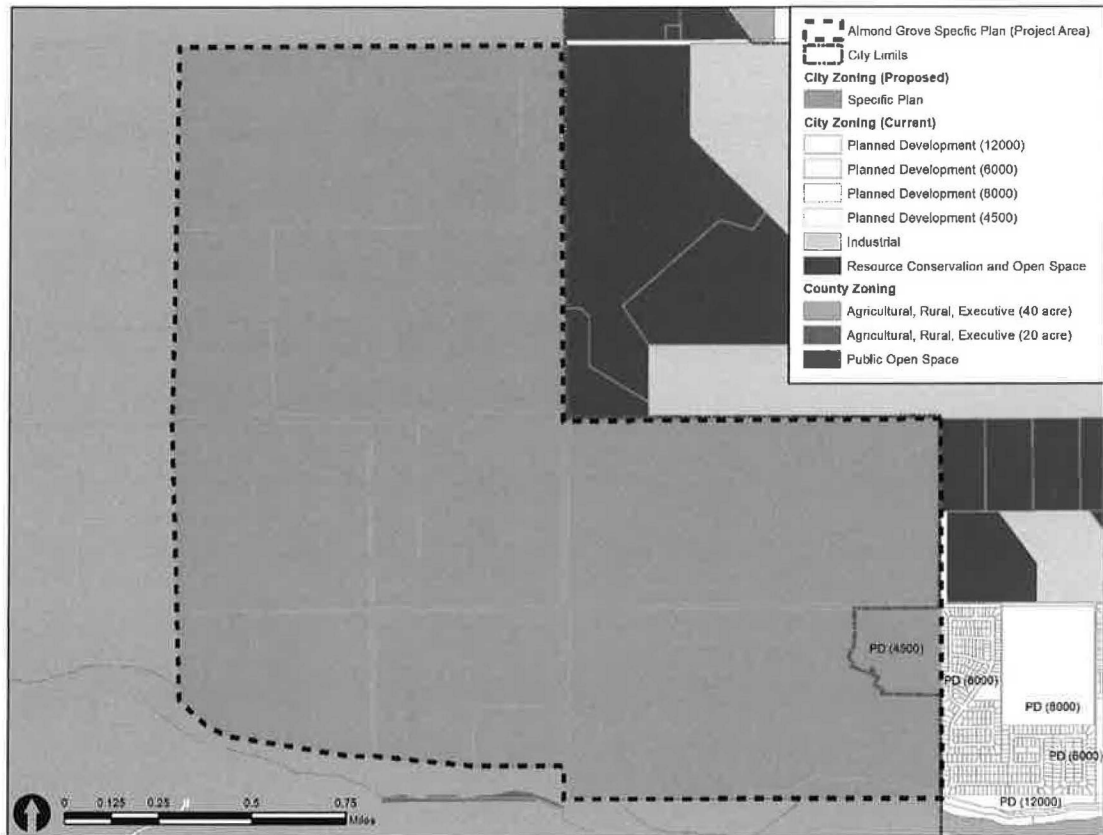
* * * * *

ATTACHMENT "A"

Prior Zoning



New Zoning



The foregoing Ordinance No. 991 C.S. was introduced and given its first reading at a regular meeting of the City Council of the City of Madera held on the 20th day of April 2022 and adopted after a second reading at a regular meeting of the City Council held on 4th day of May 2022 by the following vote:


AYES: Mayor Garcia, Councilmembers Gallegos, Rodriguez, Montes, Evans, Mejia and Villegas.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

APPROVED:



SANTOS GARCIA, Mayor

ATTEST:



ALICIA GONZALES, City Clerk



ORDINANCE NO. 992 C.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA
AMENDING SECTION 10-3.301 OF CHAPTER 3 OF TITLE 10 OF THE CITY
MUNICIPAL CODE, AND ADDING SECTIONS 10-3.11.601 THROUGH
SECTION 10-3.11.604 OF SUBCHAPTER 11 OF CHAPTER 3 OF TITLE 10
OF THE CITY MUNICIPAL CODE TO PROVIDE FOR SPECIFIC PLAN
ZONES (SP)**

THE CITY COUNCIL OF THE CITY OF MADERA ORDAINS AS FOLLOWS:

SECTION 1. The City Council finds that Ordinance/Madera Municipal Code Amendment No. OTA 2022-01 is consistent with the General Plan as amended, and that amendment is warranted by public necessity, convenience, general welfare, and good zoning practices. The City Council approves Ordinance/Madera Municipal Code Amendment No. OTA 2022-01 as set forth below.

SECTION 2. Section 10-3.301 of the Madera Municipal Code is amended to read in its entirety as follows:

§ 10-3.301 ESTABLISHMENT.

(A) In order to classify, regulate, restrict, and segregate the uses of land and buildings, to regulate and restrict the height and bulk of buildings, and to regulate the area of yards and other open spaces about buildings, and to promote the public health, safety, peace, comfort and general welfare, 13 classes of land use zones are established to be known as follows:

- (1) **PD.** Planned Development Zones
- (2) **R.** Residential Zones
- (3) **RCO.** Resource Conservation and Open Space Zone
- (4) **PF.** Public Facilities Zone
- (5) **PO.** Public Office Zone
- (6) **C-1.** Light Commercial Zone
- (7) **C-2.** Heavy Commercial Zone
- (8) **C-R.** Restricted Commercial Zone
- (9) **WY.** West Yosemite Avenue Overlay Zone
- (10) **I.** Industrial Zone
- (11) **UR.** Urban Reserve Zone
- (12) **U.** Unclassified Zone
- (13) **IP.** Industrial Park Zone
- (14) **N-C.** Neighborhood Commercial Zones
- (15) **H-C.** Highway Commercial Zones
- (16) **SP.** Specific Plan Zone

(B) An "S" subdesignation may be added to a zone classification applied to a parcel or parcels of land when deemed appropriate by the City Council, upon recommendation of the Planning Commission, for the purpose of setting forth special provisions for the use of such land on an

interim or transitional basis. Such use may be one that would otherwise not be permitted by the regular zoning classification. The "S" subdesignation shall be established by ordinance, after due public hearing processes, and the ordinance shall set forth the circumstances of the subdesignation, including but not limited to the purpose and time period for the special provisions. Upon the termination of the specified time period the special provisions shall automatically become null and void and the subdesignation shall be duly deleted from the zoning map of the city without further hearing.

SECTION 3. Sections 10-3.11.601 through Sections 10-3.11.604 of Subchapter 11 of Chapter 3 of Title 10 of the Madera Municipal Code is added to read in its entirety as follows:

Specific Plan Zones (SP)

§ 10-3.11.601 PURPOSE AND APPLICATION

(A) The purpose of the SP Zone is to accomplish the following:

(1) To provide a framework for how to analyze project level development standards and permitted uses in the SP zone district; and

(2) To provide a framework and requirements for approving specific plans proposed in the City by establishing a development review framework for comprehensively planned communities pursuant to Government Code Section 65450 to 65457 for the preparation of specific plans.

§ 10-3.11.602 APPLICABILITY

(A) For properties already zoned SP, the allowed uses, allowed density, and required property development standards shall be as outlined in the applicable specific plan. Where the regulations of a specific plan are silent or not specifically referenced, the comparable regulations of these zoning regulations and all adopted ordinances, regulations, standards, and guidelines of the city shall apply, subject to the Planning Director's discretion, unless otherwise declared by the Planning Commission.

(B) For properties proposed to be rezoned to the SP Zone, a specific plan meeting the requirements outlined below is required and must be submitted concurrently with the rezone request. The SP Zone, including all standards and processes, is available to all new development proposals within the city, except those areas within the city limits already regulated by an existing adopted specific plan and approved prior to the adoption of this ordinance. Those areas shall be exempt from this chapter, and all activities within such areas shall be subject to the existing standards and procedures of the applicable specific plan.

(C) All new SP Zones must encompass an area of no less than five (5) acres of contiguous property.

§ 10-3.11.603 SPECIFIC PLAN REQUIRED ELEMENTS

(A) A specific plan shall provide regulations and design standards governing the minimum and maximum development parameters of all real property within the proposed SP Zone District. All specific plans prepared and adopted under subchapter 11.601 et seq. shall be consistent with the requirements of Government Code Section 65450 as amended, and shall include, at a minimum, the following:

- (1) Purpose. State the relationship to the goals and policies of the General Plan.
- (2) Setting. State the existing and regional setting to establish the conditions and reasons for the project.
- (3) Proposed Land Uses. Establish the distribution, type, definitions of, and regulations for all proposed land uses. The uses described within the specific plan shall be designed and developed in a manner consistent with the General Plan and Section 10-3.11.604 below.
- (4) Development Standards. Establish all regulating policies and include all of the following for all building types:
 - (a) Building height, setbacks, massing, and design standards.
 - (b) Lot area, width, depth, and structural limitations.
 - (c) Maximum number of dwelling units and the maximum residential density (of the Specific Plan Area and any individual site or portion).
 - (d) Usable open space provisions and requirements within the development.
 - (e) Off-street parking and loading facilities.
 - (f) Design and development standards (architectural, landscape, streetscape, street furniture, utilities, fence/wall types, etc.), which may include design themes or similar architectural treatments to control future construction of buildings on parcels covered by the Specific Plan. Site planning at the perimeter of the zone boundaries shall provide for the mutual protection of the zone and the surrounding property.
 - (g) Signage requirements shall be addressed, either through chapter 6 of title 10 (Sign Regulations) or by a unique sign program codified in the specific plan.
 - (h) All areas for storage of vehicles, maintenance equipment, refuse and collection facilities, manufactured products, or other similar materials used by or in a manufacturing/fabricating process on-site shall be prohibited or shall be enclosed by a decorative, block, or brick wall and/or landscape screening in combination.
- (5) Site Planning. Establish a comprehensive map of all major streets, open spaces, private and public property, and land uses for all affected property, consistent with the intent of the General Plan.
 - (a) Consider and preserve environmentally sensitive resources (water courses, view sheds, drainage areas, wooded areas, rough terrain [canyons, ravines, steep slopes, ridges, knolls, promontories], and other similar natural features) and make provisions to retain natural features and amenities found on-site.
 - (b) Provide landscape architectural concept plans and standards, including project entries, streetscapes, fencing details, lighting, signage, utility, and street furniture.

(6) Infrastructure. Identify the proposed distribution, extent, intensity, and location of major components of public and private circulation/transportation, drainage, energy, sewers, solid waste disposal, water, and other essential facilities proposed.

(a) Include written analysis detailing plans for the construction, improvement, or extension of transportation facilities, public utilities, and all other public facilities/services required to serve the properties.

(b) Dedicate all public right-of-ways and public park spaces. within or abutting the development to applicable City specifications.

(c) Private streets and alleys shall be designed to public street standards (where applicable), or propose modifications, and be privately owned and maintained for their intended purpose without public cost or maintenance responsibility.

(d) Consideration of other forms of access, such as pedestrian ways, paseos, courts, plazas, driveways, horse trails, bike trails, or open public parking areas, may be made at the time of specific plan consideration by the city.

(7) Maintenance. Provisions assuring the continued maintenance of private property, grounds, and all common areas shall be required.

(8) Phasing. Specific plans developed in phases or neighborhoods over a period of time, not developed in a consecutive and uninterrupted manner, shall be required to process each phase or neighborhood through separate entitlement processes.

§ 10-3.11.604 ALLOWED LAND USES

(A) All use of lands within the SP Zones shall be compatible with the purpose and intent of these zoning regulations.

(B) All use of lands within the SP Zones shall be consistent or made consistent with the General Plan Land Use Map, which may include varying densities of residential, commercial, and/or industrial development.

(C) A new specific plan shall be processed using the same procedure as a General Plan amendment as well as a change of zone boundaries per Section 10-3.1501 et seq.

SECTION 4. SEVERANCE. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 5. CEQA. Based on the testimony and information presented at its public hearing on April 20, 2022, the City Council finds that the City previously prepared and certified an Environmental Impact Report (SCH #2018081051) (EIR) for The Villages at Almond Grove Specific Plan (Specific Plan). The EIR identified that implementation of the proposed project would

require certain approvals, including amendment of the Municipal Code to implement the Specific Plan Zones. This amendment was included within the scope of the project, and was environmentally assessed in the EIR. The amendment of the Municipal Code does not change the environmental assessment of the EIR. Further, the EIR was certified on April 20, 2022. The City Council further finds that no subsequent review is required under CEQA Guidelines section 15162 since that time as no substantial changes have been proposed in the project which will require major revisions of the previously certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Likewise, no substantial changes have occurred since that time with respect to the circumstances under which the project is undertaken which will require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. There is also no new information, which was not known and could not have been known at the time of the EIR that the project will have significant effect not discussed in the EIR. As such, the City Council finds Zoning Ordinance/Madera Municipal Code Amendment No. OTA 2022-01 has already been fully assessed in accordance with CEQA, no subsequent review is required under CEQA Guidelines Section 15162, and no further action or review is required under CEQA.

SECTION 6. PUBLICATION. This ordinance shall be published in accordance with the provisions of Government Code Section 36933.

SECTION 7. EFFECTIVE DATE. This Ordinance shall be effective and of full force and effect at 12:01 a.m. on the thirty-first day after its passage.

* * * * *

The foregoing Ordinance No. 992 C.S. was introduced and given its first reading at a regular meeting of the City Council of the City of Madera held on the 20th day of April 2022 and adopted after a second reading at a regular meeting of the City Council held on 4th day of May 2022 by the following vote:

AYES: Mayor Garcia, Councilmembers Gallegos, Rodriguez, Montes, Evans, Mejia and Villegas.

NOES: None.

ABSTENTIONS: None.

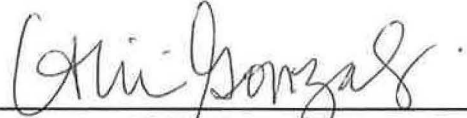
ABSENT: None.

APPROVED:



SANTOS GARCIA, Mayor

ATTEST:



ALICIA GONZALES, City Clerk



ORDINANCE NO. 993 C.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA ADOPTING
THE PROPOSED THE VILLAGES AT ALMOND GROVE SPECIFIC PLAN
(SPECIFIC PLAN NO. 2017-01)**

THE CITY COUNCIL OF THE CITY OF MADERA ORDAINS AS FOLLOWS:

SECTION 1. At its meeting on April 20, 2022, the City Council approved General Plan Amendment 2017-02 (General Plan Amendment), and also introduced this ordinance regarding Specific Plan No. 2017-01 known as the “The Villages at Almond Grove Specific Plan” (Specific Plan) located on approximately 1,883 acres in the west of the City of Madera bounded by Avenue 17 on the north, Road 22 on the west, the Fresno River on the south, and Road 23 and Road 24 on the east. As part of that meeting, the City Council also certified an Environmental Impact Report (SCH #2018081051) (EIR) and adopted a mitigation monitoring and reporting program (MMRP) for the project. The Planning Commission of the City of Madera previously held a hearing on April 5, 2022 and recommended approval of, among others, the Specific Plan (Specific Plan No. 2017-01). The City Council desires to approve the Specific Plan No. 2017-01.

SECTION 2. The City Council finds that the City has policies encouraging preparation of specific plans or master plans in certain areas prior to the properties being developed. The City Council finds that Specific Plan No. 2017-01 is in the best interest of the City, and is not detrimental to public health, safety, or welfare. The City Council approves Specific Plan No. 2017-01 as set forth below.

SECTION 3. Based on the testimony and information presented at its public hearing, the City Council finds that Specific Plan No. 2017-01 is consistent with State and local requirements, including the following findings:

- i) *State Law Consistency:* The Specific Plan is consistent with the requirements of Government Code section 65450 *et seq.*, including the following:
 - The Specific Plan includes the distribution, location, and extent of the uses of land, including open space, within the area covered by the Plan.
 - The Specific Plan includes proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the Plan.
 - The Specific Plan includes standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable.

- The Specific Plan includes a program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out the items listed above.
 - The Specific Plan includes a statement of the relationship of the specific plan to the general plan.
- ii) *General Plan Consistency:* The City Council finds that the Specific Plan has been prepared in conformance with the goals, policies, and objectives of the General Plan as amended. The Specific Plan is consistent with the General Plan land use designation of “Specific Plan Area,” which allows the Plan to develop land use standards and regulations tailored to the Plan Area. The Specific Plan Area land use designation will be applied to areas where a Specific Plan is adopted by the City. This change will assist the implementation of the goals, objectives, and policies of the General Plan regarding provision of housing and promote future residential growth.

Ensuring viable development would also assist in the implementation of the Housing Element goals and policies in providing opportunity site for necessary housing, including goals to provide adequate sites to meet the 2013-2023 RHNA (Objective H-1), assist in the development of housing to meet need of lower-income households (Objective H-2), and adequately remove governmental constraints to housing development (Objective H-3). For example, the project addresses the City’s current and projected housing needs through the provision of approximately 10,783 additional residential dwelling units in close proximity to mixed uses, commercial uses, and village centers. This is a substantial residential component, and addresses a significant portion of the housing stock anticipated by the General Plan Housing Element, etc., for the City of Madera for years to come. Further, the project provides a range of single and multi-family homes, including village country estates (54 units), village low density (4,784 units), village medium density (3,579 units), village high density (2,366 units), and the opportunity for mixed use residential in conjunction with commercial and office uses, etc. More than half of the residential units (5,945 total units) are planned for medium or high density, which promotes affordability for those with lower or fixed income needs. As such, the project would address the City’s current and projected housing needs for all segments of the community by providing a range of single and multi-family homes.

As further described in Table 4.11.A of the EIR prepared for this project: General Plan Policies Related to Land Use and Planning, the Specific Plan is consistent with the General Plan as amended. For example, the Specific Plan’s Public Facilities Financing Plan (PFFP) complies with General Plan Policy LU-14 as i) it articulates infrastructure and public facilities requirements, their costs, financing mechanisms, and the feasibility of the financial burden; and ii) it analyzes backbone infrastructure and public service needs and funding capacity at the Village level, as defined in Figure LU-3 of the Land Use Element of this General Plan. The Specific Plan is also consistent with other General Plan goals, policies, and objectives including Goal SUS-1, Policies SUS-11, SUS-13, and SUS 15. The

Specific Plan also incorporates Village D Specific Policies that guides development in the Plan Area. These Village D policies include mixed of uses in the core area, river frontage design along the Fresno River, conformance with the Building Blocks principles, etc. These guidelines are addressed in the circulation, land use, development standards, and design guidelines of the Specific Plan. As such, the Specific Plan is consistent with the City of Madera General Plan

- iii) *Madera Countywide Airport Land Use Compatibility Plan*: The airport land use compatability plan (ALUCP) contains individual compatibility plans for the Chowchilla Municipal Airport and the Madera Municipal Airport, the two public-use airports in Madera County. Under California Government Code Section 65302.3(a), general plans must be consistent with any airport land use plan adopted pursuant to Public Utilities Code Section 21675. The Specific Plan includes appropriate land use types and densities located within the airport zones to ensure consistency with the ALUC plan, and future development within the airport zones would be required to comply with the restrictions of the ALUC plan prior to approval both by law and per the General Plan.
- iv) *Climate Action Plan*: As further described in EIR Table 4.8.F: Project Consistency with the City of Madera Climate Action Plan, the implementation of Mitigation Measure GHG-1.1 would ensure the proposed Specific Plan incorporates design features consistent with the applicable measures as included in the City's Climate Action Plan (CAP). With implementation of these measures, the Specific Plan is in compliance with the City's CAP.

SECTION 4. Given that all of the findings can be made, the City Council approves Specific Plan 2017-01 (including the associated public facilities financing plan [PFFP]), as set forth in Attachment A.

SECTION 5. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 6. Based on the testimony and information presented at its public hearing on April 20, 2022, the City Council finds that the City previously prepared and certified an Environmental Impact Report (SCH #2018081051) (EIR) for The Villages at Almond Grove Specific Plan (Specific Plan). Further, the EIR was certified on April 20, 2022. The City Council further finds that no subsequent review is required under CEQA Guidelines section 15162 since that time as no substantial changes have been proposed in the project which will require major revisions of the previously certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Likewise, no substantial changes have occurred since that time with respect to the circumstances under which

the project is undertaken which will require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. There is also no new information, which was not known and could not have been known at the time of the EIR that the project will have significant effect not discussed in the EIR. As such, the City Council finds Specific Plan No. 2017-01 has already been fully assessed in accordance with CEQA, no subsequent review is required under CEQA Guidelines Section 15162, and no further action or review is required under CEQA.

SECTION 7. This Ordinance shall be effective and of full force and effect at 12:01 a.m. on the thirty-first day after its passage.

* * * * *

The foregoing Ordinance No. 993 C.S. was introduced and given its first reading at a regular meeting of the City Council of the City of Madera held on the 20th day of April 2022 and adopted after a second reading at a regular meeting of the City Council held on 4th day of May 2022 by the following vote:

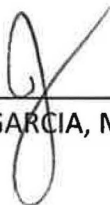
AYES: Mayor Garcia, Councilmembers Gallegos, Rodriguez, Montes, Evans, Mejia and Villegas.

NOES: None.

ABSTENTIONS: None.

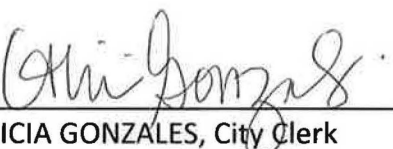
ABSENT: None.

APPROVED:



SANTOS GARCIA, Mayor

ATTEST:



ALICIA GONZALES, City Clerk



ORDINANCE NO. 994 C.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MADERA ADDING CHAPTER 16 TO TITLE III OF THE MADERA
CITY CODE RELATING TO ADOPTION OF A MILITARY
EQUIPMENT USE POLICY**

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

SECTION 1. CHAPTER 16 is added to Title III of the Madera Municipal Code to read as follows:

**CHAPTER 16
Military Equipment Use Policy**

- 3-16.01 Title of Ordinance.**
- 3-16.02 Findings.**
- 3-16.03 Determinations.**

Section 3.16.01 Title of Ordinance

This chapter shall be titled “Military Equipment Use Policy.”

Section 3.16.02 Findings.

- A. On September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481, relating to the use of military equipment by law enforcement agencies.
- B. Assembly Bill 481, codified at California Government Code sections 7070 through 7075, requires law enforcement agencies to obtain approval of the applicable governing body, by an ordinance adopting a “military equipment” use policy, at a regular meeting held pursuant to open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment. The term “military equipment” is defined in California Government Code section 7070.
- C. Assembly Bill 481 allows the governing body of a city to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it makes specified determinations.
- D. The proposed Military Equipment Use Policy is found within Madera Police Department Policy Section 709.
- E. The Military Equipment Use Policy as set forth in Madera Police Department Manual Section 709 was published on the Madera Police Department’s internet website on April 21, 2022. The Madera Police Department Policy Section 709 was presented to City Council on April 21, 2022.

- F. The Military Equipment Use Policy as set forth in Department Policy Section 709 meets the requirements of California Government Code section 7070, subdivision (d).

Section 3-16.03. Determinations.

Based on the findings above, in addition to information provided to the City Council at the public hearing, the City Council determines as follows:

- A. The military equipment identified in Madera Police Policy 709 is necessary, because there are no reasonable alternatives that can achieve the same objectives of officer and civilian safety.
- B. The Military Equipment Use Policy as set forth in Madera Police Manual 709 will safeguard the public's welfare, safety, civil rights, and civil liberties.
- C. The military equipment identified as Madera Police Manual 709 is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
- D. The Military Equipment Use Policy as set forth in Madera Police Manual 709 is approved and adopted.
- E. A copy of the Madera Police Manual 709 may be obtained from the Madera Police Department or the City Clerk.

SECTION 2. CEQA. The City Council finds and determines that this ordinance is not a "project" for the purposes of the California Environmental Quality Act (CEQA), as the ordinance does not have the potential for resulting in either a direct physical change in the environment, or a reasonably indirect physical change in the environment. Instead, the ordinance merely provides a procedural mechanism for enforcing the City's Municipal Code and abating nuisances so as to promote public health, safety, and welfare. As such, the adoption of this ordinance is not subject to CEQA.

SECTION 3. Effective Date. This ordinance shall become effective thirty days after its adoption.

SECTION 4. Publication. The City Clerk is authorized to cause this ordinance or a summary of this ordinance to be published in a newspaper of general circulation in the City of Madera, within fifteen days after its adoption. If a summary of the ordinance is published, the City Clerk shall cause a certified copy of the full text of the proposed ordinance to be posted at City Hall at least five days prior to the meeting at which the ordinance is adopted and again after the meeting at which it is adopted. The ordinance shall become effective thirty days after its adoption.

(Certification on next page)

The foregoing Ordinance No. 994 C.S. was introduced and given its first reading at a regular meeting of the City Council of the City of Madera held on the 1st day of June 2022 and adopted after a second reading at a regular meeting of the City Council held on 15th day of June 2022 by the following vote:

AYES: Mayor Garcia, Councilmembers Gallegos, Rodriguez, Montes, Evans, Mejia and Villegas.

NOES: None.

ABSTENTIONS: None.

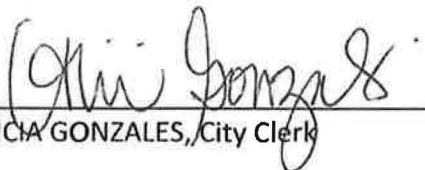
ABSENT: None.

APPROVED:



SANTOS GARCIA, Mayor

ATTEST:



ALICIA GONZALES, City Clerk



ORDINANCE NO. 995 C.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA ADDING CHAPTER 9
TO TITLE X OF THE MADERA MUNICIPAL CODE RELATING TO WIRELESS FACILITIES**

WHEREAS, pursuant to the California Constitution, Article XI, section 7; California Government Code Section 37100 and other applicable law, the City Council of the City of Madera ("City Council") may make and enforce within its limits all local, police, sanitary and other ordinances, resolutions and other regulations not in conflict with general laws; and

WHEREAS, the federal Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7)(B), preserves local government zoning authority as it relates to location and siting of wireless communication facilities, but limits local regulations in three key ways: (1) a local ordinance may not unreasonably discriminate among providers of functionally equivalent services; (2) a local ordinance may not prohibit or effectively prohibit service; and (3) a local ordinance may not regulate based on environmental impacts from radio frequency emissions; and

WHEREAS, the federal Telecommunications Act of 1996, 47 U.S.C. § 253 prohibits state and local requirements that prohibit or effectively prohibit any entity's ability to provide any telecommunication service but preserves the authority of state and local governments to manage the public right-of-way on a nondiscriminatory basis; and

WHEREAS, Section 7901 of the California Public Utilities Code grants telephone corporations the limited right to use the public right-of-way to the extent necessary to provide services to their customers in a manner that does not incommode the public's use of the public right-of-way; and

WHEREAS, Section 7901.1 of the California Public Utilities Code bolsters the rights reserved to California local governments under Section 7901 and affirms local authority to manage, on a nondiscriminatory basis, the time, place and manner in which telephone corporations access the public right-of-way and deploy their facilities; and

WHEREAS, the City Council finds this ordinance will, to the extent permitted by federal and California state law, protect and promote public health, safety, and welfare, and also balance the benefits that flow from robust, advanced wireless services within the City's local values, which includes without limitation the aesthetic character of the City, its neighborhoods, and community; and

WHEREAS, the Planning Commission held a duly noticed public hearing to consider this ordinance on July 26, 2022, at which time all interested parties had the opportunity to be heard, and after said public hearing, the Planning Commission adopted Resolution No. 1930, recommending that the City Council adopt this ordinance; and

WHEREAS, on August 17, 2022, the City Council held a duly noticed public hearing to consider the adoption of this ordinance.

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

SECTION 1. CHAPTER 9 is added to Title X of the Madera Municipal Code to read as follows:

CHAPTER 9: WIRELESS FACILITIES

10-9.01 Purpose and Intent.

10-9.02 Definitions.

10-9.03 Applicability.

10-9.04 Required Permits and Approvals.

10-9.05 Administrative Orders and Regulations.

10-9.06 Permit Applications.

10-9.07 Public Notice.

10-9.08 Approvals, Denials, and Appeals.

10-9.09 Location Standards.

10-9.10 Design Standards.

10-9.11 Standard Conditions of Approval.

10-9.12 Amortization.

10-9.13 Exceptions.

10-9.14 Peer and Independent Consultant Review.

10-9.15 Violations.

Section 10-9.01 PURPOSE AND INTENT.

- (A) The city of Madera (the “city”) intends this chapter to establish reasonable, uniform and comprehensive standards and procedures for wireless facilities deployment, construction, installation, collocation, modification, operation, relocation and removal within the city’s territorial boundaries, consistent with and to the extent permitted under federal and California state law. The standards and procedures contained in this chapter are intended to, and should be applied to, consistent with federal and state law, protect and promote public health, safety and welfare, and also balance the benefits that flow from robust, advanced wireless services with the city’s local values, which include without limitation the aesthetic character of the city, its neighborhoods and community. This chapter is also intended to reflect and promote the community interest by (1) ensuring that the balance between public and private interest is maintained on a case-by-case basis; (2) protecting the city’s visual character from potential adverse impacts or visual blight created or exacerbated by wireless communications infrastructure; (3) protecting and preserving the city’s environmental resources; and (4) promoting access to high-quality, advanced wireless services for the city’s residents, businesses and visitors.
- (B) This chapter is not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider’s ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity’s ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules, regulations or other legal requirements for rights-of-way management; (3) unreasonably discriminate among providers of functionally equivalent services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC’s regulations concerning such emissions; (5) prohibit any collocation or modification that the city may not deny under federal or California state law; (6) impose any

unfair, unreasonable, discriminatory or anticompetitive fees that exceed the reasonable cost to provide the services for which the fee is charged; or (7) otherwise authorize the city to preempt any applicable federal or California law.

Section 10-9.02 DEFINITIONS.

All references to codified statutes, regulations or other rules shall be deemed to refer to such statutes, regulations or other rules as they may be amended or superseded.

- (A) **"AMATEUR STATION"** means the same as defined by the FCC in 47 C.F.R. § 97.3, which defines the term as "a station in an amateur radio service consisting of the apparatus necessary for carrying on radiocommunications." This term includes amateur radio antennas and related facilities used for amateur radio services.
- (B) **"APPROVAL AUTHORITY"** means the city official or body responsible for application review and vested with authority to approve or deny such applications. The approval authority for a conditional use permit shall be the Planning Commission. The approval authority for a site plan review shall be the Director.
- (C) **"CPUC"** means the California Public Utilities Commission established in the California Constitution, Article XII, § 5, or its duly appointed successor agency.
- (D) **"DIRECTOR"** means the Community Development Director of the city of Madera or the Director's designee.
- (E) **"ELIGIBLE FACILITIES REQUEST"** means the same as defined in 47 U.S.C. § 1455(a)(2), and as interpreted by the FCC in 47 C.F.R. § 1.6100(b)(3).
- (F) **"FCC"** means the Federal Communications Commission, as constituted by the Communications Act of 1934, Pub. L. 73-416, 48 Stat. 1064, codified as 47 U.S.C. §§ 151 *et seq.* or its duly appointed successor agency.
- (G) **"HISTORIC RESOURCE"** means any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion in, the National Register of Historic Places, the California Register of Historical Resources or any "historic resource" as listed in Table HC-A of the General Plan. The term includes artifacts, records and remains related to or located within such properties. The term also includes properties with traditional religious and/or cultural importance to any Native American tribe.
- (H) **"OTARD"** means any "over-the-air reception device" subject to 47 C.F.R. §§ 1.4000 *et seq.*, which generally includes satellite television dishes and certain fixed wireless antennas not greater than one meter in diameter.
- (I) **"PERSONAL WIRELESS SERVICE FACILITIES"** mean the same as defined in 47 U.S.C. § 332(c)(7)(C)(ii), which defines the term as facilities that provide personal wireless services.
- (J) **"PERSONAL WIRELESS SERVICES"** mean the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), which

defines the term as commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.

- (K) **"PLANNING COMMISSION"** means the Planning Commission of the city of Madera as established by the Madera Municipal Code.
- (L) **"RF"** means radio frequency.
- (M) **"SECTION 6409"** means Section 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a).
- (N) **"SHOT CLOCK"** means the presumptively reasonable time defined by the FCC in which a state or local government must act on an application or request for authorization to place, construct or modify personal wireless service facilities.
- (O) **"SNALL WIRELESS FACILITY"** means the same as defined by the FCC in 47 C.F.R. § 1.6002(l).
- (P) **"STEALTH"** means concealment techniques that make a wireless facility look like something other than a wireless facility. Stealth concealment techniques include, without limitation: (1) transmission equipment placed completely within existing or replacement architectural features such that the installation causes no visible change in the underlying support structure and (2) new architectural features that mimic or blend with the underlying or surrounding structures in style, proportion and construction quality.
- (Q) **"WIRELESS FACILITY"** means a personal wireless service facility.

Section 10-9.03 APPLICABILITY.

- (A) *General.* This chapter applies to all requests for the city's regulatory authorization to construct, install, operate, collocate, modify, relocate, remove or otherwise deploy wireless facilities on private property (whether owned by a private party or public entity) within the city's territorial and jurisdictional boundaries, unless expressly exempted pursuant to this section.
- (B) *Wireless Facilities on City Property.* This chapter applies to permit applications for wireless facilities on property or structures owned or controlled by the city; provided, however, that this chapter does not govern whether or under what terms and conditions the city would lease, license or otherwise allow a wireless facility on such property or structures.
- (C) *Small Wireless Facilities.* Notwithstanding anything in this chapter to the contrary, all small wireless facilities are subject to a permit as specified in a City Council policy, which may be adopted, amended and/or repealed by a resolution of the City Council. All small wireless facilities shall comply with the City Council's policy. If the City Council policy is repealed and not replaced, an application for a small wireless facility shall be processed pursuant to this chapter.
- (D) *Eligible Facilities Requests.* Notwithstanding anything in this chapter to the contrary, all eligible facilities requests and other applications submitted for approval pursuant to Section 6409 are subject to a City Council policy, which may be adopted, amended and/or repealed by a resolution

of the City Council. All eligible facilities requests and other applications submitted for approval pursuant to Section 6409 shall comply with the City Council's policy. If the City Council policy is repealed and not replaced, all eligible facilities requests and other applications submitted for approval pursuant to Section 6409 shall be processed pursuant to this chapter.

- (E) *Other Exemptions.* Notwithstanding anything in this chapter to the contrary, this chapter shall not be applicable to the following:
- (1) Wireless facilities operated by the city for public purposes;
 - (2) Wireless facilities installed completely indoors or within venues and used to extend personal wireless services into a business or the subscriber's private residence, such as a femto cell or indoor distributed antenna system;
 - (3) OTARD antennas;
 - (4) Antennas and related transmission equipment used in connection with a duly authorized amateur station; or
 - (5) Wireless facilities or other transmission equipment owned and operated by CPUC-regulated electric companies for use in connection with electrical power, generation, transmission and distribution facilities subject to CPUC General Order 131-D.

Section 10-9.04 REQUIRED PERMITS AND APPROVALS.

- (A) *Site Plan Review.* A site plan review, subject to the Director's prior review and approval, is required for all wireless facilities that are located in preferred locations as described in § 10-9.09 and compliant with all applicable design standards in § 10-9.10.
- (B) *Conditional Use Permit.* A conditional use permit, subject to the Planning Commission's prior review and approval, is required for all wireless facilities on private property that are located in discouraged locations as described in § 10-9.09, and do not qualify for site plan review, or require an exception under § 10-9.13.
- (C) *Other Permits and Regulatory Approvals.* In addition to any permit or approval required under this chapter, the applicant must obtain all other permits and regulatory approvals (such as compliance with the California Environmental Quality Act or Madera County Airport Land Use Commission requirements) as may be required by any other federal, state or local government agencies, which includes without limitation any other permits and/or approvals issued by other city departments or divisions. Any permit or approval granted under this chapter or deemed granted or deemed approved by law shall remain subject to any and all lawful conditions and/or legal requirements associated with such other permits or approvals. Furthermore, and to avoid potential confusion, an exemption from the permit requirement under § 10-9.03(E) does not exempt the same wireless facilities from any other permits or approvals required, which includes without limitation any ministerial permits from the city.

Section 10-9.05 ADMINISTRATIVE ORDERS AND REGULATIONS.

In addition to the requirements in this chapter, the Director may adopt such orders or regulations as the Director deems necessary or appropriate to protect and maintain public health, safety, welfare and/or convenience. All wireless facilities must conform to all applicable orders and regulations issued by the Director, unless the Director, in the Director's discretion, grants a prior written waiver to deviate, in whole or in part, any such order or regulation. The Director shall develop and publish guidelines to implement the waivers authorized by this section.

Section 10-9.06 PERMIT APPLICATIONS.

- (A) *Application Required.* The approval authority shall not approve any requests for authorization to construct, install, operate, collocate, modify, relocate, remove or otherwise deploy wireless facilities except upon a complete and duly filed application consistent with this section and any other written rules or requirements the city or the Director may establish from time to time in any publicly stated format.
- (B) *Application Fee.* The applicant shall submit the applicable permit application fee adopted by City Council resolution. If no permit application fee has been adopted, then the applicant must submit a signed written statement that acknowledges that the applicant will be required to submit a deposit estimated by the Director to reimburse the City for its reasonable costs incurred in connection with the application. Should the deposit be inadequate an additional deposit shall be required. If the deposit exceeds the actual costs, the difference will be returned to the applicant.
- (C) *Application Content.* All applications for a permit must include all the information and materials required by the Director for the application. The City Council authorizes the Director to develop, publish and from time-to-time update or amend permit application requirements, forms, checklists, guidelines, informational handouts and other related materials that the Director finds necessary, appropriate or useful for processing any application governed under this chapter. All such requirements must be in written form and publicly stated to provide applicants with prior notice. Notwithstanding anything in this chapter to the contrary, all applications shall, at a minimum, require the applicant to demonstrate that the proposed project will be in planned compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes and all FCC rules for human exposure to RF emissions.
- (D) *Application Submittal.* Unless the Director establishes an alternative submittal procedure pursuant to § 10-9.05, all applications must be submitted to the city at a pre-scheduled appointment with the department. Applicants may generally submit one application per appointment but may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants. The department shall use reasonable efforts to provide the applicant with an appointment within five working days after the department receives a written request and, if applicable, confirms that the applicant complied with the pre-submittal conference requirement. Any application received without an appointment, whether delivered in-person, by mail or through any other means, will not be considered duly filed.

- (E) *Optional Pre-Submittal Conference.* The city shall provide prospective applicants with the opportunity to schedule and attend a pre-submittal conference with city staff. The city encourages pre-submittal conferences for all proposed projects that require a conditional use permit. The pre-submittal conference is intended to streamline the review process through informal discussion that includes, without limitation, the appropriate project classification and review process, any latent issues in connection with the proposed or existing wireless facility, such as compliance with generally applicable rules for public health and safety; potential concealment issues or concerns (if applicable); coordination with other city departments and/or divisions responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that city staff may provide informal feedback and guidance about whether such applications or other materials may be incomplete or unacceptable. The city shall use reasonable efforts to provide the applicant with an appointment within five working days after receiving a written request and any applicable fee or deposit to reimburse the city for its reasonable costs to provide the services rendered in the pre-submittal conference.
- (F) *Optional Community Meetings.* The city encourages, but does not require, applicants to schedule, notice, arrange, and attend a voluntary pre-submittal community meeting with all interested members of the public for applications that require a conditional use permit. This voluntary community meeting does not cause the shot clock to begin and is intended to give applicants the opportunity to hear from members of the public regarding the proposed deployment. Applicants should schedule any voluntary community meetings at times and in locations that are conducive to maximizing public participation. Applicants are encouraged (but not required) to bring any draft applications, plans, maps, presentations or other materials to facilitate the public's understanding of the applicant's proposal. Applicants are also encouraged (but not required) to maintain minutes or a comment log of the community meeting. The City seeks to encourage dialogue that may allow applicants to address areas of concern. Community meetings may be conducted before or after submittal.
- (G) *Applications Deemed Withdrawn.* To promote efficient review and timely decisions, any application governed under this chapter will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the department within 90 calendar days after the department deems the application incomplete in a written notice to the applicant. The Director, in the Director's discretion, may grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to the 90th day that shows good cause to grant the extension. Good cause for an extension shall include, without limitation, delays due to circumstances outside the applicant's reasonable control.

Section 10-9.07 PUBLIC NOTICE.

- (A) *Public Hearing Notice.* Notice of public hearing shall be given in accordance with § 10-3.1306 of this chapter for any conditional use permit application.
- (B) *Decision Notices.* Within five calendar days after the approval authority acts on an application governed under this chapter or before the shot clock expires (whichever occurs first), the Director shall send a written notice to the applicant. If the approval authority denies the application (with or without prejudice), the written notice to the applicant must contain the reasons for the denial.

All decision notices shall include instructions for how and when to file an appeal.

Section 10-9.08 APPROVALS, DENIALS AND APPEALS.

- (A) *Required Findings.* The approval authority may approve wireless facility applications only when the approval authority makes all the following findings:
- (1) the proposed wireless facility is in a preferred location; or the proposed wireless facility is in a discouraged location and the applicant has demonstrated through a meaningful comparative analysis that no more preferred location or support structure would be technically feasible and potentially available;
 - (2) the proposed wireless facility complies with all applicable development standards in this chapter and any other applicable findings required for the approval, such as § 10-3.1307(B) of this chapter (conditional use permits) or § 10-3.4.0106 of this chapter (site plan review);
 - (3) the applicant has provided a signed statement that indicates its willingness to allow other carriers and site operators to collocate transmission equipment with the proposed wireless facility whenever technically feasible and aesthetically desirable in accordance with applicable provisions in this chapter; and
 - (4) the applicant has demonstrated that the proposed wireless facility will comply with all applicable FCC regulations and guidelines for human exposure to RF emissions and will not, either individually or cumulatively with other transmitters in the vicinity, result in RF exposures that exceed the FCC's maximum permissible exposure level for the general population.
- (B) *Conditional Approvals; Denials without Prejudice.* Subject to any applicable federal or state laws, nothing in this chapter is intended to limit the approval authority's ability to conditionally approve or deny without prejudice any application governed under this chapter as may be necessary or appropriate to protect and promote the public health, safety and welfare, and to advance the goals or policies in the general plan and any applicable specific plan, the Madera Municipal Code, or this chapter.
- (C) *Appeals.* Within 10 days after the approval authority approves or denies any application under this chapter, any interested person may file an appeal in accordance with the provisions in § 10-3.1309 of this chapter for use permits or §§ 10-3.4.0116 and 10-3.4.0117 of this chapter for site plan review; provided, however, that (1) the notice provisions in this chapter shall control over those in § 10-3.1309 of this chapter and (2) appeals from an approval shall not be permitted when based solely on the environmental effects from RF emissions that are compliant with applicable FCC regulations and guidelines.

Section 10-9.09 LOCATION STANDARDS.

- (A) *Locations.* To assist applicants, staff and the approval authority understand and respond to the community's aesthetic preferences and values, this subsection describes preferred and discouraged locations for wireless facilities.

- (1) *Preferred Locations.* All applicants must, to the extent technically feasible and potentially available, propose new facilities in a preferred location. No alternative sites analysis is required for new stealth facilities proposed in any preferred location. For all other new facilities, the approval authority shall consider whether any more preferred location would be technically feasible or potentially available. The following locations are all “preferred” and ordered from most preferred to least preferred:
 - (a) industrial zones;
 - (b) commercial zones;
 - (c) other non-residential zones;
 - (d) Public Facilities zone when not directly adjacent to residentially zoned parcels.
- (2) *Discouraged Locations.* Applicants shall not propose to install wireless facilities in a discouraged location unless no alternative site in a preferred location would be technically feasible. If all preferred locations are technically infeasible, the applicant shall use the least-discouraged location. The following locations are discouraged, and ordered from most discouraged to least discouraged:
 - (a) historic resource zones and properties;
 - (b) Public Facilities zone when directly adjacent to residentially zoned parcels;
 - (c) residential zones.
- (B) *Support Structures.* To assist applicants, staff and the approval authority understand and respond to the community’s aesthetic preferences and values, and to mitigate the impact of wireless infrastructure deployment, the city requires wireless facilities to be installed on support structures, ordered from most preferred to least preferred, as follows:
 - (1) existing structures with existing wireless facilities;
 - (2) existing rooftops;
 - (3) existing building façades, signs, water tank/towers, field lights, or other non-tower structures;
 - (4) new freestanding structures outside the public rights-of-way.

To the extent that a proposed support structure is not included in this list, the Director may, in the Director’s discretion, determine the level of preference for such structure consistent with the goals and purpose of this subsection.

Section 10-9.10 DESIGN STANDARDS.

- (A) *Concealment.* All wireless facilities must be concealed to the maximum extent feasible with design elements and techniques that mimic or blend with the underlying support structure, surrounding environment and adjacent uses.

- (B) *Overall Height.* All wireless facilities must be compliant with maximum overall height limits applicable to structures on the underlying parcel; provided, however, that a stealth wireless facility may exceed the applicable height limit by not more than 10 feet.
- (C) *Setbacks.* All wireless facilities must be compliant with all setback requirements applicable to structures on the underlying parcel.
- (D) *Fall Zone.* All freestanding towers outside the public rights-of-way must be setback from habitable structures approved for residential occupancy by a distance equal to the tower height. The approval authority may waive the setback requirement for freestanding towers that meet Class 3 structural standards for critical infrastructure as defined in the most current revision of the ANSI/TIA-222 Structural Standard for Antenna Supporting Structures, Antennas and Small Wind Turbine Support Structures.
- (E) *Noise.* All wireless facilities must be compliant with all applicable noise regulations, which includes, without limitation, any noise regulations in the Madera Municipal Code. The approval authority may require the applicant to incorporate appropriate noise-baffling materials and/or noise-mitigation strategies to avoid any ambient noise from equipment reasonably likely to exceed the applicable noise regulations.
- (F) *Landscaping.* All wireless facilities proposed to be placed in a landscaped area must include landscape features (which may include, without limitation, trees, shrubs and ground cover) and a landscape maintenance plan. The approval authority may require additional landscape features to screen the wireless facility from public view, avoid or mitigate potential adverse impacts on adjacent properties or otherwise enhance the concealment required under this section. All plants proposed or required must be native and/or drought resistant.
- (G) *Security Measures.* To prevent unauthorized access, theft, vandalism, attractive nuisance or other hazards, reasonable and appropriate security measures, such as fences, walls and anti-climbing devices, may be approved. Security measures shall be designed and implemented in a manner that enhances or contributes to the overall concealment, and the approval authority may condition approval on additional concealment elements to mitigate any aesthetic impacts, which may include, without limitation, additional landscape features. The approval authority shall not approve barbed wire, razor ribbon, electrified fences or any similar security measures.
- (H) *Secondary Power Sources.* The approval authority may approve secondary or backup power sources and/or generators on a case-by-case basis. The approval authority shall not approve any permanent diesel generators or other similarly noisy or noxious generators in or within 200 feet from any residence; provided, however, the approval authority may approve sockets or other connections used for temporary backup generators.
- (I) *Lights.* Wireless facilities may not include exterior lights other than as may be required under Federal Aviation Administration, FCC, other applicable federal or state governmental regulations. All exterior lights permitted or required to be installed must be installed in locations and within enclosures that mitigates illumination impacts on other properties to the maximum extent feasible. Any lights associated with the electronic equipment shall be appropriately shielded from

public view. Any light beacons or lightning arresters shall be included in the overall height calculation.

- (J) *Signage; Decals; Advertisements.* All wireless facilities must include signage that accurately identifies the equipment owner/operator, the owner/operator's site name or identification number and a toll-free number to the owner/operator's network operations center. Wireless facilities may not bear any other signage, decals or advertisements unless expressly approved by the approval authority, required by law or recommended under FCC or other federal governmental agencies for compliance with RF emissions regulations.
- (K) *Future Expansion.* To the extent feasible and aesthetically desirable, all new wireless facilities should be designed and sited in a manner that accommodates potential future collocations and other expansions that can be integrated into the proposed wireless facility or its associated structures with no or negligible visual changes to the outward appearance. The approval authority may waive the requirements in this subsection when the approval authority determines future expansions at a proposed wireless facility would be aesthetically undesirable.
- (L) *Utilities.* All cables and connectors for telephone, primary electric and other similar utilities must be routed underground to the extent feasible in conduits large enough to accommodate future collocated wireless facilities. To the extent feasible, undergrounded cables and wires must transition directly into the pole base without any external doghouse. Meters, panels, disconnect switches and other associated improvements must be placed in inconspicuous locations to the extent possible. The approval authority shall not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the project cost. Microwave or other wireless backhaul is discouraged when it would involve a separate and unconcealed antenna.
- (M) *Parking; Access.* Any equipment or improvements constructed or installed in connection with any wireless facilities must not reduce any parking spaces below the minimum requirement for the subject property. Whenever feasible, wireless facilities should use existing parking and access rather than construct new parking or access improvements. Any new parking or access improvements should be the minimum size necessary to reasonably accommodate the proposed use.
- (N) *Compliance with Laws.* All wireless facilities must be designed and sited in compliance with all applicable federal, state and local laws, regulations, rules, restrictions and conditions, which includes without limitation the California Building Standards Code, Americans with Disabilities Act, City of Madera General Plan and any applicable specific plan, the Madera Municipal Code and any conditions or restrictions in any permit or other governmental approval issued by any public agency with jurisdiction over the project.
- (O) *Towers and Freestanding Wireless Facilities.* In addition to all other design requirements in this section, the following provisions shall be applied to an application for a tower or other freestanding wireless facility:
 - (1) *Tower-Mounted Equipment.* All tower-mounted equipment must be mounted as close to the vertical support structure as possible to reduce its overall visual profile. Applicants must

mount non-antenna, tower-mounted equipment (including, but not limited to, remote radio units/heads, surge suppressors and utility demarcation boxes) directly behind the antennas to the maximum extent feasible. All tower-mounted equipment, cables and hardware must be painted with flat/neutral colors subject to the approval authority's prior approval.

- (2) *Ground-Mounted Equipment.* All ground-mounted equipment must either be concealed underground, or concealed within an existing or new structure, or other enclosure(s) subject to the approval authority's prior approval. The approval authority may require additional concealment elements as the approval authority finds necessary or appropriate to blend the ground-mounted equipment, enclosure and/or other improvements into the natural and/or built environment.
- (3) *Monopines.* In addition to all other design requirements in this section, the following provisions shall be applied to an application for a monopine:
 - (a) *Shape and Branching.* Monopines shall be gradually tapered from bottom to top to resemble the natural conical pine-tree shape, with shorter branches at the top and wider branches at the bottom. All monopines shall include a "crown" or "topper" installed above the monopole to create a natural point at the top. Branches shall begin at no greater than 15 feet above ground level and maintain at least 3.5 branches per vertical foot when averaged between the bottom-most branch and the highest point on the monopole (excluding any "crown" or "topper" installed above the monopole).
 - (b) *Overall Height.* To maintain a natural appearance, a monopine may not exceed more than 10 feet above the average height of mature natural trees within the vicinity. If the applicant plants new natural trees around the proposed monopine, the approval authority shall consider the future mature height of such trees when evaluating compliance with this standard.
 - (c) *Bark Cladding.* The entire tower above any fence line shall be fitted with faux-pine bark cladding, painted or colored with browns or other appropriate earth tones to mimic natural pine bark.
 - (d) *Equipment Concealment.* All antennas, accessory equipment, cross arms, hardware, cables and other attachments to the monopine must be painted or colored with flat greens, browns or other appropriate earth tones to blend into the faux pine branches. All antennas, remote radio units, tower-mounted amplifiers and other similar equipment larger than one cubic foot shall be fitted with a faux-pine "sock" with faux-pine needles. No tower-mounted equipment shall be permitted to protrude beyond the branch canopy such that it would materially alter the tapered pine shape.
 - (e) *Material Selection and Approval.* All materials and finishes used to conceal the monopine shall be subject to prior approval by the department. Applicants shall use only high-quality materials to conceal the wireless facility. The applicant shall use color-extruded plastics for elements such as the faux-pine needles and faux-bark cladding to prolong the like-new appearance and reduce fading caused by exposure to the sun and other weather conditions.

- (P) *Building-Mounted Wireless Facilities.* In addition to all other design requirements in this section, the following provisions shall be applied to an application for a wireless facility installed on a building rooftop or facade:
- (1) *Architectural Integration.* All applicants should, to the extent feasible, propose new non-tower wireless facilities that are completely concealed and architecturally integrated into the existing facade or rooftop features with no visible impacts from any publicly accessible areas at ground level (examples include, but are not limited to, antennas behind existing parapet walls or facades replaced with RF-transparent material and finished to mimic the replaced materials). Alternatively, when integration with existing building features is not feasible, the applicant should propose completely concealed new structures or appurtenances designed to mimic the support structure's original architecture and proportions (examples include, but are not limited to, cupolas, steeples, chimneys and water tanks). Facilities must be located behind existing parapet walls or other existing screening elements to the maximum extent feasible.
 - (2) *Rooftop Wireless Facilities.* All rooftop-mounted equipment must be screened from public view with concealment measures that match the underlying structure in proportion, quality, architectural style and finish. The approval authority may approve unscreened rooftop equipment only when it expressly finds that such equipment is effectively concealed due to its low height and/or setback from the roofline.
 - (3) *Facade-Mounted Wireless Facilities.* When wireless facilities cannot be placed behind existing parapet walls or other existing screening elements, the approval authority may approve facade-mounted equipment in accordance with this subsection. All facade-mounted equipment must be concealed behind screen walls and mounted as flush to the facade as practicable. The approval authority may not approve "pop-out" screen boxes unless the design is architecturally consistent with the original building or support structure. Except in industrial districts, the approval authority may not approve any exposed facade-mounted antennas, including but not limited to exposed antennas painted to match the facade. To the extent feasible, facade-mounted equipment must be installed on the facade(s) along the building frontage that is the least prominent or publicly visible.
- (Q) *Administrative Design Guidelines.* The Director may develop, and from time to time amend, design guidelines consistent with the generally applicable design regulations to clarify the aesthetic and public safety goals and standards in this chapter for city staff, applicants and the public. The design guidelines shall provide more detailed standards to implement the general principals articulated in this chapter and may include specific standards for particular wireless facilities or site locations but shall not unreasonably discriminate between functionally equivalent service providers. The design guidelines, and any subsequent amendments, shall not be effective unless approved by a resolution adopted by the City Council. If a conflict arises between the development standards specified in this chapter and the design guidelines, the development standards shall control.

Section 10-9.11 STANDARD CONDITIONS OF APPROVAL.

- (A) *Standard Conditions.* Except as may be authorized in subsection (B), all wireless facilities approved under this chapter or deemed approved by the operation of law shall be automatically subject to the conditions in this subsection (A) and these conditions shall be deemed to be incorporated by reference to any permit approved or deemed approved by law.

- (1) *Permit Term; Approval Applies to Land.* This permit will automatically expire 10 years and one day from its issuance unless California Government Code § 65964(b) authorizes the city to establish a shorter term for public safety or substantial land use reasons. Any other permits or approvals issued in connection with any collocation, modification or other change to this wireless facility, which includes without limitation any permits or other approvals deemed-granted or deemed-approved under federal or state law, will not extend this term limit unless expressly provided otherwise in such permit or approval or required under federal or state law. This permit shall run with the land and shall be valid for the term specified in these conditions of approval. No change in ownership of the wireless facility, the site, or the subject property shall affect the permit term. This permit may not be transferred to another site or property.
- (2) *Permit Renewal.* The permittee may apply for permit renewal not more than one year before this permit expires. The permittee must demonstrate that the subject wireless facility complies with all the conditions of approval associated with this permit and all applicable provisions in this chapter that exist at the time the decision to renew or not renew is rendered. The Director may modify or amend the conditions on a case-by-case basis as may be necessary or appropriate to ensure compliance with this chapter or other applicable law. Upon renewal, this permit will automatically expire 10 years and one day from its issuance.
- (3) *Approved Plans.* Any final construction plans shall incorporate the permit, together with all conditions of approval and the photo simulations associated with the permit (collectively, the "Approved Plans"). The permittee must construct, install and operate the wireless facility in substantial compliance with the Approved Plans. Any alterations, modifications or other changes to the Approved Plans, whether requested by the permittee or required by other departments or public agencies with jurisdiction over the wireless facility, shall be subject to the Director's prior review and approval. After the Director receives a written request to approve an alteration, modification or other change to the Approved Plans, the Director may refer the request to the approval authority if the Director finds that it substantially deviates from the Approved Plans or implicates a significant or substantial land-use concern.
- (4) *CPUC GO-159A Certification.* Within 15 business days after the city issues this permit, the permittee shall serve copies of California Public Utility Commission notification letters required by CPUC General Order No. 159A to the City Clerk, Director and City Manager.
- (5) *Build-Out Period.* This permit will automatically expire 12 months from the approval date (the "Build-Out Period") unless the permittee obtains all other permits and approvals required to install, construct and/or operate the approved wireless facility, which includes without limitation any permits or approvals required by any federal, state or local public agencies with jurisdiction over the subject property, support structure or the wireless facility and/or its use. The permittee may request in writing, and the city may grant in writing, one six-month extension if the permittee submits substantial and reliable written evidence demonstrating justifiable cause for such extension. If the Build-Out Period and any extension finally expire, this permit shall be automatically void but the permittee may resubmit a complete application, including all application fees, for the same or substantially similar project.

- (6) *Post-Installation Certification.* Within 60 calendar days after the permittee commences full, unattended operations of a wireless facility approved under this chapter or deemed-approved by law, the permittee shall provide the Director with documentation reasonably acceptable to the Director that the wireless facility has been installed and/or constructed in strict compliance with the approved construction drawings and photo simulations. Such documentation shall include without limitation as-built drawings, GIS data and site photographs.
- (7) *Site Maintenance.* The permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean and safe condition in accordance with the approved construction drawings and all conditions in this permit. At all times, the permittee shall keep the site area free from all litter and debris. The permittee shall regularly inspect the wireless facility to determine whether any maintenance is needed. The permittee, at no cost to the city, shall remove and remediate any graffiti or other vandalism on the wireless facility within 48 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.
- (8) *Compliance with Laws.* The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law ("Laws") applicable to the permittee, the subject property, the wireless facility or any use or activities in connection with the use authorized in this permit, which includes without limitation any Laws applicable to human exposure to RF emissions and any standards, specifications or other requirements identified by the Director (such as, without limitation, those requirements affixed to a building permit). The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain compliance with all Laws. No failure or omission by the city to timely notice, prompt or enforce compliance with any applicable provision in the Madera Municipal Code, this chapter, any permit, any permit condition or any applicable Laws, shall be deemed to relieve, waive or lessen the permittee's obligation to comply in all respects with same.
- (9) *Adverse Impacts on Other Properties.* The permittee shall use all reasonable efforts to avoid any and all unreasonable, undue or unnecessary adverse impacts on nearby properties that may arise from the permittees or its authorized personnel's construction, installation, operation, modification, maintenance, repair, removal and/or other activities on or about the site and/or wireless facility. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction work hours authorized by the Madera Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the city or other state or federal government agency or official with authority to declare an emergency within the city. The Director may issue a stop work order for any activities that violates this condition in whole or in part. If the Director finds good cause to believe that ambient noise from the wireless facility or related equipment violates applicable provisions in the Madera Municipal Code, the Director, in addition to any other actions or remedies authorized by the permit, the Madera Municipal Code or other applicable laws, may require the permittee to commission a noise

study by a qualified professional to evaluate the wireless facility's compliance.

- (10) *Inspections; Emergencies.* The permittee expressly acknowledges and agrees that, upon reasonable prior notice to the permittee, the city's officers, officials, staff, agents, contractors or other designees may enter onto the site and inspect the wireless facility and related equipment and/or improvements to ensure compliance with this permit and all associated conditions. Notwithstanding the prior sentence, the city's officers, officials, staff, agents, contractors or other designees may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee, if present, may observe the city's officers, officials, staff or other designees while any such inspection or emergency access occurs.
- (11) *Contact Information.* At all times relevant to this permit, the permittee shall keep on file with the Director basic contact and site information. This information shall include, but is not limited to, the following: (A) the name, physical address, notice address (if different), direct telephone number and email address for (i) the permittee and, if different from the permittee, the (ii) site operator, (ii) equipment owner, (iii) site manager and (iv) agent for service of process; (B) the wireless facility's site identification number and/or name used by the permittee and, to the extent applicable, site operator, equipment owner and site manager; and (C) a toll-free telephone number to the wireless facility's network operations center where a live person with power-down control over the wireless facility is available 24 hours-per-day, seven days-per-week. Within 10 business days after a written request by the city, the permittee shall furnish the Director with an updated form that includes all the most-current information described in this condition.
- (12) *Indemnification.* The permittee and, if applicable, the property owner upon which the wireless facility is installed shall defend, indemnify and hold harmless the city, City Council and the city's boards, commissions, agents, officers, officials, employees and volunteers (collectively, the "indemnitees") from any and all (A) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings ("claims") brought against the indemnitees to challenge, attack, seek to modify, set aside, void or annul the city's approval of this permit, and (B) other claims of any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees' or customers' acts or omissions in connection with this permit or the wireless facility. In the event the city becomes aware of any claims, the city will use best efforts to promptly notify the permittee and the private property owner (if applicable) and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the city shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the city's defense, and the property owner and/or permittee (as applicable) shall promptly reimburse the city for any costs and expenses directly and necessarily incurred by the city in the course of the defense. The permittee expressly acknowledges and agrees that the permittee's indemnification obligations under this condition are a material consideration that motivates the city to approve this permit, and that such indemnification obligations will survive the expiration, revocation or other termination of this permit.

- (13) *Removal Bond.* Before the city issues any permits required to commence construction in connection with this permit, the permittee shall post a bond issued by a surety and in a form acceptable to the Director in an amount reasonably necessary to cover the cost to remove the improvements and restore all affected areas based on a written estimate from a qualified contractor with experience in wireless facilities or similar infrastructure removal. The written estimate must include the cost to remove all equipment and other improvements, which includes without limitation all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the wireless facility, plus the cost to completely restore any areas affected by the removal work to a standard compliant with applicable laws. In establishing or adjusting the bond amount required under this condition, the Director shall take into consideration any information provided by the permittee regarding the cost to remove the wireless facility to a standard compliant with applicable laws. The performance bond shall expressly survive the duration of the permit term to the extent required to effectuate a complete removal of the subject wireless facility in accordance with this condition.
- (14) *Permit Revocation.* Notwithstanding any revocation procedures in Title X, any permit granted under this chapter or deemed approved by the operation of law may be revoked in accordance with the provisions and procedures in this condition. The Director may initiate revocation proceedings when the Director has information that the facility may not be in compliance with all applicable laws, which includes without limitation, any permit in connection with the facility and any associated conditions with such permit(s). A permit granted under this chapter or deemed approved by the operation of law may be revoked only by the City Council after a duly notice public hearing. Before any public hearing to revoke a permit granted under this chapter or deemed approved by the operation of law, the Director must issue a written notice to the permittee that specifies (A) the facility; (B) the violation(s) to be corrected; (C) the timeframe in which the permittee must correct such violation(s); and (D) that, in addition to all other rights and remedies the city may pursue, the city may initiate revocation proceedings for failure to correct such violation(s). The City Council may revoke a permit when it finds substantial evidence in the written record to show that the facility is not in compliance with any applicable laws, which includes without limitation, any permit in connection with the facility and any associated conditions with such permit(s). Any decision by the City Council to revoke or not revoke a permit shall be final and not subject to any further appeals. Within five business days after the City Council adopts a resolution to revoke a permit, the Director shall provide the permittee with a written notice that specifies the revocation and the reasons for such revocation.
- (15) *Record Retention.* Throughout the permit term, the permittee must maintain a complete and accurate copy of the written administrative record, which includes without limitation the permit application, this permit, the Approved Plans and photo simulations incorporated into this approval, all conditions associated with this approval, any ministerial permits or approvals issued in connection with this approval and any records, memoranda, documents, papers and other correspondence entered into the public record in connection with the permit (collectively, "Records"). If the permittee does not maintain such Records as required in this condition, any ambiguities or uncertainties that would be resolved by inspecting the missing Records will be construed against the permittee. The permittee shall protect all Records from damage from fires, floods and other hazards that may cause deterioration. The permittee may

keep Records in an electronic format; provided, however, that hard copies or electronic Records kept in the city's regular files will control over any conflicts between such city-controlled copies or Records and the permittee's electronic copies, and complete originals will control over all other copies in any form. The requirements in this condition shall not be construed to create any obligation to create or prepare any Records not otherwise required to be created or prepared by other applicable laws. Compliance with the requirements in this condition shall not excuse the permittee from any other similar record-retention obligations under applicable law.

- (16) *Abandoned Facilities.* The wireless facility authorized under this permit shall be deemed abandoned if not operated for any continuous 12-month period. Within 90 days after a wireless facility is abandoned or deemed abandoned, the permittee and/or property owner shall completely remove the wireless facility and all related improvements and shall restore all affected areas to a condition compliant with all applicable laws, which includes without limitation the Madera Municipal Code. In the event that neither the permittee nor the property owner complies with the removal and restoration obligations under this condition within said 90-day period, the city shall have the right (but not the obligation) to perform such removal and restoration with or without notice, and the permittee and property owner shall be jointly and severally liable for all costs and expenses incurred by the city in connection with such removal and/or restoration activities and shall reimburse the city for all such costs 30 calendar days after a written demand for reimbursement and reasonable documentation to support such costs.
- (17) *Landscaping.* The permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee's direction on or about the site. If any trees are damaged or displaced, the permittee shall hire and pay for a licensed arborist to select plant and maintain replacement landscaping in an appropriate location for the species. Any replacement tree must be substantially the same size as the damaged tree or as otherwise approved by the city. The permittee shall be responsible to maintain any replacement landscape features for a three-year period after such landscaping has been installed. Notwithstanding anything in this condition to the contrary, the Director may agree in a written agreement signed by the permittee to accept an annual in-lieu fee to perform the maintenance work on the permittee's behalf.
- (18) *Cost Reimbursement.* The permittee acknowledges and agrees that (A) the permittee's request for authorization to construct, install and/or operate the wireless facility will cause the city to incur costs and expenses; (B) the permittee shall be responsible to reimburse the city for all costs incurred in connection with the permit, which includes without limitation costs related to application review, permit issuance, site inspection and any other costs reasonably related to or caused by the request for authorization to construct, install and/or operate the wireless facility; (C) any application fees required for the application may not cover all such reimbursable costs and that the permittee shall have the obligation to reimburse the city for all such costs 30 calendar days after a written demand for reimbursement and reasonable documentation to support such costs; and (D) the city shall have the right to withhold any permits or other approvals in connection with the wireless facility until and unless any outstanding costs have been reimbursed to the city by the permittee.

- (19) *Successors and Assigns.* The conditions, covenants, promises and terms contained in this permit will bind and inure to the benefit of the city and permittee and their respective successors and assigns.
- (20) *Truthful and Accurate Statements.* The permittee acknowledges that the city's approval relies on the written and/or oral statements by permittee and/or persons authorized to act on permittee's behalf. In any matter before the city in connection with the permit or the wireless facility, neither the permittee nor any person authorized to act on permittee's behalf shall, in any written or oral statement, intentionally provide material factual information that is incorrect or misleading or intentionally omit any material information necessary to prevent any material factual statement from being incorrect or misleading.
- (21) *City's Standing Reserved.* The city's grant or grant by operation of law of a permit pursuant to this chapter does not waive, and shall not be construed to waive, any standing by the city to challenge any (A) FCC rules or regulations that interpret the Telecommunications Act and/or Section 6409 of the Spectrum Act or (B) any permit issued pursuant to this chapter.
- (22) *Severable Conditions.* If any provision in these conditions or such provision's application to any person, entity or circumstances is or held by any court with competent jurisdiction to be invalid or unenforceable: (A) such provision or its application to such person, entity or circumstance will be deemed severed from this permit; (B) all other provisions in this permit or their application to any person, entity or circumstance will not be affected; and (C) all other provisions in this permit or their application to any person, entity or circumstance will be valid and enforceable to the fullest extent permitted by law.
- (B) *Modified Conditions.* The City Council authorizes the Director to modify, add or remove conditions to any permit as the Director deems necessary or appropriate to: (1) protect and/or promote the public health, safety and welfare; (2) tailor the standard conditions in subsection (A) to the particular facts and circumstances associated with the deployment; and/or (3) memorialize any changes to the proposed deployment needed for compliance with this chapter, generally applicable health and safety requirements and/or any other applicable laws.

Section 10-9.12 AMORTIZATION.

Any nonconforming wireless facilities in existence at the time this chapter becomes effective must be brought into conformance with this chapter in accordance with the amortization schedule in this chapter. As used in this section, the "fair market value" will be the construction costs listed on the building permit or application for the subject wireless facility and the "minimum years" allowed will be measured from the date on which this chapter becomes effective.

Fair Market Value on Effective Date	Minimum Years Allowed
less than \$50,000.....	5
\$50,000 to \$500,000.....	10

The Director may grant a written extension to a date certain when the wireless facility owner shows (1) a good faith effort to cure non-conformance; (2) the application of this section would violate applicable laws; or (3) extreme economic hardship would result from strict compliance with the amortization schedule. Any extension must be the minimum time period necessary to avoid such extreme economic hardship. The Director may not grant any permanent exemption from this section.

Nothing in this section is intended to limit any permit term to less than 10 years for any permit granted on or after January 1, 2007. In the event that the amortization required in this section would reduce the permit term to less than 10 years for any permit granted on or after January 1, 2007, then the minimum years allowed will be automatically extended by the difference between 10 years and the number of years since the city granted such permit. Nothing in this section is intended or may be applied to prohibit any collocation or modification covered under 47 U.S.C. § 1455(a) on the basis that the subject wireless facility is a legal nonconforming wireless facility.

Section 10-9.13 EXCEPTIONS.

- (A) *Preface.* The provisions in this section establish a procedure by which the city may grant an exception to the standards in this chapter but only to the extent necessary to avoid conflict with applicable federal or state law. When the applicant requests an exception, the approval authority shall consider the findings in subsection (B) in addition to the findings required under § 10-9.08. Each exception is specific to the facts and circumstances in connection with each application. An exception granted in one instance shall not be deemed to create a presumption or expectation that an exception will be granted in any other instance.
- (B) *Findings for an Exception.* The approval authority may grant an exception to any provision or requirement in this chapter only if the approval authority finds that:
 - (1) a denial based on the application's noncompliance with a specific provision or requirement would violate federal law, state law or both; or
 - (2) a provision in this chapter, as applied to the applicant, would violate any rights or privileges conferred on the applicant by federal or state law.
- (C) *Scope of Exception.* If the approval authority finds that an exception should be granted, the exception shall be narrowly tailored so that the exception deviates from this chapter to least extent necessary for compliance with federal or state law.
- (D) *Burden of Proof.* The applicant shall have the burden to prove to the approval authority that an exception should be granted pursuant to this section. The standard of evidence shall be the same as required by applicable federal or state law for the issue raised in the applicant's request for an exception.

Section 10-9.14 PEER AND INDIVIDUAL CONSULTANT REVIEW.

- (A) *Authorization.* The City Council authorizes the Director to, in the Director's discretion, select and retain an independent consultant with specialized training, experience and/or expertise in telecommunications issues satisfactory to the Director in connection any permit application. The Director may request an independent consultant review on any issue that involves specialized or expert knowledge in connection with wireless facilities deployment or permit applications for wireless facilities, which include without limitation: (1) permit application completeness and/or accuracy; (2) pre-construction planned compliance with applicable regulations for human exposure to RF emissions; (3) post-construction actual compliance with applicable regulations for human exposure to RF emissions; (4) whether and to what extent a proposed project will comply with applicable laws; (5) the applicability, reliability and/or sufficiency of any information, analyses or methodologies used by the applicant to reach any conclusions about any issue with the city's discretion to review; and (6) any other issue identified by the Director that requires expert or specialized knowledge. The Director may request that the independent consultant prepare written reports, testify at public meetings, hearings and/or appeals and attend meetings with city staff and/or the applicant.
- (B) *Cost Reimbursement.* Subject to applicable laws, the applicant shall be responsible for the reasonable costs actually incurred by the city in connection with a consultant's review, which may include, without limitation, costs incurred by the consultant to attend and participate in any meetings or hearings related to the application. Within a reasonable time after notice from the Director, the applicant shall deposit funds in an amount equal to the estimated costs for the consultant's services, as determined by the Director. The funds shall be applied to the consultant's invoices as such invoices are approved by the Director. If the deposit exceeds the total costs for the consultant's services, the Director shall promptly return any unused funds to the applicant after the wireless facility has been installed and passes a final inspection. If the reasonable costs for the consultant's services exceed the deposit, the Director shall invoice the applicant for the balance. The city shall not issue any building permit or other construction permit to any applicant with any unpaid invoices.

Section 10-9.15 VIOLATIONS.

Any use or condition caused or permitted to exist in violation of any provision of this chapter shall be and hereby is declared a public nuisance and may be subject to administrative citations as set forth in Title I, Chapter 9 of the Municipal Code, abatement pursuant to §§ 10-3.1601 *et seq.* of this chapter, California Code of Civil Procedure § 731, or any other remedy available to the city.

Section 10-9.16 CONFLICTING PROVISIONS.

To the extent, that any provisions in the Madera Municipal Code Section 10.3.419 are inconsistent with this chapter, this chapter shall prevail.

SECTION 2. *Severability.* If any section, subsection, paragraph, sentence, clause, phrase or term (each a "Provision") in this ordinance or Madera Municipal Code Title X, Chapter 9, or any Provision's application to any person or circumstance, is held illegal, invalid or unconstitutional by a court of competent jurisdiction, all other Provisions not held illegal, invalid or unconstitutional, or such Provision's application to other persons or circumstances, shall not be affected. The City Council declares that it would have

passed this ordinance and Madera Municipal Code Title X, Chapter 9, and each Provision therein, whether any one or more Provisions be declared illegal, invalid or unconstitutional.

SECTION 3. *CEQA.* If this ordinance qualifies as a “project” subject to California Environmental Quality Act (“CEQA”) Guidelines § 15378 and California Public Resources Code § 21065, the City Council finds that, pursuant to CEQA Guidelines § 15061(b)(3), there is no possibility that this project will have a significant impact on the physical environment. This ordinance adds regulations related to wireless facilities in a manner that complies with federal regulations. This ordinance does not directly or indirectly authorize or approve any actual changes in the physical environment. Applications for any new wireless facility or change to an existing wireless facility would be subject to additional environmental review on a case-by-case basis. Accordingly, the City Council finds that this ordinance is exempt from CEQA under the general rule.

SECTION 4. *Effective Date.* This ordinance shall become effective thirty days after its adoption.

SECTION 5. *Publication.* The City Clerk is authorized to cause this ordinance or a summary of this ordinance to be published in a newspaper of general circulation in the City of Madera, within fifteen days after its adoption. If a summary of the ordinance is published, the City Clerk shall cause a certified copy of the full text of the proposed ordinance to be posted at City Hall at least five days prior to the meeting at which the ordinance is adopted and again after the meeting at which it is adopted. The ordinance shall become effective thirty days after its adoption.

* * * * *

The foregoing Ordinance No. 995 C.S. was introduced and given its first reading at a regular meeting of the City Council of the City of Madera held on the 21st day of September 2022 and adopted after a second reading at a regular meeting of the City Council held on 19th day of October 2022 by the following vote:

AYES: Mayor Garcia, Councilmembers Gallegos, Montes, Evans, Mejia and Villegas.

NOES: None.

ABSTENTIONS: None.

ABSENT: Councilmember Rodriguez.

APPROVED:



SANTOS GARCIA, Mayor

ATTEST:



ALICIA GONZALES, City Clerk



ORDINANCE NO. 996 C.S.

AN ORDINANCE OF THE CITY OF MADERA REPEALING SECTIONS 2-2.501, 2-2.502, AND 2-2.503 OF THE MADERA MUNICIPAL CODE AND ADOPTING NEW CHAPTER 4 TO TITLE II OF THE MUNICIPAL CODE RELATING TO PURCHASING PROCEDURES AND INCLUDING ADOPTION OF UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT

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

SECTION 1. Sections 2-2.501, 2-2.502, AND 2-2.503 of the Madera Municipal Code are repealed.

SECTION 2. Chapter 4 (Purchasing Procedures) shall be added to Title II (Administration) of the Madera Municipal Code to read as follows:

TITLE II

CHAPTER 4: PURCHASING PROCEDURES

Sections:

2-4.01	Purpose and Implementation
2-4.02	Expenditure Authority
2-4.03	Designation of and Responsibility of Purchasing Agent
2-4.04	Purchasing Amount Authority and Signature
2-4.05	Purchases and Contracts that are Not Public Projects
2-4.06	Uniform Public Construction Cost Accounting Act Procedures for Public Projects
2-4.07	Exceptions: Cooperative Purchasing Agreements and Piggyback Purchases.
2-4.08	Sole Source Purchases
2-4.09	Prevailing Wages and Public Works Projects
2-4.10	Requests for Proposals and Requests for Qualifications
2-4.11	Conflict of Interest

2-4.01 PURPOSE AND IMPLEMENTATION.

(A) Title.

This chapter shall be known as the City of Madera Purchasing Ordinance ("Purchasing Ordinance"). The purpose of this Purchasing Ordinance is to establish efficient procedures for the purchase of supplies, equipment, and services at the lowest possible cost commensurate with quality needed, to exercise positive financial control over purchases, to define purchasing authority, and to assure the quality of purchases.

(B) Compliance with Laws.

The adoption of this Purchasing Ordinance is intended to meet the requirements of state law including but not limited to the following: (i) Government Code Sections 54201 to 54205 regarding the purchase of supplies and equipment; (ii) Public Contract Code Section 20160 to 20174 regarding City public works construction projects; (iii) Public Contracts Code Sections 22000 to 22045 regarding the Uniform Public Construction Cost Accounting Procedures; (iv) Government Code Section 4526 regarding professional services; (v) Labor Code requirements for prevailing wages; (vi) Government Code Section 4529.2 regarding architectural engineering services; and (vii) other applicable laws.

(C) Superseding State and Federal Procurement Requirements.

The procurement requirements under this Purchasing Ordinance shall be followed. However, in the event stricter requirements are required by state or federal funding sources, those requirements shall be met to ensure funding compliance and shall supersede the provisions of this ordinance.

(D) Administrative Purchasing Policy.

The City's purchasing functions shall be governed by this Purchasing Ordinance and by the City's Administrative Purchasing Policy which shall be established by the City Manager or his or her designee, both as may be amended from time to time. The Administrative Purchasing Policy will serve to implement the provisions of the Purchasing Ordinance and will generally contain administrative requirements, responsibilities, and updated best practices to meet the City's needs.

2-4.02 EXPENDITURE AUTHORITY.

Purchase and contract expenditures must be authorized in the City's Annual Budget or pursuant to amendment to the Annual Budget approved by the City Council.

2-4.03 DESIGNATION AND RESPONSIBILITY OF PURCHASING AGENT.

The City of Madera Municipal Code section 2-2.203 (D) designates the Director of Finance of the city as the City Purchasing Agent with the responsibility to supervise and control the disbursement of all monies and the audit of all purchase orders and related invoices and payments. Subject to the direction of the Director of Finance, the duties of the Purchasing Agent may be performed by an authorized representative or be delegated to such city office or position as may be determined by the Director of Finance.

The Purchasing Agent shall have authority to:

(A) Purchase or contract for supplies, equipment and services required by City in accordance

with purchasing procedures prescribed by this Purchasing Ordinance, the Administrative Purchasing Policy, and any requirement as shall be prescribed by state or federal funding agencies.

(B) Negotiate and recommend execution of contracts for the purchase of supplies, equipment, and services at least expense to the City.

(C) Act to procure for the City the needed quality in supplies, equipment, and services at least expense to the City.

(D) Discourage uniform bidding and endeavor to obtain as full and open competition as possible on purchases.

(E) Prepare and recommend to the City Council revisions and amendments to the Purchasing Ordinance.

(F) Prescribe and maintain the forms as are reasonably necessary to the operation of the Purchasing Ordinance and other laws.

(G) Supervise or delegate the inspection of all supplies, equipment and services purchased to ensure conformance with specifications of the product or service.

(H) Maintain a bidders' list, vendors catalog file, pre-qualified vendor lists, and records needed for the efficient operation of the Purchasing System; and

(I) Require that all employees verify and ensure purchases are made in accordance with the Purchasing Ordinance and with state or federal funding sources.

2-4.04 PURCHASING AMOUNT AUTHORITY AND SIGNATURE.

(A) City Manager.

Purchases and contracts of less than \$60,000 (sixty thousand dollars) per project per fiscal year may be awarded and signed by the City Manager, after being approved as to form by the City Attorney and Purchasing Agent, unless the City Council expressly reserves approval on a particular purchase or contract, or the City Manager requests Council approval. This also includes contracts not measured monetarily such as the waiver of indemnification and insurance.

(B) City Council.

If the amount of any purchase or contract is \$60,000 (sixty thousand dollars) or more in a fiscal year, the contract shall be awarded by the City Council and signed by the Mayor unless a resolution specific to the particular contract authorizes the City Manager or other designee to sign the contract.

2-4.05 PURCHASES AND CONTRACTS THAT ARE NOT “PUBLIC PROJECTS.”

(A) Procedures for Specific Amounts.

The procedures in this section shall be followed when purchasing or leasing materials, supplies, equipment, or services that are (i) not public projects as defined in Section 2-5.06 of this Code and (ii) not procured through Requests for Qualifications and Requests for Proposals.

(1) Less than \$6,000 - All City employees authorized to purchase or lease materials, supplies, equipment, or services shall ensure that the City pays fair prices and receives commensurate value for amounts expended.

(2) \$6,000 to less than \$15,000 - Price quotes must be solicited, either verbally or in writing, from a minimum of three vendors, if available. The low-price quote must be confirmed in writing by the vendor.

(3) \$15,000 to less than \$60,000 - Written specifications describing the delivery schedule, materials, supplies, equipment, or services must be prepared by City. Price quotes must be solicited in writing from a minimum of three vendors, if available.

(4) \$60,000 or higher – The informal bidding requirements under Section 2-4.06 D(2) of this Code relating to public projects shall be followed **except** that for non-public projects, the City is not required to award to the lowest bidder. The City may award to the best qualified vendor. In determining “best qualified vendor” as used in Section 2-4.05 consideration is to be given to quality and performance of the goods and supplies, equipment or materials to be purchased or nonprofessional services to be provided by the vendor. Criteria for determining best qualified vendor includes, but is not limited to, the following:

(a) The cost or best value of the goods and supplies, equipment, materials, or nonprofessional services;

(b) The ability, capacity, and skill of the vendor to perform the contract and to provide the goods and supplies, equipment, materials, or nonprofessional services requested;

(c) The ability of vendor to provide the goods and supplies, equipment, materials, or nonprofessional services promptly or within the time specified and without delay;

(d) The quality of vendor’s performance on previous purchases or contracts;
and

(e) The vendor's responsiveness.

(B) Purchase Order or Written Contract Required.

Purchases of supplies, equipment, and services of \$6,000 (six thousand dollars) or more shall be made only by written purchase order or by written contract.

(C) Emergency Purchases.

In the case of an emergency regarding a non-public project as defined in Section 2-4.06, the Purchasing Agent may determine to proceed with the immediate purchase of goods, supplies, equipment, materials, or services. The term "emergency" means a sudden, unexpected occurrence that poses a clear and imminent danger requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential services. Such immediate purchase of goods, supplies, equipment, materials, or services still requires the standard terms and conditions for written purchase orders or written contracts.

(1) If the dollar amount is within the City Manager's authority, the Purchasing Agent shall promptly file with the City Manager a signed declaration showing that emergency conditions existed and created the necessity for such action, together with an itemized account of all expenditures.

(2) If the dollar amount is above the City Manager's authority, the Purchasing Agent shall at the next regular meeting of the Council seek ratification of the purchase by resolution which includes the emergency conditions which existed and the immediate need to take action together with an itemized account of all expenditures.

(D) Prohibition against piecemealing, splitting or separating purchases.

It is impermissible to split or separate purchases of materials, supplies, equipment or services for the purpose of evading the provisions of the procedures for specific amounts set forth above.

2-4.06 UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT PROCEDURES FOR PUBLIC PROJECTS.

(A) California Uniform Public Construction Cost Accounting Act Adopted.

The City Council of the City of Madera, California hereby readopts the California Uniform Public Construction Cost Accounting Act (California Public Contract Code § 22000 *et seq.*) for the purpose of prescribing regulations governing contracts awarded by the City for public projects. However, nothing contained herein shall preclude the City from utilizing more restrictive procedures if, and when required by federal or state law, or when federal or state funds are involved in the contract to be awarded and the funding agency requires more restrictive procedures.

(B) Definitions of Terms.

As used in Section 2-4.06, the words, terms, and phrases shall have the following meanings, as defined in Public Contract Code Section 22002, unless otherwise apparent from the context:

- (1) **“Facility”** means any plant, building, structure, ground facility, real property, street, highway, or other public work improvement.
- (2) **“Maintenance Work”** does not constitute a “public project” under the definition of “public project” in subsection (B)(3) below; it does include the following:
 - (a) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.
 - (b) Minor repainting.
 - (c) Resurfacing of streets and highways at less than one inch.
 - (d) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.
 - (e) Work performed to keep, operate, and maintain City-owned water and wastewater systems.
- (3) **“Public Project”** means any of the following:
 - (a) Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.
 - (b) Painting or repainting any publicly owned, leased, or operated facility.
 - (c) Public Project does not include maintenance work, as defined above.
 - (d) Furnishing supplies or materials for any such project, including maintenance or repair of streets or sewers.

(C) Dollar Amount of Public Project Determines Process to be Used.

The dollar amount thresholds provided in this section shall automatically adjust upon the effectiveness of any adjustment notification by the State Controller in accordance with Public Contract Code section 22020 *et seq.*, without the necessity of amending this section or any subdivision herein to reflect any such adjustment.

(1) Public projects of \$60,000 (sixty thousand dollars) or less may be performed by City employees by force account, by negotiated contract or by purchase order.

(2) Public projects of \$60,000.01 to \$200,000 (two hundred thousand dollars) may be let to contract by informal bidding procedures as set forth in subsection (D) below.

(3) Public projects of more than \$200,000 (two hundred thousand dollars) shall, except as otherwise provided in this section, be let to contract by formal bidding procedure as set forth in subsection (D) below.

(D) Procedures to Be Used for Contracts Regarding Public Projects.

(1) **No bidding required.** Per Public Contract Code Section 22032, public projects of \$60,000 (sixty thousand dollars) or less may be performed by the employees of the City by force account, by negotiated contract, or by purchase order consistent with the procedures in Section 2-4.05 (A) (1)–(3). Such contracts may be approved and executed by City Manager or designee.

(2) **Informal bidding procedures.** Public projects of \$60,000.01 to \$200,000 (two hundred thousand dollars) per subsection (C)(2) above shall be awarded to the lowest responsive and responsible bidder in accordance with the Uniform Construction Cost Accounting Act, Section 22034 *et seq.* of the Public Contract Code, as follows:

(a) **Contractors List.** A list of qualified contractors shall be developed and maintained in accordance with the provisions of Section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission.

(b) **Notice Inviting Informal Bids.** A notice inviting informal bids shall be prepared, which shall describe the project in general terms, describe how to obtain more detailed information about the project, and state the time and place for the submission of bids. The notice shall be mailed, not less than ten (10) days before bids are due, to either all the contractors on the Contractors List for the category of work to be bid, or to all construction trade journals specified in the California Public Contract Code Section 22036, or both, unless the product or service delivery is proprietary.

(c) The informal bids for public projects shall be awarded by the City Council and signed by the Mayor or by City Council designee.

(d) If all bids received are in excess of \$200,000 (two hundred thousand dollars), the City Council may, by adoption of a resolution of four-fifths vote of the members of the Council, award the contract, at two hundred twelve thousand five hundred dollars (\$212,500) or less, to the lowest responsible bidder, if it

determines the cost estimate of the public agency was reasonable.

(3) **Formal bidding procedures.** Public projects of more than two hundred thousand dollars (\$200,000.00) per section (C)(3), above, shall be awarded pursuant to formal bidding procedures to the lowest responsive and responsible bidder in accordance with, but not limited to, the procedures set forth below.

(a) Notice Inviting Formal Bids. The following are required:

(i) Contents of Notice. Notice inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project.

(ii) Publication of Notice. The notice shall be published at least fourteen (14) calendar days before the date of opening the bids in a newspaper of general circulation, printed and published in the city, or otherwise comply with the requirements of Public Contracts Code Section 22037.

(iii) Electronic Transmission of Notice. The notice inviting formal bids shall also be sent electronically, if available, by either facsimile or electronic mail and mailed to all construction trade journals as required by the Commission as specified in Public Contract Code Section 22036. The notice shall be sent at least fifteen calendar days before the date of opening the bids.

(iv) Per Labor Code Section 1771.1, the notice must state that a contractor or subcontractor is not qualified to bid on, be last in a bid proposal for, or perform work on a project unless it is registered and qualified under Labor Code Section 1725.5.

(b) Instructions to Bidders – The Notice Inviting Formal Bids should also identify the contract documents to be considered, the availability of information, any scheduled pre-bid meetings, bid protest procedures, addenda, and any other procedures to be followed for bids to be considered.

(c) Bid Package – The bid package should include the following:

(i) The proposal form.

(ii) Submission of sealed bids.

(iii) A public bid opening.

(iv) Award to the lowest, responsive and responsible bidder.

(v) City reservation in notice inviting bids of the right to reject any or

all bids and to waive minor irregularities.

(vi) Award and execution of a written contract.

(vii) Reference to applicable state or federally funded project requirements.

(viii) Bid security.

(ix) Performance and Payment Bonds.

(x) Listing of subcontractors.

(E) Authority to Prepare and Issue Notice Inviting Bids.

The Purchasing Agent or designee is authorized to prepare and issue notices inviting bids and to establish such additional bidding procedures which must be consistent with those stated herein.

(F) Prohibition against splitting or separating projects.

It shall be unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of this Purchasing Ordinance requiring work to be done by contract after competitive bidding. Under Public Contract Code Section 22033 "It shall be unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of this article requiring work to be done by contract after competitive bidding."

(G) City Council Authority to Reject, Re-advertise, or Otherwise Award.

(1) In its discretion, the City Council may reject any and all bids presented under the informal and formal bidding procedures described above for public projects, if the City, prior to rejecting all bids furnishes a written notice to the apparent low bidder. The notice shall inform the bidder of the City's intent to reject the bid and shall be mailed or emailed at least two (2) business days prior to the Council meeting at which the City intends to reject the bid. If after the first invitation for bids all bids are rejected, after reevaluating its cost estimates of the project, the City shall have the option of either of the following:

(a) Abandoning the project or re-advertising for bids in the manner described in this Section 2-4.06.

(b) By passage of a resolution by a four-fifths vote of the City Council declaring that the project can be performed more economically by the employees of the City, the City may have the project done by force account without further complying with this Section 2-4.06.

(2) If the contract is awarded, it shall be awarded to the lowest responsive and responsible bidder. If two (2) or more bids are the same and the lowest, the City may accept the one it chooses.

(3) If no bids are received through the informal or formal bidding procedures described above, the project may be performed by employees of the City by force account or by informal bidding procedures set forth above.

(H) Emergency.

(1) In case of an emergency regarding a public project which requires formal bidding procedures, the City Council may pass a resolution by a four-fifths vote declaring that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property. The resolution shall specify findings as required in Public Contracts Code Section 22050.

(2) "Emergency" as used in this section means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

(I) Written Contracts Required.

All contracts for public projects shall be in writing; all amendments to contracts shall be in writing. The City Manager or his or her designee shall work with the City Attorney to ensure that the contract includes language protecting the City's interest and language required by law. This language shall include, but is not limited to specified term, scope of services, termination language, insurance, warranties, indemnification, non-collusion, contractor license, security, bonds, liquidated damages, change orders, retention, delays, claims process, prevailing wages, and compliance with applicable laws.

(J) Change Order Limits for Public Projects.

The award of contracts for public projects shall include a recommended contingency amount not to exceed 15% (fifteen percent). Any change order must be reasonably related to the scope of the original contract and based on post-award information that requires modification based on unforeseen conditions or by mutual agreement of the parties. Any change order which results in a total contract amount greater than the limits in this provision shall require City Council approval.

2-4.07 EXCEPTIONS: COOPERATIVE PURCHASING AGREEMENTS AND PIGGYBACK PURCHASES.

(A) Cooperative Purchasing.

The City, through the Purchasing Agent, may purchase supplies, equipment, or services through a joint powers or other cooperative purchasing program with any local, county, state, or federal public entity or entities, or any association of public agencies, including the California League of Cities, the California State Association of Counties, and the National Conference of Mayors, provided that:

- (1) The selected bidder was selected in compliance with the competitive bidding or proposal process requirements of any participating entity or association; and
- (2) The Purchasing Manager determines that the competitive bidding or proposal process utilized is similar to that contained in this Chapter; and
- (3) The Purchasing Manager determines that, as a result of cooperative purchasing, the price of the supplies, equipment, or services is likely to be lower than it would be if purchased directly by the City pursuant to this Chapter.”

(B) Information Technology Goods and Services.

In accordance with Public Contract Code Section 10299, the City, through the Purchasing Agent may, without formal or informal bidding, contract with suppliers who have been awarded contracts by governmental entities for the purchase of goods, information technology, and services under the competitive process in Public Contract Code Sections § 12100 to 12113. Such contracts typically take the form of master agreements, price schedules, or multiple award schedules. The City may make these purchases directly from the vendors or the state may provide assistance to the City in making these acquisitions.

(C) “Piggyback” Purchasing.

The City may utilize the purchasing practice commonly referred to as “piggyback” purchasing. The City, through the Purchasing Manager, may purchase supplies, equipment, or services, without complying with the bidding or proposal procedures in this Chapter, from any supplier who offers the supplies, equipment, or services at the same or better price, terms, and/or conditions as the supplier previously offered to another city or other public agency as the lowest bidder pursuant to the competitive bidding or proposal process required by that city or other public agency, provided that:

- (1) The competitive bidding or proposal process required by that city or other public agency is similar to that contained in this Chapter; and
- (2) The competitive bidding or proposal process required by that city or other public agency included all known bidders; and
- (3) The supplier’s bid or proposal was for like or greater quantities, and a like or greater quality, of supplies, equipment, or services.

2-4.08 SOLE SOURCE PURCHASES.

(A) In the event that there is one, and only one, source for a product of \$6,000 (six thousand dollars) or more, a sole-source purchase may be used. When a department wishes to make a sole-source purchase, it must make the findings set forth below in writing and file such certification with the Purchasing Agent for the Purchasing Agent's approval. In order to establish a legal basis for a sole-source exception, the following statements and findings must be made:

- (1) A statement describing every unique or specialized feature of the product in question;
- (2) A statement of the Department Director's efforts to locate all possible suppliers of such product;
- (3) A statement that, in spite of its efforts, the Department Director has been able to locate only one supplier of the product in question;
- (4) A statement that indicates the ultimate cost of the product and the process used to determine the cost of the product;
- (5) A finding that it is, therefore, proper for the City to dispense with a competitive bidding requirement and to authorize the City to purchase the product in question under the sole-source exception; and/or
- (6) A disclosure statement of the Department Director and each individual involved in evaluating and/or in making a recommendation for the purchase.

(B) If the purchase exceeds the City Manager's monetary authority to contract, a resolution making the findings set forth above must be submitted with the staff's request for award of a sole source contract by the City Council.

2-4.09 PREVAILING WAGES AND PUBLIC WORKS PROJECTS.

(A) This section applies to prevailing wages under local and state law. The requirements for prevailing wages under the federal Davis-Bacon Act are separate and should be reviewed separately as required by applicable federal funding sources. Under California Labor Code Section 1771, all work performed under contract for "public works" projects of more than \$1,000 shall be subject to prevailing wages. The Labor Code defines the term "public works project" broader than the Public Contract Code defines "public project" as per Section 2-4.06 above. There may be instances in which bidding is not required but payment of prevailing wages is required.

(B) "Public Works Project" for the purpose of state prevailing wages means:

(1) Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part from City funds. For purposes of this paragraph, "construction" includes work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work. For purposes of this paragraph, "installation" includes, but is not limited to, the assembly and disassembly of freestanding and affixed modular office systems;

(2) The laying of carpet done under a building lease-maintenance contract and paid for out of public funds;

(3) Street, sewer, or other improvement work done under the direction and supervision of the City;

(4) Hauling refuse from a public works site to an outside disposal location; or

(5) Maintenance work, including routine, recurring, and usual work for the preservation of a City-owned or operated facility, and landscape maintenance work per Labor Code Section 1771.

(C) Prevailing wage requirements do not apply to work performed by the City with its own forces.

(D) The City Manager is authorized to establish guidelines for implementing prevailing wages requirements that are consistent with this section and with the Labor Code.

(E) The City Manager shall designate a person to comply with the contractor registration requirements on all contracts requiring prevailing wages.

2-4.10 REQUESTS FOR PROPOSALS AND REQUESTS FOR QUALIFICATIONS

Procurements under a Request for Proposal (RFP) or Request for Qualifications (RFQ) are appropriate for services that are not subject to legal public bidding requirements. Such procurements may include consulting services, professional services, and maintenance services as described in this section.

(A) RFP or RFQ.

If there are no statutory or funding condition requirements that specify use of an RFP or RFQ, selection is based on the nature of the procurement. For example, an RFP is generally the preferred option for project-based procurement where the specific scope of services is known in advance and one of the primary criteria will be the best lump sum price for providing services (although experience and qualifications may also be considered). An RFQ is often preferable for ongoing or on-call professional or consulting services where there is not a single, defined project

and the qualifications and experience of the consultant are the primary criteria (although hourly rates may also be considered).

(B) RFP/RFQ REQUIRED.

(1) **Architectural and Engineering Services.** Per Government Code Section 4529.12 all architectural and engineering services shall be procured pursuant to a fair, competitive selection process. Therefore, an RFP/RFQ process must be followed. The term "architectural and engineering services" includes all architectural, landscape architectural, environmental, engineering, land surveying, and construction project management services. (See Government Code Section 4529.10)

(2) **Design-Build.** An RFQ and RFP must be used if the City adopts an ordinance for design-build procurement under Public Contract Code Section 22160 et. seq.

(3) **Funding Source Requirement.** The City shall comply with County, State, or Federal funding source requirements for use of an RFP/RFQ.

(4) **Master Service Agreements.** Master Service Agreements may be entered into with specific vendors for support services on an "as needed" basis pursuant to an RFP process.

(C) RFP/RFQ NOT REQUIRED.

(1) **Professional/Consultant Services.** The City may contract with any specially trained and experienced persons, firms or corporations for special services and advice in financial, economic, accounting, legal or administrative services. Selection shall be on the basis of demonstrated competence, on the professional qualifications necessary for the satisfactory performance of the services required, and at a fair and reasonable price to the City. To obtain the best competitive value for services, the City may employ an RFP or RFQ process dependent on nature of the services, complexity, estimated cost, and immediate needs as determined by the City Manager.

(2) **Routine Supplies/Equipment.** Procurement of routine supplies or equipment where best price is the only objective, there is no need to use an RFP/RFQ. A clear and specific request for price quotes or informal bidding requirements per Section 2-4.05 of this Code is often the most efficient procurement method for obtaining the best price for goods except that factors other than low price may be considered. However, the City may choose to use an RFP/RFQ process.

2-4.11 CONFLICT OF INTEREST.

No person shall recommend, participate in any contract evaluation, selection, purchase, or lease which would constitute a conflict of interest defined in the City Conflict of Interest Code or

applicable state law.

SECTION 3. CEQA. The City Council finds this ordinance is not a project under the California Environmental Quality Act because it can be seen with certainty that it will not have a significant effect or physical change to the environment. See Title 14, California Code of Regulations, Section 15061 (b) (3).

SECTION 4. Severance. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. Publication. Upon passage, this ordinance, or a summary of the same shall be published as required by law.

SECTION 6. Effective Date. This ordinance shall become effective thirty (30) days after its adoption.

The foregoing Ordinance No. 996 C.S. was introduced and given its first reading at a regular meeting of the City Council of the City of Madera held on the 7th day of December 2022 and adopted after a second reading at a regular meeting of the City Council held on 21st day of December 2022 by the following vote:

AYES: Mayor Pro Tem Mejia, Councilmembers Gallegos, Rodriguez, Montes, Evans and Villegas.

NOES: None.

ABSTENTIONS: None.

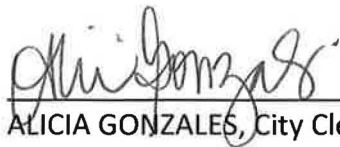
ABSENT: Mayor Garcia.

APPROVED:



ELSA MEJIA, Mayor Pro Tem

ATTEST:



ALICIA GONZALES, City Clerk

