



AGENDA ITEM NO.

COUNCIL MEETING June 19, 2007

APPROVED BY

DEPARTMENT DIRECTOR

CITY MANAGER

June 19, 2007

**FROM:** JAMES C. SANCHEZ  
City Attorney

**SUBJECT:** CODE STREAMLINING PROJECT  
(1) CODE REORGANIZATION ORDINANCE  
(2) ORDINANCE ADDING NEW CHAPTERS 1 AND 2 TO THE FRESNO MUNICIPAL CODE

## RECOMMENDATIONS

The City Attorney recommends adoption of: (1) Code Reorganization Ordinance and (2) Ordinance Adding Chapters 1 and 2 to the Fresno Municipal Code.

## EXECUTIVE SUMMARY

The City Attorney's Office proposes two ordinances for Council consideration that have been prepared by Special Counsel, Hilda Cantú Montoy, whose firm has been hired to do the Code Streamlining work. The ordinances are key to the completion of the Code Streamlining Project.

- (1) The Code Reorganization Ordinance constitutes a new framework for the Fresno Municipal Code. A new table of contents for the Code will consist of 14 Chapters compared to the current code with 22 chapters. The Code Reorganization Ordinance includes findings, declarations of intent, and a 90-day effective date. This will ensure that not only the ultimate product is streamlined, but also that the process for completing it and the ultimate publication are streamlined. The current antiquated code size will be republished in an 8 ½" x 11" code book with dual side printing.
- (2) The Ordinance Adding Chapters 1 and 2 includes the actual streamlining of newly organized Chapters 1 and 2. Chapter 1 is also considered part of the framework for the Reorganized Code and reflects the manner in which other chapters will be revised and rewritten.

The building of the new code framework as embodied in the two ordinances has been time intense. Once these two ordinances are adopted, the rest of the basic streamlining project can be completed in 90 to 120 days. Phase 4 of this report describes the work to be done.

## BACKGROUND

The Code Streamlining Project has been a time intense project requiring significant reading, research, analysis, and discussion. A comprehensive review of the Code has been conducted to create a better organization of the Code. The recommended reorganization has been developed by undertaking the following: a thorough review and reading of the Code, review and comparison of numerous municipal codes, legal

research, collaboration with the City Attorney's office, and input from City Staff, discussions with the Code publisher, and a significant amount of drafting.

Various approaches have been considered for implementing and completing the Code Streamlining Project. One approach is to work through the entire rewrite and then submit the final product to Council. The benefit of such an approach is that the Council would have a complete package for consideration. The main disadvantage is that it will take a very long time before Council has anything to review and consider. Moreover, a review of the fully revised Code may be difficult to manage. Because municipal law and policymaking are dynamic, waiting until the end to submit a final Code to the Council could result in outdated provisions even before its consideration. A second approach is an "as you go" process of amending each chapter in order and submitting each completed chapter to the Council. This approach is not practical for this project which entails a comprehensive reorganization. A third approach is a hybrid approach of developing the proposed reorganized Code into an ordinance that is submitted to Council for consideration at the outset and then actual revisions of chapters are submitted working off the Reorganized Code.

After lengthy discussions with the City Attorney's office and the publisher, it was decided that the third approach was the most practical for a project of this magnitude. We then divided the work into phases.

#### PHASE 1 – Repeal Ordinance

Phase 1 has been completed and submitted to the Council. It involved a "Repeal Ordinance" which repealed numerous code sections and articles that were unnecessary, duplicative and outdated. Council adopted the Repeal Ordinance in February. That ordinance took care of eliminating the more obvious provisions needing repeal. However, there are many more provisions that need updating and repeal. This has been evident in the work entailed for Phase 3 described below. In initial consultations with staff, they believe many more provisions need repeal.

#### PHASE 2 – Code Reorganization Ordinance

Phase 2 relates to the Code Reorganization Ordinance that is before Council. While the ordinance may appear simple, it has taken a multitude of hours to develop. This ordinance constitutes the new framework of the Code. The current Code has 22 chapters; the new Code as envisioned in the Code Reorganization Ordinance will have 14 chapters. The articles have been reorganized under newly titled chapters. Most important, we have endeavored to ensure that the articles within each chapter are related. For example, all the new personnel-related provisions will now be part of a new chapter entitled City Personnel. Another example is the grouping of code enforcement provisions in new Chapter 10 entitled "Regulations Regarding Public Nuisances and Real Property Conduct and Use." The current Code contains articles which have been misplaced in wrong chapters and uses chapters for provisions that are actually part of another chapter.

The Code Reorganization Ordinance includes findings and declarations of intent to ensure that the reorganization effort creates a legislative history and is not disruptive to the City's operations and code enforcement. In that regard, the effective date is 90 days to ensure that the publisher has sufficient time for publication and that Code users are not inconvenienced with old and new Code references. A Code Renumbering Table will be included in the newly published Code. In the interim, staff should utilize the Code Reorganization Ordinance which we are requesting be added to the City's website. We have also added express language to ensure that for legal purposes there is a seamless connection between the old and new provisions. See Section 1 of the Code Reorganization Ordinance.

We must note that in the interim, some articles will seem unmanageable. This is particularly the case in Chapter 8 Assessment Districts and Bond Procedures. Leaving the articles as currently written would result in 54 articles in one chapter. Instead, we have consolidated the articles by subject area. In essence the current

articles will appear as sections in the Reorganized Code. We further note that this Chapter 8 will require extensive streamlining work as part of Phase 4 described below.

As part of this effort, detailed instructions will be provided to the publisher regarding consistency in formatting regardless of inconsistencies in typed ordinances submitted to the publisher in the future. The instructions will also include double sided printing of the Code on 8 ½ x 11 inch paper. We also recommend that during interim periods between the adoption of an ordinance and publication of an ordinance, the ordinance will be posted on the City's website.

### PHASE 3 – Ordinance Adding Chapters 1 and 2

The actual rewrite and streamlining of the reorganized code is being submitted to Council in the form of the proposed ordinance repealing current Chapters 1 and 2 and adding new Chapters 1 and 2 of the Code. This initial effort has been time-intensive. It is during this effort that we have developed and followed rules for the actual rewrite of chapters. This was particularly important since Chapter 1 contains the "General Provisions" for the Code. We believe the rewrite and streamlining of Chapter 3 -14 will take much less time.

a. General Rules In Drafting. Keeping in mind the goal to streamline the Code and to ensure consistency, we developed the following rules which have been used for Chapters 1 and 2 and will be used in our work on Chapters 3 to 14.

(1) Use definitions sparingly. The current Code includes definitions which are unnecessary. We deleted many of the definitions and included language that words will have their ordinary meaning unless the Code states otherwise. (FMC Section 1-204(a).)

(2) Use clear and concise language. Although ordinances are legal in nature, they are intended for use by the public, staff, and elected officials. Clear language enhances readability by the public and assists staff and officials in the performance of their duties - interpreting, administering, and enforcing the Code.

(3) Use words consistently.

(4) Use gender neutral language as required by Charter Section 106.

(5) Generic severability language has been included in Chapter 1, Article 1. As each chapter is reviewed, severability provisions will be deleted as redundant. As new ordinances are adopted, there is a tendency to add severability language. We are recommending that whenever there is a concern regarding the potential invalidity of a part of an ordinance submitted to Council, the ordinance may include an uncodified severability clause.

b. Substantive Revisions.

#### Chapter 1.

In this chapter, we deleted numerous definitions and merged Articles 2 and 3.

Article 3 is very important as it forms the basis for code administration and enforcement. This article was reviewed carefully; it required a significant amount of legal research; and many technical, and necessary revisions were made. We carefully distinguished between civil and criminal citations; added a section for Police Chief powers, defined

“enforcement officers” and used that term discriminately and consistently. The prior use of a variety of terms created problems in interpreting the Code and the authority of code enforcement officers was ambiguous and inconsistent.

In Article 4, we refined much of the text that created uncertainty and issues for staff and the City Attorney’s office in the past. A section authorizing written rules and regulations to administer the Code was added. We also clarified that the City may also appeal hearing officer decisions (Section 1-410).

In Article 5, we broadened the cost and penalty recovery provisions to apply to all enforcing departments, not only the Police and Fire Departments. In response to a judicial decision limiting the definition of enforcement costs, clarifying language was added to Section 1-503(3) We also clarified the title of Section 1-513 regarding recovery of graffiti abatement costs.

## Chapter 2

Article 1 is essentially the same as current Article 1 of Chapter 2. Minor grammatical, editing and formatting revisions were made. The section authorizing the City Manager to sign contracts has been moved to new Article 4.

Article 2 was amended to comply with the Charter amendments enacted with the Mayor-Council form of government and the addition of a council district. The term “City Manager” was substituted for “Chief Administrative Officer.”

Former Article 22A will be repealed as part of the Code Reorganization Ordinance and not added to new Chapter 2. This article relates to campaign expenditures ceilings which are no longer sanctioned by the Political Reform Act and case law.

The breach of decorum rules in Section 2-315 were updated after legal review and consultation with the Police Department.

In Article 4, we merged former Articles 7 and 8, deleted outdated text, and clarified Section 2-403 (former Section 2-803) to be consistent with the Charter.

In Article 10, the most important change was in Section 2-1002 regarding installation of newly-elected officers. Former section 2-1402 was inconsistent with the Charter requirements.

Article 14 reflects the consolidation and streamlining of provisions that had been part of three different articles in Chapter 17 relating to the Redevelopment Agency. We also moved former section 2-803 concerning the creation of the Housing and Community Development Commission (HCDC) to this article so that all redevelopment matters are located in the same article. We added that the Redevelopment Executive Director may formulate and propose redevelopment projects. The former language only referenced the City Manager. Other than that, no substantive revisions were made to this article.

The remaining articles have been modified for grammar, use of consistent terms, and format only. Finally, we would recommend that in the near future an effort be made to enhance Article 8 regarding boards and commissions by addressing some of the issues that arise from time to time concerning non Charter boards and commissions. Various

resolutions have addressed such boards and commissions. For example, it may be helpful to establish codified rules regarding residency, types of appointments, removal, vacancies, compliance with the Brown Act and Public Records Act. That can be added to Phase 4 below or handled separately.

#### PHASE 4 – Chapters 3 to 14

With the adoption of the Code Reorganization Ordinance, the Council will have formally approved the infrastructure for the Code Streamlining project. The drafting of the Ordinance Adding New Chapters 1 and 2 has taken considerable time and effort. Adoption of these two ordinances will make it much easier to go through the remaining chapters and make the necessary amendments that are necessary to internally streamline each chapter.

A basic revision of the remaining chapters includes repeal of many sections that are outdated, rewriting sections for consistency with Chapter 1 and the new Code drafting rules, adding new clarifying provisions to existing ordinances, and reorganization of sections and articles within the chapters. As with our work to date, staff input and discussion will be pursued. Such an effort can be concluded in 90 to 120 days. We note Chapter 12 regarding land use is being handled separately by the Planning Department.

The Personnel and Finance Departments have expressed a need for significant, substantive analysis and re-writing of certain provisions. Current language in many instances creates an impediment to efficient administration of the Code and city operations. That type of work may require significant legal research and additional time beyond 120 days. Those needs will be further discussed with the City Manager, City Attorney, and affected departments. There are various approaches that may be undertaken. Our recommended approach would be to go through and streamline the chapters and articles that do not require intensive, substantive review and rewrite. The remaining chapters would then be prioritized. This approach ensures that the great majority will in fact be streamlined.

Attachment:       1. CODE REORGANIZATION ORDINANCE  
                      2. ORDINANCE ADOPTING NEW CHAPTERS 1 AND 2 TO THE FRESNO MUNICIPAL  
                              CODE

KCP:sz[41340sz/kcp] 6/11/07

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, TO REORGANIZE THE FRESNO MUNICIPAL CODE THROUGH THE ADOPTION OF A CODE REORGANIZATION ORDINANCE RELATING TO A COMPREHENSIVE REORGANIZATION OF CHAPTERS, ARTICLES, AND SECTIONS, AND THE RENUMBERING, AMENDMENT, AND REPEAL OF CERTAIN PROVISIONS OF THE CODE.

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

SECTION 1. The Council finds that it is in the best interest of the City of Fresno that this Code Reorganization Ordinance be adopted. The Council makes further findings and declarations of intent as follows:

- A. The current organization and structure of the Fresno Municipal Code (“Code”) is overly burdensome, duplicative, and outdated.
- B. There is a need to reorganize the Code in a comprehensive manner to make it easier for members of the public and City officials to utilize and to access the Code.
- C. A comprehensive reorganization of the Code necessitates detailed renumbering of chapters, articles and sections of the Code.
- D. It is the Council’s intent that in amending this Code by this Code Reorganization Ordinance, whether the amendment be by express amendment, by repeal and re-enactment, by new titling or by renumbering of a provision, if the amendment is substantially the same as any Code provision previously adopted and relating to the same subject matter, the amendment shall be construed as a restatement and continuation of the previous provision, and not as a new enactment.
- E. It is the Council’s intent that staff reports submitted to the Council as part of the background for adoption of this Code Reorganization Ordinance and a transcript of the Council meetings wherein this ordinance is introduced and adopted shall be deemed part of the legislative history regarding this ordinance. The legislative history shall be filed and maintained by the City Clerk in the same manner that maintenance of the

Code is required.

- F. It is the Council’s intent that the City Attorney work closely with the Code Publisher and City Clerk to ensure that Code provisions are not inadvertently repealed as part of this Code Reorganization Ordinance. In that event, it is understood the City Attorney and City Clerk may make “alterations necessary to correct a typographical or clerical error or omission” as authorized by Charter Section 600(f).
- G. This Code Reorganization Ordinance constitutes the new framework for the Code. Detailed review, analysis, rewriting, renumbering, amendment, and repeal of the Reorganized Code will be conducted in Phase 4 of the Code Streamlining Project.
- H. The complexity of this ordinance requires a longer effective date period of 90 days rather than the standard 30 day period.

SECTION 2. The chapters of the Fresno Municipal Code are amended, reorganized, and renumbered to read:

**FRESNO MUNICIPAL CODE**  
Table of Contents

- Chapter 1. General Provisions.
- Chapter 2. City Government.
- Chapter 3. City Personnel.
- Chapter 4. City Purchasing, Contracts, and Sales.
- Chapter 5. City Facilities.
- Chapter 6. Municipal Services and Utilities.
- Chapter 7. City Finances, Revenue, and Taxation.
- Chapter 8. Assessment Districts and Bond Procedures.
- Chapter 9. Regulations Regarding Businesses and Personal Conduct.
- Chapter 10. Regulations Regarding Public Nuisances and Real Property Conduct and Use.
- Chapter 11. Building Permits and Regulations.
- Chapter 12. Land Use Planning and Zoning.

Chapter 13. Sidewalks, Streets, Parkways, and Underground Utility Districts.

Chapter 14. Vehicles and Traffic.

SECTION 3. The Fresno Municipal Code is amended by reorganizing and renumbering the chapters and articles of the Code to read as follows below. After the effective date of this Ordinance, the organization of the Chapters and Articles of the Code shall be as provided below. The current content of the Code shall be relocated into the new organizational format as indicated by the text in the brackets.

### **Chapter 1 General Provisions**

- Art. 1**      **General Provisions** [Ch. 1, Art. 1. General Provisions.]
- Art. 2**      **Definitions and Rules of Construction** [Ch. 1, Art. 2. Rules of Construction; Ch. 1, Art. 3. Definitions and Interpretation.]
- Art. 3**      **Code Enforcement; Judicial and Administrative Remedies and Procedure** [Ch. 1, Art. 4. Code Enforcement; Judicial and Administrative Remedies and Procedures.]
- Art. 4.**      **General Administrative Hearing Procedure** [Ch.1, Art. 5. General Administrative Hearing Procedure.]
- Art. 5**      **Cost and Penalty Recovery** [Ch.1, Art. 6. Cost and Penalty Recovery.]

### **Chapter 2 City Government**

- Art. 1**      **Implementation of Mayor-Council Form of Government** [Ch. 2, Art. 3. Implementation of Mayor-Council Form of Government.]
- Art. 2**      **Council Districts** [Ch. 2, Art. 2. Council Districts.]
- Art. 3**      **Council Meetings and Rules of Order** [Ch. 2, Art. 1. Council Meetings and Rules of Order.]
- Art. 4**      **City Manager and Administrative Organization** [Ch. 2, Art. 7. Chief Administrative Officer; Ch. 2, Art. 8. Departments, Divisions, Offices and Agencies.]
- Art. 5**      **Emergency Services Ordinance** [Ch. 2, Art. 27. Emergency Services Ordinance.]

- Art. 6**      **Publications and Official Advertising** [Ch. 2, Art. 31. Publications and Official Advertising.]
- Art. 7**      **Display of Flags and Emblems** [Ch. 2, Art. 35. Display of Flags and Emblems.]
- Art. 8**      **Boards and Commissions** [Ch. 2, Art. 9. Boards and Commissions.]
- Art. 9**      **Conflict of Interest Code** [Ch. 2, Art. 20. Conflicts of Interest.]
- Art. 10**     **Elections** [Ch. 2, Art. 14. Elections.]
- Art. 11**     **Candidates for Elective City Office-Campaign Contribution Limits** [Ch. 2, Art. 22. Candidates for Elective City Office—Campaign Contribution Limits].
- Art. 12**     **Registration of Lobbyists** [Ch. 2, Art. 23. Registration of Lobbyists.]
- Art. 13**     **Redevelopment and Community Development** [Ch. 17, Art. 1. Redevelopment and Community Development - General Provisions and Definitions; Ch. 17, Art. 2. Redevelopment and Community Development -Redevelopment Agency; Ch. 17, Art. 3. Redevelopment and Community Development - Community Development.]

### **Chapter 3 City Personnel**

- Art. 1**      **Personnel System** [Ch. 2, Art. 15. Personnel.]
- Art. 2**      **Civil Service Regulations** [Ch. 2, Art. 16. Civil Service Regulations.]
- Art. 3**      **Fire and Police Retirement System** [Ch. 2, Art. 17. Fire and Police Retirement System.]
- Art. 4**      **Second Tier of the Fire and Police Retirement System** [Ch. 2, Art. 17A. Second Tier of the Fire and Police Retirement System.]
- Art. 5**      **Employees' Retirement System** [Ch. 2, Art. 18. Employees' Retirement System.]
- Art. 6**      **Employer-Employee Relations** [Ch. 2, Art. 19. Employer-Employee Relations.]

### **Chapter 4 City Purchasing, Contracts, and Sales**

- Art. 1**      **Purchases of Personal Property and Contracts for Services and Work** [Ch. 3, Art. 1. Purchases of Personal Property and Contracts for Services and Work.]
- Art. 2**      **Sale or Mortgage of Property** [Ch. 3, Art. 2. Sale or Mortgage of Property.]

- Art. 3**      **Lost or Unclaimed Property** [Ch. 3, Art. 3. Lost or Unclaimed Property.]
- Art. 4**      **Prevailing Wages for Public Works** [Ch. 3, Art. 4. Prevailing Wages for Public Works.]
- Art. 5**      **Design Build Contracts** [Ch. 3, Art. 5. Design-Build Contracts.]
- Art. 6**      **Regulated Communications with Elected Officials in City Procurement Process** [Ch. 3, Art. 6. Regulated Communications with Elected Officials in City Procurement Process.]

### **Chapter 5 City Facilities**

- Art. 1**      **Naming and Renaming City Facilities** [Ch. 2, Art. 34. Naming and Renaming City Facilities.]
- Art 2**      **Fresno City-County Community and Convention Center Manager and Management** [Ch. 2, Art. 29. Fresno City-County Community and Convention Center Manager and Management.]
- Art. 3**      **Transit Regulations** [Ch. 2, Art. 28. Transit Regulations.]
- Art. 4**      **Airport Regulations** [Ch. 2, Art. 32. Airport Regulations.]
- Art. 5**      **Parks and Playground Regulations** [Ch. 8, Art. 4. Parks and Playground Regulations.]

### **Chapter 6 Municipal Services and Utilities**

- Art. 1**      **Billing and Collection Procedures for Municipal Utility Services** [Ch. 2, Art. 11. Billing and Collection Procedures for Municipal Utility Services.]
- Art. 2**      **Solid Waste, Recyclable and Green Waste Collection and Disposal** [Ch. 9, Art. 4. Solid Waste, Recyclable and Green Waste Collection and Disposal.]
- Art. 3**      **Sewage and Water Disposal** [Ch. 9, Art. 5. Sewage and Water Disposal.]
- Art. 4**      **Wells** [Ch. 9, Art. 6. Wells.]
- Art. 5**      **Water Regulations** [Ch. 14, Art. 1. Water Regulations.]
- Art. 6**      **Heat Transfer Systems Utilizing Water** [Ch. 14, Art. 2. Heat Transfer Systems Utilizing Water.]

- Art. 7**      **Solid Waste, Recyclable and Green Waste Collection and Disposal** [Ch. 9, Art. 4. Solid Waste, Recyclable and Green Waste Collection and Disposal of Ordinance.]
- Art. 8**      **Urban Storm Water Quality Management and Discharge Control** [Ch. 14, Art. 3. Urban Storm Water Quality Management and Discharge Control.]
- Art. 9**      **Cross-Connection Control** [Ch. 14, Art. 4. Cross-Connection Control.]

**Chapter 7 City Finances, Revenue, and Taxation**

- Art. 1**      **General** [Ch. 4, Art. 1. General.]
- Art. 2**      **Assessment, Equalization, Levy and Collection of Taxes** [Ch. 4, Art. 2. Assessment, Equalization, Levy and Collection of Taxes.]
- Art. 3**      **Sales Tax** [Ch. 4, Art. 3. Sales Tax.]
- Art. 4**      **Use Tax** [Ch. 4, Art. 4. Use Tax.]
- Art. 5**      **Uniform Local Sales and Use Tax** [Ch. 4, Art. 5. Uniform Local Sales and Use Tax.]
- Art. 6**      **Transient Room Tax** [Ch. 4, Art. 6. Transient Room Tax.]
- Art. 7**      **Payments by Municipal Utilities in Lieu of Taxes** [Ch. 4, Art. 8. Payments by Municipal Utilities in Lieu of Taxes.]
- Art. 8**      **Real Property Transfer Tax** [Ch. 4, Art. 9. Real Property Transfer Tax.]
- Art. 9**      **Fiscal Administration** [Ch. 2, Art. 12. Fiscal Administration.]
- Art. 10**     **Business Licenses** [Ch. 5, Art. 1. Business Licenses - General Provisions; Ch. 5, Art. 2. Business Licenses - Exemptions; [Ch. 5, Art. 3. Business Licenses - License Fees.]
- Art. 11**     **Business Improvement Area** [Ch. 5, Art. 4. Business Licenses - Business Improvement Area.]

**Chapter 8 Assessment Districts and Bond Procedures**

- Art. 1**      **Local Improvement Procedures** [Chapter 15] ]
- Art. 2**      **Parking Maintenance Districts** [Chapter 16]
- Art. 3**      **Revenue Bonds** [Chapter 18]

**Art. 4 Judgment Obligation Law [Chapter 20]**

**Art. 5 Pension Obligation Law [Chapter 21]**

**Art. 6 Special Tax Districts [Chapter 22]**

**Chapter 9 Regulations Regarding Businesses and Personal Conduct**

**Art. 1 Business Regulations - General Provisions [Ch. 6, Art. 1. Business Regulations - General Provisions.]**

**Art. 2 Cable Television Ordinance [Ch. 6, Art. 2. Cable Television Ordinance.]**

**Art. 3 Automobile Parking [Ch. 6, Art. 3. Automobile Parking.]**

**Art. 4 Franchise Ordinance [Ch. 6, Art. 4. Franchise Ordinance.]**

**Art. 5 Amusement Devices [Ch. 6, Art. 5. Amusement Devices.]**

**Art. 6 Pawnbrokers and Secondhand Dealers [Ch. 6, Art. 6. Pawnbrokers and Secondhand Dealers.]**

**Art. 7 Solicitation of Contributions [Ch. 6, Art. 7. Solicitation of Contributions.]**

**Art. 8 Auctions [Ch. 6, Art. 8. Auctions.]**

**Art. 9 Taxicab Regulations [Ch. 6, Art. 9. Taxicab Regulations.]**

**Art. 10 Rental Car Companies [Ch. 6, Art. 10. Rental Car Companies.]**

**Art. 11 Mobile Vendor Ordinance [Ch. 6, Art. 11. Mobile Vendor Ordinance.]**

**Art. 12 Private Patrols [Ch. 6, Art. 12. Private Patrols.]**

**Art. 13 Liquidation Sales [Ch. 6, Art. 14. Liquidation Sales.]**

**Art. 14 Painters of House Numbers on Curbs [Ch. 6, Art. 15. Painters of House Numbers on Curbs.]**

**Art. 15 Ambulance Ordinance [Ch. 6, Art. 17. Ambulance Ordinance.]**

**Art. 16 Massage Business [Ch. 6, Art. 18. Massage Business.]**

**Art. 17 Tow Cars [Ch. 6, Art. 19. Tow Cars.]**

**Art. 18 Billiard Rooms [Ch. 7, Art. 2. Billiard Rooms.]**

- Art. 19**     **Dancing and Entertainment** [Ch. 7, Art. 3. Dancing and Entertainment.]
- Art. 20**     **Picture and Live Arcades** [Ch. 7, Art. 4. Picture and Live Arcades.]
- Art. 21**     **Card Room Permit Regulations** [Ch. 7, Art. 5. Card Room Permit Regulations.]
- Art. 22**     **Bingo** [Ch. 8, Art. 10. Bingo.]
- Art. 23**     **Children’s Playlands and Amusement Centers** [Ch. 9, Art. 13. Children’s Playlands and Amusement Centers.]
- Art. 24**     **Used and Waste Tires** [Ch. 19, Art. 1. Used and Waste Tires.]
- Art. 25**     **Crimes Against Public Decency and Good Morals** [Ch. 8, Art. 1. Crimes Against Public Decency and Good Morals.]
- Art. 26**     **Crimes Against Public Health and Safety** [Ch. 8, Art. 2. Crimes Against Public Health and Safety.]
- Art. 27**     **Crimes Against Private Property** [Ch. 8, Art. 5. Crimes Against Private Property.]
- Art. 28**     **Malicious Mischief** [Ch. 8, Art. 6. Malicious Mischief.]
- Art. 29**     **Citizens Concealed Weapons License** [Ch. 5, Art. 5. Citizens Concealed Weapons License.]

**Chapter 10 Regulations Regarding Public Nuisances and Real Property Conduct and Use**

- Art. 1**     **Noise Regulations** [Ch. 8, Art. 3. Noise Regulations.]
- Art. 2**     **Animals** [Ch. 9, Art. 1. Animals.]
- Art. 3**     **Animal Shelter** [Ch. 9, Art. 2. Animal Shelter.]
- Art. 4**     **Solid Waste and Recycling Facilities Ordinance** [Ch. 9, Art. 3, Solid Waste and Recycling Facilities Ordinance.]
- Art. 5**     **Fire Prevention** [Ch. 9, Art. 7. Fire Prevention.]
- Art. 6**     **Public Nuisance Abatement** [Ch. 9, Art. 8. Public Nuisance Abatement.]
- Art. 7**     **Management of Real Property Ordinance** [Ch. 9, Art. 9. Management of Real Property Ordinance.]
- Art. 8**     **Public Safety Alarm Systems** [Ch. 9, Art. 10. Public Safety Alarm Systems.]

- Art. 9**      **Canals and Ponding Basins** [Ch. 9, Art. 11. Canals and Ponding Basins.]
- Art. 10**    **Public Swimming Pools** [Ch. 9, Art. 15. Public Swimming Pools.]
- Art. 11**    **Smoking Pollution Control Ordinance** [Ch. 9, Art. 16. Smoking Pollution Control Ordinance.]
- Art. 12**    **Vehicle Sales** [Ch. 9, Art. 17. Vehicle Sales.]
- Art. 13**    **Healthy Air and Smog Prevention** [Ch. 9, Art. 19. Healthy Air and Smog Prevention.]
- Art. 14**    **Hazardous Spills Expense Recovery** [Ch. 9, Art. 20. Hazardous Spills Expense Recovery.]

**Chapter 11 Building Permits and Regulations**

- Art. 1**      **Building, Plumbing, Electrical and Mechanical Regulations** [Ch. 13, Art. 1. Building, Plumbing, Electrical and Mechanical Regulations.]
- Art. 2**      **Building Moving and Demolition** [Ch. 13, Art. 2. Building Moving and Demolition.]
- Art. 3**      **Housing Regulations** [Ch. 13, Art. 11. Housing Regulations.]
- Art. 4**      **Dangerous Building Regulations** [Ch. 13, Art. 12. Dangerous Building Regulations.]
- Art. 5**      **Appeals** [Ch. 13, Art. 15. Appeals.]

**Chapter 12 Land Use Planning and Zoning**

- Art. 1**      **General Provisions Applicable to Zoning** [Ch. 12, Art. 1. General Provisions Applicable to Zoning.]
- Art. 2**      **Establishment of Land Use Districts and Regulations Applicable Therein** [Ch. 12, Art. 2. Establishment of Land Use Districts and Regulations Applicable Therein.]
- Art. 3**      **General Conditions Applicable to Zoning** [Ch. 12, Art. 3. General Conditions Applicable to Zoning.]
- Art. 4**      **Procedures Applicable to Zoning** [Ch. 12, Art. 4. Procedures Applicable to Zoning.]

- Art. 4.5**     **Urban Growth Management** [Ch. 12, Art. 4.5. Urban Growth Management.]
- Art. 4.6**     **Payment of Development Fees and Charges** [Ch. 12, Art. 4.6. Payment of Development Fees and Charges.]
- Art. 4.7**     **Park Facilities Fee** [Ch. 12, Art. 4.7. Park Facilities Fee.]
- Art. 4.8**     **Police Facilities Fee** [Ch. 12, Art. 4.8. Police Facilities Fee.]
- Art. 4.9**     **Fire Facilities Fee** [Ch. 12, Art. 4.9. Fire Facilities Fee.]
- Art. 5**       **Environmental Quality** [Ch. 12, Art. 5. Environmental Quality.]
- Art. 5.5**    **Surface Mining and Reclamation** [Ch. 12, Art. 5.5. Surface Mining and Reclamation.]
- Art. 6**       **Local Planning and Procedures** [Ch. 12, Art. 6. Local Planning and Procedures.]
- Art. 7**       **Official Plan Lines, Streets and Highways** [Ch. 12, Art. 7. Official Plan Lines, Streets and Highways.]
- Art. 8**       **Development in Overcrowded School Areas** [Ch. 12, Art. 8. Development in Overcrowded School Areas.]
- Art. 9**       **Condominium Conversions** [Ch. 12, Art. 9. Condominium Conversions.]
- Art. 10**      **Subdivision of Real Property** [Ch. 12, Art. 10. Subdivision of Real Property.]
- Art. 11**      **Street Name Procedure** [Ch. 12, Art. 11. Street Name Procedure.]
- Art. 12**      **Parcel Maps** [Ch. 12, Art. 12. Parcel Maps.]
- Art. 13**      **Address Numbering of Property** [Ch. 12, Art. 13. Address Numbering of Property.]
- Art. 14**      **Planned Communities** [Ch. 12, Art. 14. Planned Communities.]
- Art. 15**      **Industrial Development** [Ch. 12, Art. 15. Industrial Development.]
- Art. 16**      **Historic Preservation Ordinance** [Ch. 13, Art. 4. Historic Preservation Ordinance.]
- Art. 17**      **Signs** [Ch. 13, Art. 9. Signs.]
- Art. 18**      **Advertising** [Ch. 8, Art. 8. Advertising; Ch. 13, Art. 10. Advertising Signs Adjacent to Freeways.]
- Art. 19**      **Drainage Fees** [Ch. 13, Art. 13. Drainage Fees.]

**Art. 20 Mobilehome Park Rent Review and Stabilization** [Ch. 8, Art. 12. Mobilehome Park Rent Review and Stabilization.]

### **Chapter 13 Sidewalks, Streets, Parkways, and Underground Utility Districts**

**Art. 1 General Provisions** [Ch. 11, Art. 1. General Provisions.]

**Art. 2 Street Work** [Ch. 11 Art. 2. Street Work..]

**Art. 3 Street Trees and Parkways** [Ch. 11, Art. 3. Street Trees and Parkways.]

**Art. 4 Street Grades** [Ch. 11, Art. 5. Street Grades.]

**Art. 5 Telephone in Public Places** [Ch. 11, Art. 7. Telephone in Public Places.]

**Art. 6 Underground Utility Districts** [Ch. 11, Art. 8. Underground Utility Districts.]

### **Chapter 14 Vehicles and Traffic**

**Art. 1 Definitions** [Ch. 10, Art. 1. Definitions.]

**Art. 2 Administration** [Ch. 10, Art. 2. Administration.]

**Art. 3 Enforcement and Obedience to Traffic Regulations** [Ch. 10, Art. 3. Enforcement and Obedience to Traffic Regulations.]

**Art. 4 Traffic Control Devices** [Ch. 10, Art. 4. Traffic Control Devices.]

**Art. 5 Turning Movements** [Ch. 10, Art. 5. Turning Movements.]

**Art. 6 One-way Streets and Alleys** [Ch. 10, Art. 6. One-way Streets and Alleys.]

**Art. 7 Special Stops Required** [Ch. 10, Art. 7. Special Stops Required.]

**Art. 8 Miscellaneous Driving Rules** [Ch. 10, Art. 8. Miscellaneous Driving Rules.]

**Art. 9 Pedestrian Regulations** [Ch. 10, Art. 9. Pedestrian Regulations.]

**Art. 10 Stopping, Standing and Parking for Certain Purposes or in Certain Places** [Ch. 10, Art. 10. Stopping, Standing and Parking for Certain Purposes or in Certain Places.]

**Art. 11 Stopping, Standing or Parking Restricted or Prohibited on Certain Streets** [Ch. 10, Art. 11. Stopping, Standing or Parking Restricted or Prohibited on Certain Streets.]

- Art. 12 Stopping for Loading or Unloading Only** [Ch. 10, Art. 12. Stopping for Loading or Unloading Only.]
- Art. 13 Restricted Use of Certain Streets** [Ch. 10, Art. 13. Restricted Use of Certain Streets.]
- Art. 14 Parking Meters** [Ch. 10, Art. 14. Parking Meters.]
- Art. 15 Special Speed Zones** [Ch. 10, Art. 16. Special Speed Zones.]
- Art. 16 Traffic Regulations in City Parks and Playgrounds** [Ch. 10, Art. 17. Traffic Regulations in City Parks and Playgrounds.]
- Art. 17 Regulations for Bicycles** [Ch. 10, Art. 18. Regulations for Bicycles.]
- Art. 18 Traffic Regulations in Mall, Alleys in the Mall Area and Service Areas** [Ch. 10, Art. 19. Traffic Regulations in Mall, Alleys in the Mall Area and Service Areas.]
- Art. 19 Use of Aircraft on Streets** [Ch. 10, Art. 20. [Use of Aircraft on Streets.]
- Art. 20 Residential Permit Parking** [Ch. 10, Art. 21. Residential Permit Parking.]
- Art. 21 Funeral Processions** [Ch. 10, Art. 22. Funeral Processions.]
- Art. 22 Cruising** [Ch. 10, Art. 23. Cruising.]
- Art. 23 Specified Veterans' Permit Parking** [Ch. 10, Art. 24. Specified Veterans' Permit Parking.]
- Art. 24 City of Fresno Parade and Other Special Events** [Ch. 11, Art. 9. City of Fresno Parade and Other Special Events]

SECTION 4. In order to reduce inconvenience and disruption that may occur, the publisher will include a Renumbering Table as part of the republished Code.

SECTION 5. In order that the restructured Code may be easier to use and access, the Code shall be formatted for printing on 8 ½ x 11 inch paper and it shall be maintained on the City's website. To ensure that the Code is printed in a uniform manner, the City Clerk and City Attorney shall provide publication instructions to the publisher including, but not limited to, the printing on 8 ½ x 11 inch size paper, pagination, and double-sided printing.

SECTION 6. For this and any other ordinance adopted to complete the Code Streamlining project, the City Attorney is authorized to work with the publisher to make non-substantive changes to the Code, such as, formatting, numbering, numbering systems, organizational structure,

headings and subtitles, and inclusion of legislative history to meet the goals and intent of the Code Streamlining project.

SECTION 7. This ordinance shall become effective and in full force and effect on the 90<sup>th</sup> day after its final passage.

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STATE OF CALIFORNIA )  
COUNTY OF FRESNO ) ss.  
CITY OF FRESNO )

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the \_\_\_ day of \_\_\_\_\_, 2007.

AYES :  
NOES :  
ABSENT :  
ABSTAIN

Mayor Approval: \_\_\_\_\_, 2007

Mayor Approval/No Return: \_\_\_\_\_, 2007

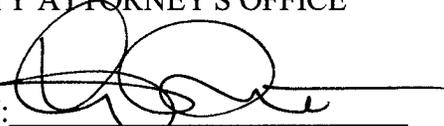
Mayor Veto: \_\_\_\_\_, 2007

Council Override Vote: \_\_\_\_\_, 2007

REBECCA E. KLISCH  
City Clerk

BY: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
CITY ATTORNEY'S OFFICE

BY:   
KATHRYN C. PHELAN  
Deputy City Attorney

KCP:sz[41248sz/ORD]5/30/07

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF FRESNO REPEALING CHAPTER 1, ARTICLES 1 TO 5 AND CHAPTER 2, ARTICLES 1 TO 14 OF THE FRESNO MUNICIPAL CODE AS REFLECTED IN THE CODE REORGANIZATION ORDINANCE, AND ADDING CHAPTER 1 GENERAL PROVISIONS AND CHAPTER 2 CITY GOVERNMENT.

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

SECTION 1. Reference is hereby made to the Code Reorganization Ordinance introduced and adopted as a companion ordinance to this Ordinance and deemed to have been introduced and adopted prior to the introduction and adoption of this ordinance. All provisions referenced in this ordinance are to the revised headings and numbers as provided in the Code Reorganization Ordinance.

SECTION 2. Chapter 1 of the Fresno Municipal Code is repealed.

SECTION 3. Chapter 2 of the Fresno Municipal Code is repealed.

SECTION 4. Chapter 1 is added to the Fresno Municipal Code to read:

## **MUNICIPAL CODE OF THE CITY OF FRESNO**

### **CHAPTER 1 GENERAL PROVISIONS**

- Art. 1. General Provisions.
- Art. 2. Definitions and Rules of Construction.
- Art. 3. Code Enforcement; Judicial and Administrative Remedies and Procedures.
- Art. 4. General Administrative Hearing Procedure.
- Art. 5. Cost and Penalty Recovery.

### **ARTICLE 1 GENERAL PROVISIONS**

- Sec. 1-101. Reference to Code.
- Sec. 1-102. Effect on Past Actions and Obligations Previously Accrued.
- Sec. 1-103. Severability of Parts of Code.
- Sec. 1-104. Amendments to Summaries.
- Sec. 1-105. Access to Code.
- Sec. 1-106. Maintenance of Code.
- Sec. 1-107. Master Fee Resolution.

**SECTION 1-101. REFERENCE TO CODE.** This Code may at all times be referred to as the "Municipal Code of the City of Fresno" or "Fresno Municipal Code" and whenever cited in an ordinance, may be referred to as "this Code". It shall be sufficient to designate any ordinance adding

to, amending or repealing this Code as an addition or amendment to, or repeal of, the “Municipal Code of the City of Fresno” or “Fresno Municipal Code.” Also, in any prosecution for the violation of any provision of this Code, it shall be sufficient to designate this Code as the “Municipal Code of the City of Fresno” or “Fresno Municipal Code”.

**SECTION 1-102. EFFECT ON PAST ACTIONS AND OBLIGATIONS PREVIOUSLY ACCRUED.**

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

**SECTION 1-103. SEVERABILITY OF PART OF CODE.** If any chapter, article, section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Code. The Council hereby declares that it would have passed this Code, and each chapter, article, section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more chapters, articles, sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional. The separate inclusion of a savings clause in any part of this Code shall not affect the intent of Council that this section shall apply to the entire Code.

**SECTION 1-104. AMENDMENTS TO SUMMARIES.** Whenever a new article, division or section is added to this Code, or an existing article, division or section is repealed, or the heading of an article, division or section is altered, the summary of articles at the beginning of each chapter, or divisions or sections at the beginning of each article, or sections at the beginning of each division, as the case may be, shall be and hereby is amended to show the addition, deletion or change in title of such article, division or section.

**SECTION 1-105. ACCESS TO CODE.** This Code shall be made available on the City’s website. Copies of this Code, in such numbers as the Council may deem adequate, and including the Charter, an index, and such other material as the City Attorney may prescribe, shall be prepared and maintained by the City Clerk in loose-leaf form and shall be mounted in binders to withstand heavy usage. Form, size, arrangement and page numbering shall be determined by the City Attorney.

**SECTION 1-106. MAINTENANCE OF CODE.** Whenever the Council adopts an amendment or addition to this Code, or repeals any of its provisions, or whenever the Charter is amended, or whenever the table of contents or index is amended, the City Clerk shall cause the loose-leaf pages of the Code or printed matter in which changes have been made to be reprinted, showing the changes and a notation as to the ordinance, if any, by which such changes are adopted. Certified copies of each ordinance amending the Code shall be filed and maintained by the City Clerk.

**SECTION 1-107. MASTER FEE RESOLUTION.** All fees, penalties, refunds, reimbursements and charges of any kind collected by the city shall be specified in the Master Fee Schedule designated in the Master Fee Resolution, as amended by the Council from time to time. Whenever applicable throughout the Code, reference shall be made to the Master Fee Resolution in lieu of any reference

to specific fee amounts.

## **ARTICLE 2 DEFINITIONS AND RULES OF CONSTRUCTION**

- Sec. 1-201. Headings.
- Sec. 1-202. Construction.
- Sec. 1-203. Code Numbering.
- Sec. 1-204. Definitions.
- Sec. 1-205. Grammatical Interpretation.
- Sec. 1-206. Exemptions Created by State Law.
- Sec. 1-207. Territorial Applicability.
- Sec. 1-208. Reference to Ordinances and Charter.
- Sec. 1-209. Reference Includes Amendments and Penalties.
- Sec. 1-210. Reference to Depositions and Matters of Record.
- Sec. 1-211. Prohibited Acts: Including Causing, Permitting, Etc.
- Sec. 1-212. Notices, Etc., to be Written and in English Language.
- Sec. 1-213. Notices: Service and Proof.
- Sec. 1-214. Certification or Declaration Under Penalty or Perjury.
- Sec. 1-215. Continuity of Code Provisions.
- Sec. 1-216. Renaming of Departments, Divisions, or Offices.

**SECTION 1-201. HEADINGS.** The headings of chapters, articles, divisions and sections contained in this Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any chapter, article, division or section of the Code.

**SECTION 1-202. CONSTRUCTION.** The provisions of this Code and all proceedings under it are to be construed with a view to effect its objects and to promote justice.

### **SECTION 1-203. CODE NUMBERING.**

(a) In this Code, except for Chapter 12, the following order shall be used for classification of provisions: Chapter, Article, Section, Subsection, Subdivision, and subpart with Chapter covering the broadest category and subpart covering the smallest category.

(b) In reading a section number from left to right, the digit or digits to the left of the dash shall designate the chapter number of this Code. The first digit to the right of the dash shall indicate the article number in such chapter, and the two remaining digits the section number within such article; provided, however, that when there are four digits to the right of the dash, the first two digits shall indicate the article number. Figures to the right of a decimal point shall indicate new sections or chapters inserted between existing sections or chapters, as the case may be. The decimal system shall be used in maintaining the numerical order of such sections and chapters.

### **SECTION 1-204. DEFINITIONS.**

(a) Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section and in other parts of the Code shall govern the construction, meaning, and application of words and phrases used in this Code. The definition of each word or phrase shall constitute, to the extent applicable, the definition of each word or phrase which is

derivative from it, or from which it is a derivative, as the case may be.

(b) "City" shall mean the City of Fresno or the area within the territorial city limits of the City of Fresno and such territory outside the city over which the city has jurisdiction or control by virtue of any constitutional or Charter provisions, or any law.

(c) "Council" shall mean the Council of the City of Fresno.

(d) "County" shall mean the County of Fresno.

(e) "May" is permissive.

(f) "Must" and "Shall" are mandatory.

(g) "Person" shall mean natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them, and shall include every department of the city and every officer and employee of such department while working in the course and scope of employment.

#### **SECTION 1-205. GRAMMATICAL INTERPRETATION.**

(a) "Gender." Any gender includes the other genders.

(b) "Singular and plural." The singular number includes the plural, and the plural includes the singular.

(c) "Tenses." Words used in the present tense include the past and the future tenses and vice versa, unless expressly provided otherwise.

(d) "Uses of words and phrases." Words and phrases used in this Code and not specifically defined shall be construed according to the context and approved usage of the language. The provisions of Sections 13 and 1645 of the Civil Code of the State are hereby adopted in the interpretation of words and phrases, unless otherwise provided herein.

**SECTION 1-206. EXEMPTIONS CREATED BY STATE LAW.** Whenever any provision of this Code requires that any person engaging in a business, profession, trade or calling take an examination, or obtain a certificate of registration, post a bond, or pay a fee other than for revenue purposes before engaging in such business, profession, occupation, trade or calling, such provision shall be limited in its application so as not to conflict with any state regulation on the subject if the State regulation is a matter of statewide concern and not a municipal affair.

**SECTION 1-207. TERRITORIAL APPLICABILITY.** This Code shall refer only to the omission or commission of acts within the territorial limits of the city and to that territory outside this city over which the city has jurisdiction or control by virtue of any constitutional or charter provision, any law, or any agreement.

**SECTION 1-208. REFERENCE TO ORDINANCES AND CHARTER.** Any reference to an ordinance or the charter in this Code shall mean such ordinance or charter of the City of Fresno.

**SECTION 1-209. REFERENCE INCLUDES AMENDMENTS AND PENALTIES.** Any reference in this Code to an ordinance or provisions of this Code shall mean such ordinance or provision as now or hereafter amended. Reference to any section of this Code shall be understood to refer to and include the penalty section relating thereto, unless otherwise expressly provided. In case of the amendment of any section of this Code containing provisions for which a penalty is provided in another section, the penalty so provided in such other section shall be held to relate to the section so amended, whether re-enacted in the amendatory ordinance or not, unless such penalty is specifically repealed therein.

**SECTION 1-210. REFERENCE TO DEPOSITS AND MATTERS OF RECORD.** The provisions of this Code shall not in any manner affect deposits, bonds, policies of insurance or other matters of record which refer to, or are otherwise connected with, ordinances which are therein specifically designated by number or otherwise and which are included within this Code, but such reference shall be construed to apply to the corresponding provisions contained within this Code.

**SECTION 1-211. PROHIBITED ACTS: INCLUDE CAUSING, PERMITTING, ETC.** Whenever in this Code any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

**SECTION 1-212. NOTICES, ETC., TO BE WRITTEN AND IN ENGLISH LANGUAGE.** All notices, reports, statements, applications or records required or authorized by this Code shall be made in writing in the English language unless it is expressly provided otherwise.

**SECTION 1-213. NOTICES: SERVICE AND PROOF.** Whenever a notice is required to be given under this Code, unless different provisions herein are otherwise specifically made, the notice may be given either by personal delivery thereof to the person to be notified or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to such person to be notified at the person's last known business or residence address as the same appears in the public records or other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in the post office, or any United States mailbox. Proof of giving any notice may be made by the certificate of any officer or employee of this city or by affidavit of any person over the age of eighteen years, which shows service in conformity with this Code or other provisions of law applicable to the subject matter concerned.

**SECTION 1-214. CERTIFICATION OR DECLARATION UNDER PENALTY OF PERJURY.** Whenever an oath, sworn statement, declaration, verification, certification, or affidavit, in writing, of the person making the same (other than a deposition or an oath required to be taken before a specified official other than a notary public), is required to be given under this Code, unless definite provisions are otherwise required, such matter may with like force and effect be evidenced by the unsworn statement, declaration, verification, or certification, in writing, of such person stating the date and place of execution, and which is subscribed by that person and certified or declared by that person to be true "under penalty of perjury."

**SECTION 1-215. CONTINUITY OF CODE PROVISIONS.** Whenever any part of this Code is amended, whether such amendment be by express amendment or by repeal and re-enactment, or by renumbering of a provision, insofar as said amendment is substantially the same as any Code provision previously adopted, relating to the same subject matter, such amendment shall be construed as a restatement and continuation of the previous provision, and not as a new enactment.

**SECTION 1-216. RENAMING OF DEPARTMENTS, DIVISIONS, OR OFFICES.** The Code frequently references specific departments, divisions, offices and positions by name. From time to time the City renames departments, divisions, offices and positions. It shall be unnecessary to amend this Code to recognize the name change. Whenever this Code refers to a specific department, division, office or position, that reference shall include any new name of that department, division, office or position. Said department, division, office or position shall retain all the same powers, duties, and obligations, unless otherwise specified.

### **ARTICLE 3 CODE ENFORCEMENT; JUDICIAL AND ADMINISTRATIVE REMEDIES AND PROCEDURES**

- Sec. 1-301. Declaration of Purpose.
- Sec. 1-302. General Enforcement Authority; Enforcement Officers.
- Sec. 1-303. Authority to Inspect.
- Sec. 1-304. Code Violations.
- Sec. 1-305. Criminal Citations.
- Sec. 1-306. Failure to Appear as Misdemeanor.
- Sec. 1-307. Police Chief Powers.
- Sec. 1-308. Administrative Citations and Penalties.
- Sec. 1-309. Issuance of Permits; Violations of Law
- Sec. 1-310. Adjudicatory Decisions.

**SECTION 1-301. DECLARATION OF PURPOSE.** The Council finds that the enforcement of the Fresno Municipal Code and other applicable laws throughout the city is an important public service. Code enforcement is vital to protection of the public's health, safety, and quality of life. The Council recognizes that enforcement starts with precise regulations that can be understood by city officials and members of the public and effectively applied in administrative enforcement hearings and judicial proceedings. The Council further finds that a comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gain compliance with code regulations.

**SECTION 1-302. GENERAL ENFORCEMENT AUTHORITY; ENFORCEMENT OFFICERS.** The City Manager or any of his or her designated enforcing officers as set forth in this Code have the authority and powers necessary to gain compliance with the provisions of the Code and applicable laws. The term "enforcement officers" includes any city employee vested with authority to enforce the Code. These powers include the power to inspect public and private property and use whatever judicial and administrative remedies are available under the Code or applicable laws.

**SECTION 1-303. AUTHORITY TO INSPECT.** Any enforcement officer shall also have authority to enter upon any property or premises to ascertain whether provisions of the Fresno Municipal Code or applicable state codes, regulations, or ordinances are being obeyed, and to make examinations and surveys as may be necessary in the performance of their duties. These may include taking photographs, video, samples, or other physical evidence. All inspections, entries, examinations, and surveys shall be done in a reasonable manner and where entry onto the premises is necessary with the consent of the owner, agent, or occupant. If an owner, occupant, or agent refuses permission to enter or inspect, the enforcement officer may seek an inspection warrant pursuant to the procedures provided for in Code of Civil Procedure Sections 1822.50 through 1822.59 or their successors to perform duties imposed upon said person.

## **SECTION 1-304. CODE VIOLATIONS.**

(a) Except for violations of the City Charter or as otherwise specified in this Code, any person convicted of a misdemeanor under the provisions of this Code shall be punishable by a fine of not exceeding one thousand dollars (\$1,000.00) or by imprisonment in the Fresno County jail for a period of not more than one year, or by both such fine and imprisonment.

(b) Any person violating any of the provisions or failing to comply with any of the requirements of this Code shall be guilty of a misdemeanor unless:

(1) Such Code provision makes violation thereof an infraction; or

(2) The City Attorney files a complaint charging the offense as an infraction; or

(3) The court, with the consent of the defendant, determines that the offense is an infraction, in which event the case shall proceed as if the defendant had been arraigned on an infraction complaint; or

(4) The city, at its discretion, may issue an administrative citation and civil penalty in lieu of charging any violation of the Code as a misdemeanor or an infraction. The enforcement of those civil penalties shall be governed by the civil administrative citation procedures set forth in this article or as more specifically provided in other provisions of the Code.

(c) Any person convicted of an infraction under the provisions of this Code herein shall be punishable by (1) a fine not exceeding one hundred dollars (\$100.00) for a first violation; (2) a fine not exceeding two hundred dollars (\$200.00) for a second violation of the same provision within one year of the date of the first violation; (3) a fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same provision within one year of the date of the violation. Except as otherwise provided by law, all provisions of law or ordinance relating to misdemeanors shall apply to infractions.

(d) Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued, or permitted by such person and shall be punished accordingly.

(e) In all cases where the same offense is made punishable or is created by different clauses or sections of this Code, the City Attorney may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense.

(f) The City Attorney has discretion to institute the appropriate civil action to ensure compliance with the Fresno Municipal Code, including an action for a temporary restraining order, a preliminary or permanent injunction or an action to recover any damages incurred as a result of any Code violation.

## **SECTION 1-305. CRIMINAL CITATIONS.**

(a) The provisions of Part 2, Title 3, Chapter 5c of the Penal Code, as amended, shall govern

the procedures required for criminal enforcement of the Fresno Municipal Code.

(b) Criminal Citation Officer. When in this Code, or in any other ordinance of the city, an officer or employee of the city is empowered to enforce, or charged with the duty of enforcing, any particular provision or provisions of this Code or of any other ordinance of the city, the violation of which provision or provisions would constitute a misdemeanor or infraction, the officer or employee so empowered, or so charged with such duty, shall have the authority to arrest without warrant and to issue criminal citations as set forth in this section for the purpose of enforcing this Code. Such public officer or employee shall be deemed a criminal citation officer and shall have all the powers and protection, as conferred pursuant to California Penal Code § 836.5.

(c) Training Requirements. Before a criminal citation officer may exercise criminal citation authority pursuant to this section, that officer or employee must complete an enforcement training program established at the discretion of the Chief of the Fresno Police Department. The training program shall be designed to instruct officers and employees regarding:

- (1) The provisions of this Code to be enforced;
- (2) The evidentiary prerequisites to proper prosecution for violations thereof;
- (3) The procedural requirements of citations, including completion of the forms, processing and amendment of citation forms; and
- (4) The limitations attendant thereto.

(d) Criminal Citation Authority. In addition to the Police Chief and peace officers employed by the Police Department, upon completion of the training prescribed by subsection (c), the following officers and employees have the authority to issue criminal citations, both misdemeanor and infractions: City Manager, Director of Administrative Services, Director of Housing and Neighborhood Revitalization, Planning and Development Director, Director of Public Utilities, Public Works Director and Fire Chief. This authority relates only to Fresno Municipal Code criminal citations.

(e) Delegation. An officer or employee designated in subsection (c) has the authority to appoint employees to assist in the enforcement responsibilities. Such employees shall likewise have the authority to issue criminal citations following the written confirmation by the City Manager of the appointment of such employees by the officers designated in subsection (b) and completion of the training required by subsection (c).

(f) Notice to Appear. Citation officers vested with criminal citation authority pursuant to this section, may, pursuant to Sections 836.5, 853.5 and 853.6 of the California Penal Code, issue a citation in the form of a NOTICE TO APPEAR to a person where any such citation officer has probable cause to believe that the person to be issued the citation has violated a provision of this Code in the citation officer's presence, which the citation officer had the discretionary duty to enforce, and therefore, has committed a misdemeanor or infraction.

(g) Release on Written Promise to Appear. A criminal citation officer exercising the authority pursuant to this section may release the person to be issued a citation on his or her written promise

to appear in court. The citation officer shall under no circumstances take the person to be issued a citation into custody.

(h) Refusal to Sign. In the event that the person to be issued a citation refuses to provide his or her written promise to appear in court, a citation officer may summon a Fresno Police Department peace officer and request that such peace officer take the person into custody. If the person demands to be taken before a magistrate, the citation officer may summon a Fresno City Police officer and request that such peace officer take the person into custody, or seek assistance of the City Attorney and request that a complaint be prepared and filed against that person.

(h) Filing and Maintenance of Files. Criminal citation officers having a duty to enforce the provisions of this Code, and who exercise the authority to issue a citation pursuant to this section, shall maintain a file of executed citations and such citations shall be forwarded to the City Attorney's office for issuance of a complaint and filing with the appropriate magistrate.

(i) Additional Authority. Nothing in this section shall be considered to limit any authority otherwise vested in the named officers and employees, provided elsewhere in this Code, or by State law.

**SECTION 1-306. FAILURE TO APPEAR AS MISDEMEANOR.** Any person wilfully violating his or her written promise to appear in court is guilty of a misdemeanor regardless of the disposition of the charge upon which the person was originally arrested.

**SECTION 1-307. POLICE CHIEF POWERS.** The Police Chief and all peace officers employed by the Police Department are hereby empowered to enforce, and are charged with the duty of enforcing, any and all provisions of this Code or of any other ordinance of the city, including the power to arrest for such violations in accordance with the laws of the State of California, together with such other powers as are conferred upon them by the city. The Police Chief may authorize employees of the Police Department, excepting employees whose duties do not fall within the scope of law enforcement services, to enforce any and all provisions of the statutes of the State of California, of this Code, or of any other ordinance of the city where the violation of such provision or provisions would constitute an infraction, including the power to cite for such violations in accordance with the laws of the State of California. The Chief of Police may also authorize said employees to regulate traffic at the scenes of accidents or disasters or at such locations as may require traffic direction for orderly traffic flow, and to remove vehicles from highways, public property, and private property, when authorized by state law or local ordinance.

**SECTION 1-308. ADMINISTRATIVE CITATIONS AND PENALTIES.** The Council finds that there is a need for an alternative method of enforcement of violations of the Municipal Code. The Council further finds and declares that an appropriate method for enforcement for violations of the Code is the following administrative citation and civil penalty program.

(a) Administrative Citation. Any person violating any provision of the Code may be issued an administrative citation by an enforcement officer as provided in this article. A separate civil penalty for each violation of the Code may be assessed by means of one administrative citation.

(b) Contents. Upon discovering or observing any violation of the Municipal Code, an enforcement officer may issue an administrative citation, in a form approved by the City Manager

and City Attorney, to a violator or property owner, with the following contents:

(1) Date and location of the violation(s), including the street address, if any, and the approximate time the violation(s) were observed;

(2) Section(s) of the Code violated and brief description of how the section(s) are violated; if the citation is for a violation of the Management of Real Property Ordinance set forth in Chapter 10, Article 7, the citation shall include a statement specifying the behaviors which constitute the nuisance.

(3) Description of the action required to correct the violation(s), if applicable; and if applicable, the date by which the violation must be corrected.

(4) Statement explaining the consequences of failure to correct the violation(s);

(5) Amount of penalty imposed for the violation(s);

(6) Explanation of how the penalty shall be paid and the time period by which it shall be paid, and the consequences of failure to pay the penalty;

(7) Right to contest the contents of the administrative citation and right of appeal, including the name and address of the City Manager for purposes of filing any notice of appeal; and

(8) Signature of the enforcement officer.

c) Issuance. The enforcement officer shall attempt to issue the citation to the responsible party for any violation of this Code. For purposes of issuance of a citation to a business, the citation may be issued to the person in immediate control of the business on site at the time of the issuance of the administrative citation and penalty. The citation officer may, but is not required, to obtain the signature of the person upon whom the citation was issued. The lack of signature shall in no way affect the validity of the citation and subsequent proceedings.

(d) Issuance When Unable to Locate Violator. If the enforcement officer is unable to locate the violator(s) then the administrative citation shall be mailed to the responsible party and property owner, if different than the responsible party. The administrative citation shall be mailed to the violator(s) or property owner(s) by certified and first class mail. The failure of any person with an interest in the property to receive such notice shall not affect the validity of any proceedings taken under this chapter. Notice by certified and first class mail in the manner described above shall become effective on the date of mailing.

(e) Imposition of Penalty. An administrative citation issued for a continuing violation of a building, plumbing, electrical or other structural or zoning regulation, that does not create an immediate danger to public health or safety, may not be issued until the responsible party has been given a reasonable period of time by the city to correct the violation through a notice of violation, notice and order or other type of corrective notice.

(f) Appeal. Any person issued an administrative citation may contest the contents of the administrative citation by filing an appeal under the City's Administrative Ordinance set forth in Article 4. If no appeal is filed within the time prescribed, the penalty shall be final and immediately payable.

(g) Penalty. Except as otherwise set forth in this Code, or by the Master Fee Resolution, the City Council establishes the following base schedule for determining the amount of the civil penalty to be assessed for each code violation specified in the administrative citation.

(i) First violation within a rolling twelve-month period, one hundred dollars (\$100.00);

(ii) Second occurrence of the same violation within a rolling twelve-month period, two hundred fifty dollars (\$250.00);

(iii) Third or subsequent occurrence of the same violation within a rolling twelve-month period, five hundred dollars (\$500.00);

(h) Failure to Correct. If the violator or property owner fails to correct the violation, subsequent administrative citations and penalties may be issued for the same violation(s) or the city may institute any other applicable action permissible under this Code to gain compliance. The amount of the penalty for each subsequent violation of the same Code provision shall increase at a rate specified in this article.

(i) Payment of Fine Without Correction of Violation. Payment of any penalty shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the city. The failure of any person to pay any penalty assessed by administrative citation within the time specified on the administrative citation shall result in the assessment of an additional late fee to be charged. The amount of the late fee shall be ten percent of the total amount of the civil penalty due and owing.

(j) Collection of Penalty. The city shall collect delinquent and late fees under the provisions of the Cost and Penalty Recovery Ordinance in Chapter 1, Article 5 of the Code.

(k) Authority to Issue Administrative Citation. The following officers and employees have the authority to issue administrative citations and civil penalties: City Manager, Planning and Development Director, Director of Public Utilities, Public Works Director, Police Chief and Fire Chief, and Director of Parks and Recreation and any other person delegated such authority by any of the above.

(l) Payment of Penalty and Use of Proceeds. Except as otherwise provided, all civil penalties assessed shall be payable to the City.

**SECTION 1-309. ISSUANCE OF PERMITS; VIOLATIONS OF LAW.** When in this Code, or in any other ordinance of the city, an officer or employee of the city is empowered and has the duty to issue a regulatory permit, and the officer or employee has reason to believe that the applicant is engaged in, or has on his premises a violation of law, ordinance, or city regulation, and exercise of the permit will propagate, encourage, or perpetuate the violation, then the officer or employee, with the approval of the City Attorney, may refuse to issue the permit until such time that it is established that the violation has been abated or does not exist, provided that the officer or employee may, with the

permission of the City Attorney, issue the permit upon conditions reasonably calculated to eliminate the violation and in such case the permit may be revoked upon failure to perform or conform to the condition.

**SECTION 1-311. ADJUDICATORY DECISIONS.** Except as otherwise provided in Section 1002 of the Charter, the provisions of Section 1094.6 of the California Code of Civil Procedure shall be applicable to all adjudicatory decisions of the Council, any board or commission established pursuant to the Charter or this Code, and any hearing officer pursuant to the Administrative Hearing Ordinance in Chapter 1, Article 4.

#### **ARTICLE 4 GENERAL ADMINISTRATIVE HEARING PROCEDURE**

- Sec. 1-401. Title.
- Sec. 1-402. Findings.
- Sec. 1-403. Applicability.
- Sec. 1-404. Rules and regulations.
- Sec. 1-405. Hearing officer.
- Sec. 1-406. Service of process.
- Sec. 1-407. Filing a notice of appeal.
- Sec. 1-408. Conduct of Hearing.
- Sec. 1-409. Hearing officer authority.
- Sec. 1-410. Decision.
- Sec. 1-411. Enforcement of Hearing Officer Decisions.

**SECTION 1-401. TITLE.** This article shall be known as the “City of Fresno Administrative Hearing Procedure Ordinance” or “Administrative Hearing Ordinance.”

#### **SECTION 1-402. FINDINGS.**

(a) The Council finds that there is a need to establish uniform procedures for administrative hearings conducted pursuant to the code.

(b) It is the purpose and intent of the Council to ensure that the administrative hearing procedures afford due process of law as required under federal and state law.

(c) Due process of law includes adequate notice, an opportunity to be heard by an impartial fact-finder, and an adequate explanation of the reasons justifying the administrative action.

(d) The Council finds that it is important to establish procedures which efficiently, expeditiously and fairly resolve issues raised in administrative, regulatory or enforcement actions.

**SECTION 1-403. APPLICABILITY.** Except where specifically provided otherwise in this Code, this article shall provide the procedures, rules and standards for all administrative hearings provided under this Code or administrative hearings provided under rules or regulations promulgated pursuant to this Code.

**SECTION 1-404. RULES AND REGULATIONS.** The City Manager may adopt written rules, regulations, policies and procedures that are consistent with the intent or provisions of this article, as

may be necessary or desirable to aid in the administration or enforcement of the provisions of this Code.

**SECTION 1-405. HEARING OFFICER.** The City Manager shall appoint persons to serve as hearing officers under the following rules:

(a) Permanent Hearing Officer. The City Manager may appoint a person or persons to serve as permanent hearing officers. Permanent hearing officers shall be hired under a contract with a minimum one year term. The hearing officer may not be terminated without cause and the basis of termination shall not be related to the outcomes of hearings. A permanent hearing officer may be appointed to hear all types of administrative hearings or may be appointed to hear a select category of hearings or a select number of hearings. A person may not be appointed to serve as a permanent hearing officer if he or she has served as a temporary hearing officer within a one year period.

(b) Temporary Hearing Officer. The City Manager may appoint a person or persons to serve as temporary hearing officer on an as needed basis for those hearings in which the city does not have a permanent hearing officer or where the permanent hearing officer(s) is/are unable to serve because of the existence of a personal conflict or for practical reasons or where the Code otherwise requires appointment of a person to hear a particular class of hearings. The following persons may serve as temporary hearing officers:

(1) Any person willing to serve without compensation or valuable consideration or promise of future compensation or valuable consideration;

(2) Any person serving for compensation so long as that person has not previously served as a temporary hearing officer for the city within a one year period;

(3) A person serving for compensation who has previously served as a temporary hearing officer within the past year may serve as a temporary hearing officer upon written consent of the appellant or the person whose property or interest is the subject of the hearing after disclosure by the city of the person's prior service for the city, including, if requested, disclosure of the final determination of any prior decision(s) by the hearing officer;

(4) A person serving for compensation who has served as a temporary hearing officer within a year may serve without the written consent of the appellant where the person is randomly selected from a list or panel of at least four persons who have all agreed to serve as temporary hearing officers under such a random selection process;

(5) A salaried city staff member who regularly supervises at least ten people and who does not, and has not within the previous twelve months, directly supervised the division or unit of the staff member responsible for representing the city in the appeal and who has not participated in the order, citation, decision or determination being appealed may serve as a temporary hearing officer; or

(6) A State Administrative Law Judge under a contract with the Office of Administrative Hearings or an arbitrator employed by a private independent arbitration service, such as JAMS or the American Arbitration Association.

(c) Multiple Hearing Officers. Where more than one hearing officer, whether temporary or permanent, is available to hear the same administrative hearing, selection of the hearing officer shall be determined either by the terms of the hearing officer's contract or by random process. (Added Ord. 2005-14, § 49, eff. 4-9-05).

**SECTION 1-406. SERVICE OF PROCESS.** Service of any notice, hearing packet, or order under this article shall be by personal service or first class mail. The date of service shall be considered the date the notice, hearing packet or order was personally served or three days after the date of mailing. (Added Ord. 2005-14, § 49, eff. 4-9-05).

**SECTION 1-407. FILING A NOTICE OF APPEAL.**

(a) Standing. Only a person who has a legal existing interest in the property, right or entitlement subject to the city order, citation, decision or determination sought to be appealed from has standing and a right to appeal under this article. A notice of appeal that fails to allege standing may be rejected as defective.

(b) Notice of Appeal. A notice of appeal shall be filed in writing in duplicate with the hearing officer within fifteen calendar days after the service of the order, citation, decision, or determination appealed from. The appeal shall be addressed to the hearing officer and shall contain the following:

(1) The name, address, and telephone numbers of the appellant;

(2) A statement describing the appellant's legal existing interest in the property, right or entitlement subject to the city order, citation, decision or determination sought to be appealed from;

(3) A brief description of the specific order, citation, decision, or determination being appealed;

(4) A statement of the relief sought;

(5) The reasons why such relief should be granted;

(6) A statement of the Appellant, "under penalty of perjury," that the facts stated in the appeal are true of the appellant's own knowledge, except as to matters which are not within the appellant's knowledge and are not of public record, and as to those matters that the appellant believes the facts stated to be true.

(c) Late Appeals. Upon a showing of good cause, the hearing officer may, in his or her discretion, permit the filing of an appeal, or an amended appeal, after fifteen calendar days, in which case the appeal shall be considered in the same manner as if it had been timely filed.

(d) Defective Notice of Appeals. If, in the opinion of the hearing officer, the appeal or an amended appeal fails to comply substantially with the requirements of this section, the hearing officer may give written notice of such insufficiency to the appellant at any time within fifteen calendar days after the appeal is presented, stating with particularity the defects or omissions therein. Failure of the appellant to file an amended appeal within fifteen calendar days of the date of

service of such notice of insufficiency shall constitute a waiver of the appeal. Failure of the hearing officer to give notice of any insufficiency within fifteen calendar days shall result in the appeal being heard on its merits, without regard to any insufficiency.

(e) Notice of Hearing. Upon receipt of an appeal, or if notice of insufficiency is given in accordance with this section, upon receipt of an amended appeal within the time specified, the hearing officer shall cause one copy to be stamped indicating the date of receipt thereof, and shall immediately forward the other copy to the officer or employee whose order, citation, decision, or determination is being appealed. The hearing officer shall set the appeal for hearing and shall give to the appellant and to the officer or employee whose order, citation, decision, or determination is being appealed not less than fifteen calendar days written notice of the date, time, and place of hearing. The appellant, or his/her authorized representative, may waive the fifteen calendar days written notice, so long as said waiver is in writing and received by the hearing officer. The notice of the hearing to the appellant shall include a statement as to the appellants' rights as provided in subsection 1-507(c).

(f) Stay of Proceedings. Unless otherwise provided by this Code, the filing of an appeal shall stay all proceedings in furtherance of the order, citation, decision, or determination appealed from until the determination of the appeal as provided herein.

(g) Hearing Packet. Upon receipt of the copy of the notice of appeal from the hearing officer, the employee or officer who issued the order, citation, decision or determination shall prepare a hearing packet that forms the basis of the citation, order, decision or determination. The hearing packet shall be served either within seven calendar days (if service is by mail) or five calendar days (if personally served on the appellant) of the date set for the hearing.

#### **SECTION 1-408. CONDUCT OF HEARING.**

(a) Continuance. At the hearing officer's discretion or upon good cause shown, the hearing officer may continue the hearing by written notice before the scheduled hearing or orally at or during the hearing.

(b) Hearing. At the hearing, the officer or employee who issued the order, citation, decision, or determination or his or her designee shall present evidence in support of the findings or reasons upon which the order, citation, decision, or determination, was based. The appellant, or any individual authorized in writing to represent the appellant, may then present evidence in support of the contentions made in the notice of appeal. The hearing shall be informally conducted.

(c) Rights of Parties. The parties and anyone who participates in a hearing may be represented by an attorney or other person of the parties' choice. The parties have a right to appear, testify, present evidence, examine and cross-examine witnesses, and present written or oral arguments. Additionally, the parties may request and the hearing officer may allow the parties to submit written briefs, either before, during or after the hearing.

(d) Evidence. The rules of evidence provided by State statute in civil and criminal actions shall not apply, except that irrelevant and unduly repetitious evidence may be excluded in the hearing officer's discretion.

(e) Scope. The scope of the hearing shall be limited to the order, citation, decision, or determination being appealed, the grounds for relief raised in the notice of appeal and any specific requirements of this Code. The hearing officer may expand the scope of the hearing on a finding that it is necessary to ensure a fair process.

(f) Burden of Proof; Burden of Evidence. Except where otherwise provided in this Code, the burden of proof and production of evidence shall be with the city. Except where otherwise provided in the Code, the burden of proof shall be preponderance of the evidence.

(g) Open to the Public. All hearings shall be open to the public. Any interested person shall have the right to speak at the hearing subject to the hearing officer's right to exclude irrelevant and unduly repetitious evidence. Notwithstanding the above, the parties have the right to petition the hearing officer and the hearing officer may in his or her discretion accept submission of evidence outside the presence of the public, if such evidence would not be disclosable under the Public Records Act, California Gov't Code §§ 6250, et seq.

(h) Waiver of Rights. The failure of the appellant or any interested party to raise an objection to the hearing officer either before or during the hearing of any defect in notice or procedure provided under the Code or at law or in equity shall be deemed a waiver of the defect. For purposes of a waiver of objection in this subsection, defect in procedure shall include a claim that the hearing officer is biased when facts regarding the claimed bias are known or readily discoverable by the appellant or interested party or have been published to the appellant or interested party by the city. An objection of bias of the hearing officer shall be raised to the City Manager.

(i) Failure of Appellant to Appear. Unless otherwise provided in the Code, if the appellant fails to appear for the hearing at the time and place noticed, the hearing officer in his or her discretion may conduct the hearing to a conclusion or may dismiss the appeal. If the appeal is dismissed, the order, citation, decision, determination appealed from shall become final and effective on the date of the hearing. Upon a showing of good cause, the hearing officer may set aside his or her decision or dismissal upon the appellant's failure to appear and may reschedule the appeal for hearing.

(j) Recording. The proceedings at the hearing shall be recorded to a cassette tape, a CD-ROM, a video tape, a DVD or similar media. In addition to any one of the above, the proceedings may also be recorded by a certified shorthand reporter. If an appellant requests a certified shorthand reporter the costs of the reporter shall be borne by the appellant.

(k) Ex parte communication. Other than at the hearing, there shall be no direct oral communication between the parties and the hearing officer on any matter related to the hearing without both parties being present. Any written communication to the hearing officer by a party shall be copied and served to the other party.

#### **SECTION 1-409. HEARING OFFICER AUTHORITY.**

(a) Order of Attendance or Production. At the request of either the city or the appellant, the hearing officer or the City Clerk shall, on behalf of the city, issue orders for attendance of witnesses at the hearing, or production of documents on a date certain. In no event shall the date for the production of documents be less than ten days after the date the order was issued. Failure by a

party to comply with an order of attendance or production may be considered a violation of this Code and, at the petition of a party, the hearing officer may impose a civil fine of up to one hundred dollars (\$100) at the time of the hearing and may take such failure into consideration in making his or her determination of the hearing.

(b) Subpoenas. At the request of either the city or the appellant, the hearing officer or the City Clerk shall, on behalf of the city, issue subpoenas for attendance of witnesses at the hearing or production of documents on a date certain. In no event shall the date for production of documents be less than ten days from the date the subpoena was issued. Disobedience of such subpoena or the refusal to testify, upon other than constitutional grounds, shall constitute a misdemeanor.

(c) Inspection of Premises. The hearing officer may inspect the premises involved in the hearing at any time prior to a decision, to investigate or confirm the existence of the violation(s) or conditions which are on appeal, provided that:

(1) Consent is granted by a person with the lawful right to grant consent or an inspection warrant is obtained;

(2) Reasonable notice of such inspection is given to the owner before the inspection is made;

(3) The parties are given an opportunity to be present during the inspection;

(4) The hearing officer shall place in the record the material facts and the conclusions drawn from the inspection either orally at the time of the hearing or in writing after the hearing; and

(5) Each party then shall have a right to rebut or explain the matters so stated by the hearing officer for the record either at the hearing or by filing a written statement within ten calendar days after the hearing.

(d) Oaths. The hearing officer shall have the power to administer oaths and affirmations.

(e) Procedures. The hearing officer shall have the authority to establish procedures before or during a hearing consistent with this article and the Code for purposes of efficiency and order.

(f) Review Authority. The hearing officer shall sit as the trier of fact and shall rule on questions of law and admissibility of evidence. The hearing officer may affirm, reverse, modify, or set aside the order, citation, decision, or determination appealed from or may delete or impose conditions as the facts and law warrant. The hearing officer may not increase a penalty or impose a harsher remedy beyond the penalty or remedy imposed under the order, citation, decision or determination being appealed.

(g) Limitations. The hearing officer shall not have authority to waive any requirements of the Code or law.

(h) Record keeper. The city shall maintain the administrative record of the hearing and make it available upon request by either party. The record shall be maintained for two years from the date

the case is closed and no further appeals are available under the Code or at law.

## **SECTION 1-410. DECISION.**

(a) Decision. Unless otherwise agreed by the parties, within twenty-one days of the conclusion of the hearing, after the hearing officer has considered all evidence presented and the relevant standard of review, the hearing officer shall issue his or her decision of the appeal in writing. The decision shall include a statement of the issues, findings of fact, a summary of the relevant evidence, a resolution of the credibility of witnesses where there is conflicting testimony and the final determination and order. Alternatively, the decision may be issued orally at the conclusion of the hearing, so long as it is accompanied by a written decision within seven days of the hearing.

(b) Notice of Code of Civil Procedure Section 1094.6. The written decision shall include a notice that the parties have ninety days to pursue a petition for a writ of administrative mandamus of the decision under Code of Civil Procedure Section 1094.6.

(c) Effective. Unless otherwise provided in the Code or the hearing officer's decision, the decision shall be effective upon issuance, whether at the hearing or upon serving notice of the written decision pursuant to Section 1-213.

(d) Finality. Unless otherwise provided in the Code or the hearing officer's decision, the hearing officer's decision shall be a final agency action for purposes of writ review.

(e) Continuing Jurisdiction to Enforce Decisions. The hearing officer may maintain continuing jurisdiction to enforce a decision and impose additional conditions or penalties as provided in Section 1-411 or to take action upon direction of a court of law.

**SECTION 1-411. ENFORCEMENT OF HEARING OFFICER DECISIONS.** Upon finding a violation of an order, the hearing officer may modify the decision or order in his or her discretion or impose a sanction of up to one-thousand dollars (\$1,000.00) per violation. Any sanction imposed by the hearing officer under this section is collectable under the Cost and Penalty Recovery Ordinance (Chapter 1, Article 5) as a penalty. Alternatively, upon city staff or the hearing officer finding a violation of a hearing officer's order, the City Attorney may seek a modified decision from the hearing officer, pursue a civil action to enforce the order, or prosecute a criminal action under Chapter 1, Article 4. Any decision modified as provided herein shall be treated as a new final decision for purposes of the requirements of Section 1-410.

## **ARTICLE 5 COST AND PENALTY RECOVERY**

Sec. 1-501. Title.

Sec. 1-502. Findings and Purpose.

Sec. 1-503. Definitions.

Sec. 1-504. Recovering Abatement and Enforcement Costs and Penalties.

Sec. 1-505. Invoice of Costs.

Sec. 1-506. Public Hearing to Confirm Costs.

Sec. 1-507. Recovery of Penalties.

Sec. 1-508. Recovery of Enforcement Costs.

Sec. 1-509. Recovery of Abatement Costs.

- Sec. 1-510. Personal Obligation.
- Sec. 1-511. Lien.
- Sec. 1-512. Special Assessment.
- Sec. 1-513. Recovery of Graffiti Abatement Costs.
- Sec. 1-514. Subsequent Civil or Criminal Judgment.
- Sec. 1-515. Repair and Demolition Fund.
- Sec. 1-516. Blighted Building Fund.

**SECTION 1-501. TITLE.** This article shall be known as the “Cost and Penalty Recovery Ordinance.”

**SECTION 1-502. FINDINGS AND PURPOSE.** The Council finds that substantial public resources are spent each year to enforce the Code and State laws enacted to protect the public health, safety and welfare. The Council finds that the responsibility of these costs should be properly placed on those persons responsible for violating the Code or State laws and or causing public nuisances. The Council further finds that the recovery of costs incurred by the city to enforce these laws and to collect penalties issued to those persons causing public nuisances and or violating these laws is important in deterring future violations and maintaining the integrity of the city's code enforcement system. The purpose of this article is to provide a means for the City of Fresno under its charter city authority and other State law authority to recover these costs and penalties from those persons responsible for creating, causing, committing or maintaining a public nuisance or Code or State law violation.

**SECTION 1-503. DEFINITIONS.** Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning, and application of words and phrases used in this article.

(a) “Abatement Costs” means all actual and reasonable costs incurred by the city to abate a public nuisance. These costs shall include all direct and indirect costs to the city that result from the total abatement action, including, but not limited to, investigation costs, costs to enforce the Code or State law, clerical and administrative costs to process paperwork, costs incurred to provide notices and prepare for and conduct administrative hearings, and costs to conduct actual abatement of the nuisance. Examples of abatement costs include, but are not limited to, staff costs to prepare and issue a notice of violation or a citation, fire suppression costs, costs to prepare a hearing packet, administrative overhead costs, costs for equipment, such as cameras and vehicles, staff time to hire a contractor to remove trash or board up an abandoned building. These costs shall include reasonable attorneys' fees incurred by City. At any administrative hearing, judicial action or special proceeding to recover attorneys' fees, the prevailing party shall be awarded attorneys' fees not to exceed the amount of reasonable attorneys' fees incurred in the action, hearing or proceeding. Abatement costs may be established in the Master Fee Resolution.

(b) “Bona Fide Encumbrancer” means a person who (i) receives a lien or encumbrance on the subject property after the city incurs abatement costs or enforcement costs and (ii) at the time he or she acquired the interest did not have actual or constructive knowledge of the city's interest in the property.

(c) “Bona Fide Purchaser” means a person who (i) purchases any portion of the subject property after the city incurs abatement costs or enforcement costs and (ii) at the time he or she

acquired his or her portion of the subject property did not have actual or constructive knowledge of the city's interest in the property.

(d) "Disturbance" shall include conduct in violation of Fresno Municipal Code sections 8-305, 8-306, and 8-503, as amended.

(e) "Enforcement Costs" means all actual and reasonable costs incurred by the city to enforce compliance with any State or city public health and safety law **that does not involve the existence of a public nuisance**. These costs include, but are not limited to, actual cost of the enforcing department's services including, but not limited to, costs of personnel, including costs of workers compensation benefits, fringe benefits, administrative overhead, costs of equipment, costs of materials, costs related to investigations pursuant to the Code or State law, costs related to issuing and defending administrative citations, and costs incurred investigating and abating violations of the Code or State law violations.

(f) "Enforcing Department" means the department or division of the city that directed and is responsible for the enforcement of the Code or State law or the abatement of a public nuisance or violation of the Code or State law.

(g) "Noticed Party" means the person or entity that is required to be noticed in the underlying abatement or enforcement action in which costs were incurred, but in all cases must include the record owner(s) of the property. A "Noticed Party" must be notified for purposes of cost or penalty recovery in the same manner as they were required to be noticed, either by Code or State law, in the abatement or enforcement action which resulted in the incurring of costs or penalties sought to be recovered under this article, and shall include notification by certified mail.

(h) "Penalties" means fines imposed by administrative citations issued under authority of the Code. "Penalties" for purposes of this article do not include criminal fines.

(i) "Public Nuisance" means a public nuisance as declared or defined by any provision of the Code, including, but not limited to the Waste Collection and Disposal Ordinance of the City of Fresno (Chapter 9, Article 5), the Public Nuisance Abatement Ordinance (Chapter 10, Article 7), the Street Trees and Parkways Ordinance (Chapter 13, Article 3), the Land Use Planning and Zoning Ordinance (Chapter 12), the Sign Ordinance (Chapter 12), the Fresno Housing Regulations (Chapter 11, Article 3), the Dangerous Building Ordinance (Chapter 11, Article 4), the Management of Real Property Ordinance (Chapter 10, Article 8), and Disturbance as defined within this section.

(j) "Record Owner" shall mean the person to whom land is assessed as shown on the last equalized assessment roll or the supplemental roll, whichever is more current.

(k) "Responsible Party" means a person or entity identified by the Code or law as responsible for creating, causing, committing, or maintaining the violation of the Code or law and or responsible for the abatement of a Code or law violation, including public nuisance, as defined in this section.

(l) "Subject Property" means the real property that is the subject of any enforcement or abatement action by the city for which the city incurred costs sought to be recovered under this article.

**SECTION 1-504. RECOVERING ABATEMENT AND ENFORCEMENT COSTS AND PENALTIES.**

The cost of abating a public nuisance and or enforcing the Code or State law shall either be a lien on the subject property, a special assessment against the subject property, or the personal obligation of the owner of the subject property and/or the person responsible for creating, causing, committing or maintaining the public nuisance or violating the Code or State law. Costs incurred by the city are recoverable even if a public nuisance or Code violation is corrected by the property owner or other responsible party. This article shall govern the procedures used to recover all abatement and enforcement costs incurred by the city in the abatement of a public nuisance or Code violation and/or the enforcement of the Code or law pursuant to the procedures and authority found in this Code. Additionally, this article shall govern the procedures used to recover administrative penalties imposed pursuant to the procedures and authority found in this Code. The above notwithstanding, the remedies provided in this article shall be cumulative to any other provided in this Code or by law. Nothing in this article shall prevent the city at any time from accepting payment for unpaid costs or penalties in whole or by way of a payment plan, provided the rules on debts owing to the city are complied with as may be required in the Code.

**SECTION 1-505. INVOICE OF COSTS.**

(a) The enforcing department shall keep an itemized account of the abatement and or enforcement costs incurred by the city.

(b) The enforcing department may invoice the noticed party for the costs incurred by the city.

(c) The invoice shall notify the noticed party of the following:

(i) A description of the abatement or enforcement action taken by the city, a description of the property subject to the abatement or enforcement, and the total amount of the costs incurred by the city;

(ii) That should the noticed party fail to pay the costs within thirty days from the date of service of the invoice and the costs may be collected in any or all of the following ways: by a collection agency as a personal obligation, by the City Attorney's Office through judicial action, as a lien attached to the subject property, or as a special assessment on the subject property;

(iii) That before a lien or special assessment is placed on the subject property, an administrative hearing officer will confirm the costs by a public hearing. A notice will be issued at least fifteen days before the public hearing and he or she will be allowed to file an objection before the public hearing with the City Clerk.

(iv) That the invoice may be recorded as a Notice of Costs in the Fresno County Recorder's Office.

(d) Recording. The enforcing department may record the invoice as a Notice of Costs in the County Recorder's Office. The record owners or any other interested party may appeal the recording of the Notice of Costs to the City Hearing Officer at any time under the procedures found in Article 5 of Chapter 1. Once payment is received for the outstanding costs, or there has been a successful appeal to the City Hearing Officer, and no further action will be taken under this article, the enforcing

department shall record a Notice of Satisfaction. The Notice of Satisfaction under this subsection shall be filed with a copy of the original invoice of costs and shall state that no further action by the city will be taken to collect the costs referred to in the invoice of costs.

(e) This section is inapplicable to the collection of unpaid administrative penalties.

**SECTION 1-506. PUBLIC HEARING TO CONFIRM COSTS.** Before the city may collect costs or penalties under the procedures provided for liens or special assessments under this article, the costs or penalties must be confirmed by an administrative hearing officer in a public hearing under the procedures and requirements found in this section.

(a) Report. The enforcing department shall prepare and file a report with the City Clerk that includes a description of the abatement and or enforcement action taken by the city; a statement as to whether the monies to be collected are abatement costs, enforcement costs, or penalties; a statement as to whether the monies are to be collected as a lien or as a special assessment under this article; the itemized and total account of the costs or penalties; and a description of the subject property. Once the report is filed, the City Clerk shall deliver the report to the administrative hearing officer and set a date and time when the administrative hearing officer shall pass upon the report. Any such report may include costs or penalties on any number of properties, whether or not contiguous to each other.

(b) Notice. Notice of the public hearing shall be provided to all noticed parties by the enforcing department at least fifteen days before the hearing is scheduled. The Notice shall contain a description of the subject property sufficient to enable the person(s) served to identify it; shall state that the city intends to collect unpaid costs or penalties by placing a lien or a special assessment on the subject property; shall specify the day, hour and place where the administrative hearing officer will hear and pass upon the report and any objections or protests that have been submitted to the City Clerk; shall specify that the property may, in some cases, be sold after three years by the tax collector for unpaid delinquent assessments or be subject to judicial foreclosure before the three years; shall specify that if they intend to protest the amount of the costs they may file a written protest with the City Clerk at least twenty-four hours before the time set for the hearing on the report. Notice shall also be published by the City Clerk at least one time, at least fifteen days before the date set for the hearing, in a daily newspaper published and circulated in the city.

(c) Protests. Any interested person wanting to protest the amount of the costs must file a written protest with the City Clerk. The protest may be filed at any time up until twenty-four hours before the time set for the hearing on the report. Each such protest shall contain a description of the property as provided in the Notice of the Public Hearing. The City Clerk shall deliver the protests to the administrative hearing officer.

(d) Hearing. At the date and time fixed for the hearing to pass on the report and confirm the costs or penalties for a lien or special assessment by the administrative hearing officer, the administrative hearing officer shall consider the report of the enforcing department, together with any filed protests. The scope of review of the hearing shall be limited to the amount of the costs or penalties when there has already been an opportunity for a hearing for the underlying violation. The administrative hearing officer may make such revisions, corrections or modifications in the report as may be just and reasonable, provided that the hearing officer may only reduce the city's actual costs upon a showing that the costs were unnecessary or unreasonable. The administrative hearing

officer may adjourn the hearing from time to time. Upon the close of the hearing, the administrative hearing officer shall have confirmed the original, revised, corrected or modified report or have set the matter for an additional hearing. Any decision by the Hearing Officer on the report and protests shall be final.

(e) Administrative Hearing Officer. Public hearings under this section shall be conducted by an administrative hearing officer selected in accordance with the Administrative Hearing Ordinance in Chapter 1, Article 4.

(f) Prior Hearing. There is no right to a public hearing if the costs have already been confirmed by a court of competent jurisdiction. There is no right to a public hearing to confirm penalties under this section if they have been previously upheld in a hearing under Chapter 1, Article 4. In such a case, the Hearing Officer shall confirm the costs and or penalties for a lien or special assessment based upon adequate proof presented by city staff of the previous judgment and or hearing decision.

(g) Contest of Confirmed Special Assessment or Lien. The validity of any lien or special assessment levied under the provisions of this article shall not be contested in any action or proceeding unless such action or proceeding is commenced within thirty days after the lien or special assessment is confirmed by the administrative hearing officer in a final decision.

**SECTION 1-507. RECOVERY OF PENALTIES.** Administrative penalties unpaid after thirty days from issuance of the citation or, if the citation is appealed, thirty days from the date a penalty is upheld under Section 1-406(f), may be collected using the procedures found in Sections 1-510, 1-511, and 1-512. To collect penalties using the procedures found in Section 1-511 or 1-512, the city must follow the procedures in Section 1-506. The city is not required to send an invoice under Section 1-505. Penalties collected under the procedures found in Sections 1-511 and 1-512 may only be made a lien upon a subject property when the record owner of the subject property was issued and properly noticed with the citation. Any lien attached to property under the procedures in this article to collect unpaid penalties shall have the priority of a judgment lien, and not a tax lien, unless otherwise provided by State law. The Master Fee Schedule may provide for additional penalties to be added to unpaid citations.

**SECTION 1-508. RECOVERY OF ENFORCEMENT COSTS.** Enforcement costs may be recovered using the procedures found in Sections 1-510, 1-511, and 1-512. To collect costs under the procedures found in Sections 1-511 and 1-512, the city must send an invoice under Section 1-505 and follow the procedures in Section 1-506. Any lien attached to property to collect enforcement costs under the procedures provided in Sections 1-511 and 1-512 shall have the priority of a judgment lien, and not a tax lien, unless otherwise provided by State law.

**SECTION 1-509. RECOVERY OF ABATEMENT COSTS.** Abatement costs may be recovered using the procedures found in Sections 1-510, 1-511, and 1-512. To collect costs under the procedures found in Sections 1-511 and 1-512, the city must send an invoice under Section 1-505 and follow the procedures in Section 1-506. A lien attached to property to collect abatement costs under the procedures in Section 1-511 shall have the priority of a judgment lien, and not a tax lien, unless otherwise provided by State law. A special assessment lien attached to property to collect abatement costs under the procedures in Section 1-512 shall have the priority of a tax lien, unless otherwise required by State law.

**SECTION 1-510. PERSONAL OBLIGATION.** Any costs or penalties subject to collection under this article may be recovered as a personal obligation against the responsible party and may be referred to a collection agency or the City Attorney's Office for collection. Upon referral of these costs and obligations, the collection agency and the City Attorney's Office may seek collection through any legal means provided to them, including judicial action. Nothing in this section shall be affected by or affect the city's use of any other procedure provided in this article or by law to collect unpaid costs and penalties. In a judicial action to recover abatement costs, the City Attorney's Office may elect to recover attorney's fees. In any action in which the City Attorney's Office elects to recover attorney's fees under this section, attorney's fees will be recovered by the prevailing party.

**SECTION 1-511. LIEN.**

(a) Recording Notice of Lien; Creation of the Lien. Upon the administrative hearing officer confirming the costs or penalties under the requirements of Section 1-506 for a lien under this section, the enforcing department shall execute and file in the Fresno County Recorder's Office a Notice of Lien. The Notice shall be indexed in the grantor-grantee index. Immediately upon the recording of the Notice of Lien, the confirmed costs or penalties shall be a lien on the property.

(b) Form of Notice of Lien for Abatement or Enforcement Costs. The Notice of Lien on a lien to collect abatement or enforcement costs shall be in substantially the following format:

**NOTICE OF LIEN**

Pursuant to the authority vested in the City of Fresno by the provisions of Article \_\_\_\_\_ of Chapter \_\_\_\_\_ of the Fresno Municipal Code, the city did on or about the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, [short description of city actions] to [abate a nuisance/enforce the Fresno Municipal Code] on the real property described below ("Subject Property"), and an administrative hearing officer did on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, confirm the costs of such [abatement/ enforcement] on the Subject Property, and the costs have not been paid, and the City of Fresno claims a lien on the Subject Property in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). The lien shall be on the property until the amount is paid, plus legal rate of interest to be accrued from the date of recording this Notice, and any and all administrative costs to file and record the lien. The claimed lien shall have the priority of a judgment lien and shall attach on the date of the recording of this Notice. The Subject Property upon which the lien is placed is located at \_\_\_\_\_ in the City of Fresno, County of Fresno, State of California, more particularly described as APN # \_\_\_\_\_ and:

**[LEGAL DESCRIPTION OF PROPERTY]**

The record owner(s) of the Subject Property is/are \_\_\_\_\_, who reside(s) at \_\_\_\_\_.

Dated: This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_

[name of Enforcing Department]

Director of the City of Fresno

(c) Format of Notice of Lien for Penalties. The Notice of Lien for a lien to collect unpaid penalties shall be substantially in the following format:

NOTICE OF LIEN

Pursuant to the authority vested in the City of Fresno by the provisions of Article 4 of Chapter 1 of the Fresno Municipal Code, the city did on or about the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, issue a citation to the record owner(s) of the real property described below ("Subject Property") for a violation of the Fresno Municipal Code existing upon the Subject Property, and an administrative hearing officer did on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, confirm the penalties imposed by the citations for a lien on the Subject Property, and the confirmed penalties have not been paid, and the City of Fresno claims a lien on the Subject Property in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). The lien shall be on the property until the amount is paid, plus legal rate of interest to be accrued from the date of recording this Notice, and any and all administrative costs to file and record the lien. The claimed lien shall have the priority of a judgment lien and shall attach on the date of recording this Notice. The Subject Property upon which a lien is claimed is located at \_\_\_\_\_ in the City of Fresno, County of Fresno, State of California, and is more particularly described as APN # \_\_\_\_\_ and:

[LEGAL DESCRIPTION OF PROPERTY]

The record owner(s) of the Subject Property is/are \_\_\_\_\_, who reside(s) at \_\_\_\_\_.

Dated: This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_

[name of Enforcing Department]

Director of the City of Fresno

(d) Foreclosure; Exception. A lien imposed under this section may be foreclosed at any time by an action brought by the city for a money judgment. The city may recover from the record property owners any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien. A foreclosure may not be made under this section on an owner-occupied residential dwelling.

(e) Priority. A lien imposed under this section shall have the priority of a judgment lien, and not a tax lien, unless otherwise provided by State law. If State law allows a lien with a different priority, the enforcing department shall so specify in the Notice of Lien to be recorded with the county.

(f) Release of Lien. Once payment in full is received for the lien, including applicable penalties, administrative fees and interest charges; the amount is deemed satisfied pursuant to a

subsequent administrative or judicial order; or the amount is written off pursuant to procedures provided in Chapter 7, Article 9, the enforcing department shall either record a Notice of Satisfaction or provide the property owner or financial institution with the Notice of Satisfaction so they can record the Notice with the Fresno County Recorder's Office. The Notice of Satisfaction shall include the same information as provided in the original lien. Such Notice of Satisfaction shall cancel the lien. The Notice of Satisfaction shall be indexed in the grantor-grantee index.

**SECTION 1-512. SPECIAL ASSESSMENT.**

(a) Recording Special Assessment Lien; Creation of Lien. Immediately upon the hearing officer's confirmation of costs or penalties for a special assessment under Section 1-506, the enforcing department shall record a Notice of Special Assessment with the Fresno County Recorder's Office. Immediately upon recording the Notice of Special Assessment, the Special Assessment shall become a lien upon the subject property, except that if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of taxes that included the special assessment imposed under this section would become delinquent, then the lien that would otherwise be imposed by this section shall not attach to real property and the costs of abatement and enforcement relating to the property shall be transferred to the unsecured roll for collection. The Notice of Special Assessment shall be indexed in the grantor-grantee index.

(b) Form of Notice of Special Assessment. The form of the Notice of Special Assessment shall be substantially in the following form:

**NOTICE OF SPECIAL ASSESSMENT**

Pursuant to the authority vested in the City of Fresno by the provisions of Article \_\_\_\_\_ of Chapter \_\_\_\_\_ of the Fresno Municipal Code, the city did on or about the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, [short description of city's action(s)] to [abate a nuisance/enforce the Fresno Municipal Code] on the real property described below ("Subject Property"), and an administrative hearing officer did on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, assess the cost of such [abatement /enforcement] on the Subject Property, and the assessment has not been paid, and the City of Fresno claims a lien on the Subject Property in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). The lien shall be on the property until the amount is paid, plus legal rate of interest to be accrued from the date of recording this lien, and any and all administrative costs to file and record the lien. The claimed lien having been created to collect for [abatement/enforcement] costs shall have the priority of a [tax/judgment] lien and shall attach upon the recording of this Notice. The Subject Property may be sold after 3 years pursuant to Revenue and Tax Code §3691 for unpaid delinquent assessments. The subject property upon which the lien is claimed is located at \_\_\_\_\_ in the City of Fresno, County of Fresno, State of California, and is more particularly described as APN # \_\_\_\_\_ and:

**[LEGAL DESCRIPTION OF PROPERTY]**

The record owner(s) of the Subject Property is/are \_\_\_\_\_, who reside(s) at \_\_\_\_\_.

Dated: This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
[name of Enforcing Department]

Director of the City of Fresno

(c) Form of Notice of Special Assessment for Penalties. The form of the Notice of Special Assessment for unpaid penalties shall be substantially in the following form:

#### NOTICE OF SPECIAL ASSESSMENT

Pursuant to the authority vested in the City of Fresno by the provisions of Article 4 of Chapter 1 of the Fresno Municipal Code, the city did on or about the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, issue a citation to the record owner(s) of the real property described below ("Subject Property") for a violation of the Fresno Municipal Code existing upon the Subject Property. The record owner(s) have not paid the penalties issued in the citations, and an administrative hearing officer did on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, assess these unpaid penalties on the Subject Property. The assessment has not been paid and the City of Fresno claims a lien on the Subject Property in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). The lien shall be on the property until the amount is paid, plus legal rate of interest to be accrued from the date of recording this lien, and any and all administrative costs to file and record the lien. The claimed lien having been assessed to collect for unpaid penalties shall have the priority of a judgment lien and shall attach upon the recording of this Notice. The subject property upon which the lien is claimed is located at \_\_\_\_\_ in the City of Fresno, County of Fresno, State of California, and is more particularly described as APN #\_\_\_\_\_ and:

#### [LEGAL DESCRIPTION OF PROPERTY]

The record owner(s) of the Subject Property is/are \_\_\_\_\_, who reside(s) at \_\_\_\_\_.

Dated: This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
[name of Enforcing Department]

Director of the City of Fresno

(d) Filing Special Assessment. In addition to recording the Notice of Special Assessment, the enforcing department shall prepare and file a certified copy of the special assessment with the Fresno County Auditor. The special assessment shall be delivered to the County Auditor before the date fixed by law or by the County Auditor for the delivery of the assessment book to the County Board of Equalization.

(e) Collection with Taxes. After filing the special assessment with the County Auditor, the County Tax Collector may collect the amount of the special assessment at the same time and in the

same manner as ordinary municipal taxes, and impose the same penalties and procedures, including the sale of the property, in case of delinquency, as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to the special assessment. If the property is assessed for nuisance abatement costs, the property may be sold for delinquent taxes in three years pursuant to Revenue and Taxation Code Section 3691, with the exception of owner-occupied residential dwellings.

(f) Release of Special Assessment and Lien. Once payment in full is received for the special assessment, including applicable penalties, administrative fees and interest charges; the amount is deemed satisfied pursuant to a subsequent administrative or judicial order; or the amount is written off pursuant to procedures provided in Chapter 7, Article 9, the enforcing department shall either record a Notice of Satisfaction with the Fresno County Recorder or provide the property owner or financial institution with the Notice of Satisfaction so they can record this Notice with the Fresno County Recorder's Office. The Notice of Satisfaction shall include the same information as provided in the original Notice of Special Assessment. Such Notice of Satisfaction shall cancel the lien created under this section. In addition to recording the Notice of Satisfaction, the city shall file a Notice with the County Auditor to strip the assessment from the tax rolls. The Notice of Satisfaction shall be indexed in the grantor-grantee index.

(g) Refund. The Council may order a refund of all or part of a tax paid pursuant to this section if it finds that all or part of the tax has been erroneously levied. A tax or part thereof shall not be refunded unless a claim is filed with the City Clerk on or before November 1 after the tax became due and payable. The claim shall be verified by the person who paid the tax, or his/her guardian, executor or administrator.

### **SECTION 1-513. RECOVERY OF GRAFFITI ABATEMENT COSTS.**

(a) Application. This section is intended to implement the provisions of Sections 38772, 38773.2, and 38773.6 of the California Government Code making the costs of abatement of a nuisance caused by graffiti of personal or real property a lien or special assessment on the real property of a minor or other person causing the graffiti or the parent or guardian of the minor.

(b) Definitions. For purposes of this section the terms "graffiti," "expense of abatement," "minor," "other person," and "responsible person" have the same meaning as specified in Chapter 9, Article 25 of this Code and Government Code Sections 38772, 38733.2, and 38773.6.

(c) Procedures. The procedures to assess or lien property under this section shall be those provided in this article unless otherwise provided in this section or in Government Code Sections 38772, 38733.2, and 38773.6.

(d) Notices. All notices required or allowed under this article shall be provided to all record owners of the real property that will be subject to the special assessment or lien. The invoice of costs, under Section 1-605, shall notify the minor or other person causing the graffiti, or the parent or guardian of the minor that caused the graffiti that should the invoiced costs go unpaid under that section, the property owned by them shall be subject to a lien or special assessment.

(e) Form of Notice of Graffiti Abatement Lien. The Notice of Graffiti Abatement Lien shall be in substantially the following form:

NOTICE OF GRAFFITI ABATEMENT LIEN

Pursuant to the authority vested in the City of Fresno by the provisions of Article 1 of Chapter 8 of the Fresno Municipal Code and Government Code Sections 38772 and 53069.3, the city did on or about the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, cause the abatement of graffiti on public or private, real or personal property. \_\_\_\_\_ is/are the record owner(s) of the premises described below ("Subject Property") and is the minor/person causing graffiti/parent or guardian of the minor who caused the graffiti. An administrative hearing officer did on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, confirm the costs of the graffiti abatement, and the costs have not been paid, and the said City of Fresno claims a lien on the Subject Property in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_ ) under Government Code Section 38773.2. The lien shall be on the property until the amount is paid, plus legal rate of interest to be accrued from the date of recording this lien, and any and all administrative costs to file and record the lien. The claimed lien having been imposed to collect for graffiti abatement costs shall have the priority of a judgment lien and shall attach upon the recording of this Notice. The Subject Property upon which the lien is claimed is located at \_\_\_\_\_ in the City of Fresno, County of Fresno, State of California, and is more particularly described as APN # \_\_\_\_\_ and:

[LEGAL DESCRIPTION OF PROPERTY]

The record owner(s) of the Subject Property is/are \_\_\_\_\_, who reside(s) at \_\_\_\_\_.

Dated: This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
[name of Enforcing Department]  
Director of the City of Fresno

(f) Form of Graffiti Abatement Special Assessment. The form for a special assessment for graffiti abatement shall be in substantially the following form:

NOTICE OF GRAFFITI ABATEMENT SPECIAL ASSESSMENT

Pursuant to the authority vested in the City of Fresno by the provisions of Article 1 of Chapter 8 of the Fresno Municipal Code and Government Code Sections 38772 and 53069.3, the city did on or about the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, cause the abatement of graffiti on public or private, real or personal property. \_\_\_\_\_ is/are the record owner(s) of the premises described below ("Subject Property") and is the minor/person causing graffiti/parent or guardian of the minor who caused the graffiti. An administrative hearing officer did on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, assess the cost of the graffiti abatement on the Subject Property under Government Code Section 38773.6, and the assessment has not been paid, and the City of Fresno claims a lien on the Subject Property in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_ ). The claimed

lien having been assessed to collect for graffiti abatement costs shall have the priority of a tax lien and shall attach upon the recording of this Notice. The lien shall be on the property until the amount is paid, plus legal rate of interest to be accrued from the date of recording this lien, and any and all administrative costs to file and record the lien. The Subject Property may be sold after three years pursuant to Revenue and Tax Code § 3691 for unpaid delinquent assessments. The Subject Property upon which the lien is claimed is located at \_\_\_\_\_ in the City of Fresno, County of Fresno, State of California, and is more particularly described as APN # \_\_\_\_\_ and:

[LEGAL DESCRIPTION OF PROPERTY]

The record owner(s) of the Subject Property is/are \_\_\_\_\_, who reside(s) at \_\_\_\_\_.

Dated: This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_

[name of Enforcing Department]

Director of the City of Fresno

**SECTION 1-514. SUBSEQUENT CIVIL OR CRIMINAL JUDGMENT.** Under the provisions of Government Code Section 38773.7, upon entry of a second or subsequent civil or criminal judgment within a two-year period finding that an owner of property or a minor or other person causing graffiti is responsible for either a public nuisance or graffiti, except for conditions abated pursuant to Health and Safety Code Section 17980, the court may order that person to pay treble the costs of the abatement.

**SECTION 1-515. REPAIR AND DEMOLITION FUND.** Any monies recovered under this article for costs incurred in the repair, rehabilitation or demolition of substandard and/or dangerous buildings as set forth in Chapter 11 shall be paid when collected to the Controller and Director of Finance, who shall place the same in the Repair and Demolition Fund as provided in Chapter 11.

**SECTION 1-516. BLIGHTED BUILDING FUND.** All penalties collected from administrative citations issued for the keeping, maintaining, or owning of a blighted building, as defined in the Public Nuisance Abatement Ordinance in Chapter 10, Article 7, shall be placed in a special fund to be known as the "Blighted Building Fund" and shall be used solely for enforcement and/or abatement of blighted buildings under the Public Nuisance Abatement Ordinance.

SECTION 5. Chapter 2 is added to the Fresno Municipal Code to read:

**CHAPTER 2 IMPLEMENTATION OF MAYOR-COUNCIL FORM OF GOVERNMENT**

**ARTICLE 1 IMPLEMENTATION OF MAYOR-COUNCIL FORM OF GOVERNMENT**

- Sec. 2-101. Mayor-Council Form of Government.
- Sec. 2-102. Continuance of Laws.
- Sec. 2-103. Council Actions Subject to Mayor's Veto and Reconsideration.
- Sec. 2-104. Procedure for Veto Process.
- Sec. 2-105. Procedure for Reconsideration Process.
- Sec. 2-106. Single Action Rule.
- Sec. 2-107. Other Action Subject to the Mayor's Veto or Request For Reconsideration.

**SECTION 2-101. MAYOR-COUNCIL FORM OF GOVERNMENT.** In accordance with Section 1503 of the Charter of the City of Fresno, this article implementing the Mayor-Council form of government shall become operative on January 7, 1997.

**SECTION 2-102. CONTINUANCE OF LAWS.** All provisions in this code, uncodified ordinances, resolutions, and other rules and regulations now in force and not in conflict or inconsistent herewith are continued in force until they have been repealed, amended, or superseded by proper authority.

**SECTION 2-103. COUNCIL ACTIONS SUBJECT TO MAYOR'S VETO AND RECONSIDERATION.** This article sets forth the procedures to be followed relating to actions taken by Council which are subject to the Mayor's veto and the Mayor's request for reconsideration.

**SECTION 2-104. PROCEDURE FOR VETO PROCESS.**

(a) Clerk's Duties. Upon the adoption of a resolution or ordinance subject to the Mayor's veto, the City Clerk shall retain the original of the ordinance or resolution and forward a copy of the item to the Mayor within 48 hours. The City Clerk shall attach a transmittal memorandum as a cover to the resolution or ordinance. The transmittal memorandum shall include, but not be limited to, the date of adoption, the title of the resolution or ordinance, tally of vote taken on the item, the final date for the Mayor to file the approved item or written objections and a veto with the City Clerk, space for the Mayor's approval and signature or veto and written objections, space for the City Clerk to record the "date received" of the item received from the Mayor and record whether the item has been expressly approved or vetoed, space for the City Clerk to record the final date for Council to take action to override the veto, and space for the City Clerk to record the date of final passage. The City Clerk shall record the date of final passage as described under subsection (b) of this section or described under subsection (d) of this section on both the transmittal memorandum and on the original resolution or ordinance.

(b) Mayor's Duties. Upon receipt of a resolution or ordinance subject to the Mayor's veto, the Mayor may consider the item for approval or veto. If the Mayor vetoes the resolution or ordinance, the Mayor must file the veto with written objections within 10 days of receiving the resolution or ordinance from the City Clerk. If the Mayor approves the resolution or ordinance, the date of receipt by the City Clerk from the Mayor shall be deemed the date of approval and the date of final passage. In the event the Mayor fails to file an approval or a veto with written objections within the required ten-day time limit, the tenth day shall become the date of final passage.

(c) Council's Duties. If the Mayor files a veto of a resolution or ordinance, the Council may reconsider the vetoed resolution or ordinance and take action thereon. Any Councilmember may request the City Clerk to place the resolution or ordinance on the agenda for an override vote. The resolution or ordinance must be placed on the Council's agenda in accordance with the Ralph M. Brown Act, Government Code Sections 54950, et seq. An override action must be taken within 30

days from the date the Mayor files a veto of the resolution or ordinance with the City Clerk. The Council may vote on the resolution or ordinance with or without deliberation.

(d) Enactment Over Veto. Any resolution or ordinance vetoed by the Mayor which receives the vote of five or more Councilmembers shall be deemed adopted notwithstanding the Mayor's veto. The date of approval shall be deemed the date of final passage. If the Charter or other superseding law requires more than five votes for the adoption or approval of any resolution or ordinance, such larger vote shall be required to overcome the veto. If a vetoed ordinance or resolution is not overridden within 30 days of the veto, the resolution or ordinance is deemed disapproved.

## **SECTION 2-105. PROCEDURE FOR RECONSIDERATION PROCESS.**

(a) Clerk's Duties. Upon the Council's decision not to approve a resolution or ordinance subject to the Mayor's request for reconsideration, the City Clerk shall retain the original and forward a copy of the item to the Mayor within 48 hours. A decision not to approve shall include a tie vote, a vote taken which fails to receive a majority of votes, and a vote taken which fails to receive a specific number of votes or a super majority vote required by the charter or other applicable law. The City Clerk shall attach a transmittal memorandum as a cover to the resolution or ordinance. The transmittal memorandum shall include, but not be limited to, date of disapproval, the title of the resolution or ordinance, tally of any votes taken on the item, the final date for the Mayor to file a request for reconsideration with the City Clerk, space for the Mayor to record his/her request for reconsideration, space for the City Clerk to record the "date received" of the Mayor's request for reconsideration, space for the City Clerk to record the final date for Council to reconsider the item, space for the City Clerk to record the vote on reconsideration, and space to record the date of final passage, if applicable. The City Clerk shall immediately deliver a copy of the transmittal memorandum to the members of the Council. After Council's reconsideration, the City Clerk shall record the date of final passage as described under subsection (c) of this subsection on both the transmittal resolution or ordinance or shall record thereon that the item was not adopted after reconsideration.

(b) Mayor's Duties. Within 10 days from Council's decision not to approve a resolution or ordinance which is subject to the Mayor's request for reconsideration, the Mayor may file a written request for reconsideration with the City Clerk. The request must be filed within 10 days from the date the resolution or ordinance was disapproved by the Council.

(c) Council's Duties. If the Mayor files a request for reconsideration, the Council must reconsider the resolution or ordinance and take action thereon within 30 days from the date the Mayor files a written request for reconsideration with the City Clerk. The City Clerk shall place the item for reconsideration on the agenda of the next regular meeting of Council. The resolution or ordinance must be placed on the Council's agenda in accordance with the Ralph M. Brown Act, Government Code Sections 54950 et seq. The Council may vote on the resolution or ordinance with or without deliberation.

(d) Adoption After Reconsideration. Any resolution which has been reconsidered by Council in accordance with this subsection which receives a majority vote shall be deemed adopted. Any ordinance which has been reconsidered by Council in accordance with this subsection which receives the vote of four or more councilmembers shall be deemed adopted. If the Charter or other

superseding law requires a higher number of votes for the adoption or approval of any resolution or ordinance, such larger vote shall be required. The date of approval of a resolution or ordinance under this subsection shall be deemed the date of final passage. If a reconsidered resolution or ordinance does not receive the requisite vote, it shall be deemed disapproved. A resolution or ordinance adopted under this reconsideration process, which has not been altered by Council, shall not be subject to the Mayor's veto.

**SECTION 2-106. SINGLE ACTION RULE.** The implementation of the Mayor's veto process and the Mayor's request for reconsideration process shall not be construed to require new notice publication requirements relating to a particular action taken. A matter that has been noticed by local, state, or federal law shall be considered by Council. After Council action, the veto process or the request for reconsideration process shall proceed, if applicable. In the event of a veto or request for reconsideration, the matter shall be placed on Council's agenda. Council shall vote on the resolution or ordinance. Although state law requirements for placing such a matter on the agenda and for allowing the public an opportunity to be heard must be met, such review process does not require new publication of notices as all these proceedings relate to the same subject and are deemed part of a single action.

**SECTION 2-107. OTHER ACTION SUBJECT TO THE MAYOR'S VETO OR REQUEST FOR RECONSIDERATION.** Any action of Council subject to the Mayor's veto or the Mayor's request for reconsideration shall proceed pursuant to the procedures set forth in this article, irrespective of whether the title of the action is a resolution or ordinance.

## **ARTICLE 2 COUNCIL DISTRICTS**

- Sec. 2-201. Title.
- Sec. 2-202. Purpose.
- Sec. 2-203. Definitions.
- Sec. 2-204. Initiation.
- Sec. 2-205. Petition.
- Sec. 2-206. Proceedings.
- Sec. 2-207. Criteria.
- Sec. 2-208. Annexations.
- Sec. 2-209. Adoption of Council District Map.

**SECTION 2-201. TITLE.** This article shall be known as the "Council District Ordinance of the City of Fresno."

**SECTION 2-202. PURPOSE.** The purpose of this article is to implement Section 304.1 of the Charter by setting forth rules, procedures, principles, objectives, and criteria relating to the determination, redetermination, and modification of Council districts in which each councilmember is required to reside.

### **SECTION 2-203. DEFINITIONS.**

(a) Unless the particular provision or context otherwise requires, the definitions contained in this section shall govern the construction, meaning and application of words and phrases used in this article, and, except to the extent that a particular word or phrase is otherwise specifically defined in this section, the definitions and provisions contained in Chapter 1 Article 2 shall also govern this

construction, meaning and application of words and phrases used in this article.

(b) "Determination" means the establishment of the boundaries of Council districts and the numbering of such districts by ordinance adopted not less than one hundred twenty days prior to the 1979 general municipal election.

(c) "Modification" means any change by ordinance of the boundaries of Council districts previously established by determination, redetermination, or modification.

(d) "Council District Report" means a written document prepared by the City Manager which provides the Council with information, an analysis of such information, and a recommendation for the determination, redetermination, or modification of the boundaries of Council districts. Such document shall include:

(1) The Council districts proposed to be determined, redetermined, or modified.

(2) Suggested boundaries for those districts to be determined, redetermined or modified.

(3) Such supporting information as the City Manager deems relevant and material, which information may include maps, diagrams, tables, statistics, and public comment.

(e) "Redetermination" means a required review of Council district boundaries upon publication of the 1980 federal census and each decennial federal census thereafter, together with any ordinance the Council may adopt to change the boundaries of Council districts as a result of such required review.

**SECTION 2-204. INITIATION.** Proceedings for the determination, redetermination, or modification of any Council district shall be held pursuant to the provisions of Section 2-206. Determination and redetermination proceedings shall be automatically initiated upon the adoption of this article and the publication of each decennial federal census thereafter, and modification proceedings may be initiated at any other time by the filing of a petition pursuant to the provisions of Section 2-205 or by the adoption of a resolution of initiation by the Council at such time as deemed necessary by the Council or at such time as required by Section 1504 of the Charter relating to expansion of Council membership. In addition, the City Manager shall make a recommendation to the Council regarding the population of the city every five years from the date of this ordinance. The Council shall act on this recommendation at a regularly scheduled Council meeting.

**SECTION 2-205. PETITION.** Proceedings for the modification of any Council district may be initiated by the filing of a petition with the City Clerk in compliance with the provisions of this section.

(a) Contents. A petition shall consist of the following parts:

(1) The names and business or residence addresses of at least one but not more than five proponents of the petition.

(2) A statement and/or map identifying the Council districts to be modified, describing the proposed modification, and containing reasons for such modification.

(3) Qualified signatures of registered voters.

(b) Qualified Signatures. No signature shall be qualified unless personally affixed by the signer who additionally shall affix the date of such signature and his or her:

(1) Printed name.

(2) Residence address, giving street and number, or if no street or number exists, adequate designation of residence so that the location may be readily ascertained.

(3) The number of the Council district in which such residence address is located.

(c) Number of Qualified Signatures. The number of qualified signatures required to initiate proceedings for the modification of any Council district shall be equal in number to not less than 15% of the registered voters residing in a Council district to be affected by the proposed modification, or 10% of the registered voters of the city, according to the County Clerk's last official report of registration to the Secretary of State; provided, that only signatures which were affixed within the last ninety days immediately before the petition is filed with the City Clerk shall be counted.

(d) Ascertainment of Requisite Signatures. Within thirty days from the filing of a petition, the City Clerk shall ascertain whether or not the petition was signed in a timely manner by the requisite number of qualified signatures. The City Clerk shall file with the petition a certificate showing the results of the examination. The City Clerk shall give the proponents a copy of the certificate upon their request.

(e) Insufficient Petition. If the petition contains an insufficient number of signatures on its face, it shall be filed and no further proceedings had thereon. If the petition contains the requisite number of signatures but an insufficient number are qualified, the petition may be supplemented within ten days of the date of the certificate by filing supplementary petitions identical to the petition originally filed, except as to signatures and matters required to be affixed by the signers.

(f) Supplementary Petition. Within ten days after the supplementary petitions are filed, the City Clerk shall make a certificate showing whether or not the petition as supplemented is sufficient.

(g) Insufficient Supplemented Petition. If the certificate shows that the petition as supplemented is insufficient, no action shall be taken thereon and the petition shall remain on file.

(h) Sufficient Petition. If the certificate shows that the petition, together with any supplementary petition, is sufficient, it shall be submitted to the Council at its next regular meeting. The certificate shall contain:

(1) An identification of the Council districts to be modified.

(2) A description of such modification.

(3) Reasons for such modification.

(4) The number of signatures required by this article.

- (5) The total number of signatures on the petition.
- (6) The number of qualified signatures on the petition.
- (7) The number of disqualified signatures on the petition.

**SECTION 2-206. PROCEEDINGS.**

(a) Notice. The City Clerk shall give notice of the initiation of district determination, redetermination, or modification proceedings as follows:

(1) Determination. In the event of proceedings for determination of Council districts, immediately after the adoption of this article.

(2) Redetermination. In the event of proceedings for redetermination of Council districts, immediately after being informed by the City Manager of the publication of the decennial federal census.

(3) Modification. In the event of proceedings for modification of Council districts:

(i) By petition, immediately after a certificate of a sufficient petition is submitted to the Council.

(ii) By Council resolution, immediately after adoption of a resolution of initiation by the Council.

(b) Contents of Notice. The notice of proceedings shall contain the following information:

(1) The manner by which such proceedings were initiated.

(2) A statement that a Council District Report is being prepared by the City Manager.

(3) A statement that public comment may be submitted in writing to the City Manager within fifteen days after publication of the notice.

(c) Manner of Notice. The City Clerk shall give notice of the proceedings by:

(1) Publication at least once in a newspaper of general circulation in the city.

(2) Mailing copies of the notice to any individual, group, or organization which has previously requested such notice.

(d) Council District Report. The City Manager shall prepare, complete, and file a Proposed Council District Report with the City Clerk no later than thirty days after publication of the notice of the proceedings.

(e) Notice of Hearing. The City Clerk shall give notice of the public hearing on the Council District Report by publication at least once in a newspaper of general circulation in the city no later

than ten days after the filing of such Report. The City Clerk shall also give notice by mailing copies of the notice to any individual, group, or organization which has previously requested such notice. The notice shall contain the following information:

(1) A statement that proceedings for determination, redetermination, or modification of Council districts, whichever is the event, are being held.

(2) Identification of the Council districts proposed to be determined, redetermined, or modified.

(3) The date, time, and place of the hearing at which the Council District Report will be presented and at which public comment may be given.

(4) A statement that the Council District Report is available for public review in the office of the City Clerk and, if available at other public places for review, the location of such other public places.

(f) Conduct of Council Hearing. The Council hearing shall be conducted pursuant to City Council rules. Within fifteen days following the close of the hearing the Council shall, by ordinance, adopt the boundaries set forth in the Council District Report, or such other boundaries as it deems appropriate considering the criteria set forth in Section 2-207 and the public comment received in accordance with this section.

(g) Failure to give any notice specified in this section shall not invalidate any boundaries fixed in accordance herewith.

**SECTION 2-207. CRITERIA.** Council districts are created for the purpose of ensuring more representative government in this city by dispersing the residences of elected representatives throughout the entire community in order to effect the representation of all diverse groups, elements and areas thereof on the legislative body. In order to implement this guiding principle, the following criteria shall be utilized in fixing Council district boundaries:

(a) Conform to State and Federal Law. All districts shall be drawn in conformance with the requirements of the law of the State of California and of the United States including the federal Voting Rights Act of 1965, Section 1973 of Title 42 of the United States Code, as amended.

(b) Communities of Interest. Any identifiable geographic concentration of persons sharing common social, political, and economic interests shall be, insofar as reasonably possible, located within the same Council district.

(c) Population. Population within the districts shall be as nearly equal in population as may be according to the most current of the following:

(1) Population census of the United States Bureau of the Census.

(2) State of California Department of Finance City and County Population Estimates.

(3) Statistics compiled by the Planning and Development Department based on (1) or

(2) above.

Any other census, estimate, survey, and population projection may be considered.

(d) Boundary Lines. Unless good cause requires otherwise, Council district boundaries shall be:

(1) Census tract lines of the United States Bureau of the Census;

(2) Streets (excluding alleys), highways, or freeways;

(3) Railroad rights-of-way;

(4) Waterways; or

(5) Natural or artificial barriers.

(e) Contiguous and Compact.

(1) Territory shall be so located in Council districts as to promote contiguity and compactness of such districts.

(2) Territory of a Council district shall be contiguous except as to any territory which is wholly noncontiguous to any Council district upon annexation.

(3) Council districts shall be compact except for any irregularity of the City of Fresno boundaries.

**SECTION 2-208. ANNEXATIONS.** Any territory which is annexed or otherwise attached to the city shall be allocated to a Council district pursuant to the provisions of this section, effective upon the completion of such annexation or other proceedings.

(a) Contiguous Territory. If the annexed or otherwise attached territory's boundary is contiguous to the boundary of not more than one Council district, such territory shall be allocated to such Council district. If the territory's boundary is contiguous to the boundaries of two or more Council districts, the City Manager shall make recommendations to the Council for the allocation of all or portions of the territory to council districts based on criteria contained in this ordinance.

(b) Wholly Noncontiguous Territory. If the annexed or otherwise attached territory's boundary is not contiguous with the boundary of any Council district, the distances between the boundaries of such territory and Council districts in the proximity of such territory shall be ascertained, and such territory shall be allocated to the Council district to which the distance is the shortest.

**SECTION 2-209. ADOPTION OF COUNCIL DISTRICT MAP.**

(a) The Council adopts that certain map bearing the following identification: COUNCIL DISTRICTS, and establishes seven Council districts and the boundaries thereof as designated on such map. The name of each Council district designated in color on such map and, pursuant to the provisions of Charter Section 304.1, the number of each councilmember's office and the

corresponding Council district in which each councilmember is required to reside is as follows:

TABLE INSET:

Color	Number
Purple	1
Blue	2
Green	3
Yellow	5
Orange	4
Red	6
Grey	7

(b) Such adopted map, as may be amended from time to time pursuant to this article, shall be known as the "Official Council District Map."

(c) The Official Council District Map shall be kept on file in the City Clerk's Office. The City Clerk shall keep a record of all ordinances amending the Official Council District Map. The Planning and Development Department shall immediately cause designation of such amendments to be placed upon the Official Council District Map. The Official Council District Map as herein adopted and as subsequently amended shall be prima facie evidence of the existence and legality of the Council districts designated thereon. The Planning and Development Department shall maintain the record of the Office Council District Map, including by electronic media, as it may be amended by Council.

### **ARTICLE 3 COUNCIL MEETINGS AND RULES OF ORDER**

- Sec. 2-301. Regular Meetings.
- Sec. 2-302. Special Meetings.
- Sec. 2-303. Agenda.
- Sec. 2-304. Presiding Officer--Duties.
- Sec. 2-305. Call to Order--Presiding Officer.
- Sec. 2-306. Roll Call.
- Sec. 2-307. Quorum.
- Sec. 2-308. Order of Business.
- Sec. 2-309. Reading of Minutes.
- Sec. 2-310. Rules of Debate.
- Sec. 2-311. Addressing the Council.
- Sec. 2-312. Manner of Addressing Council--Time Limit.
- Sec. 2-313. Silence Constitutes Affirmative Vote.
- Sec. 2-314. Decorum.
- Sec. 2-315. Persons Authorized Beyond Podium.
- Sec. 2-316. Special Committees.
- Sec. 2-317. Reading of Ordinances.
- Sec. 2-318. Rules of Procedure.

**SECTION 2-301. REGULAR MEETINGS.** The Council shall hold regular meetings and shall provide the time, place, and manner of holding its meetings by resolution.

**SECTION 2-302. SPECIAL MEETINGS.** Special meetings of the Council may be held at any time upon the call of the President of the Council or, in his/her absence or unwillingness to make such call, upon the call of a majority of the members of said Council. Notice of any such meeting shall be given in accordance with the Ralph M. Brown Act, Government Code Sections 54950 et seq., as amended.

**SECTION 2-303. AGENDA.**

(a) Procedure. All reports, communications, ordinances, resolutions, contract documents, and other matters to be submitted to the Council shall be delivered to the City Clerk prior to 5 p.m. of the third business day prior to the Council meeting at which they are to be submitted. The City Clerk shall prepare an agenda of such matters according to the order of business as determined by the Council, and furnish each member of the Council, the Mayor, the City Manager, City Attorney, and department directors with a copy of the same prior to the Council meeting, and as far in advance of the meeting as time for preparation will permit. No item shall be submitted to the Council, except in accordance with the foregoing procedure. In accordance with statutory exceptions of the Ralph M. Brown Act, Government Code Section 54950 et seq., as amended, the Council may discuss and consider an item not on the agenda.

(b) State Law. The Agenda shall be posted and prepared in accordance with the Ralph M. Brown Act, Government Code Sections 54950 et seq., as amended.

**SECTION 2-304. PRESIDING OFFICER - DUTIES.** The President of the Council shall be the presiding officer of the Council. The presiding officer shall preserve strict order and decorum at all regular and special meetings of the Council. The President shall state every question coming before the Council, announce the decision of the Council on all subjects and decide all questions of order, subject to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine such question of order. The President shall vote on all questions, and in roll call votes the President's name shall be called last.

**SECTION 2-305. CALL TO ORDER - PRESIDING OFFICER.** The President of the Council, or in his or her absence, the Acting President, shall take the chair precisely at the hour appointed for the meeting and shall immediately call the Council to order. In the absence of the President of the Council and Acting President, the City Clerk shall call the Council to order, whereupon a temporary chairperson shall be elected by the members of the Council present. Upon the arrival of the President of the Council or Acting President, the temporary chairperson shall relinquish the chair upon the conclusion of the item of business immediately before the Council.

**SECTION 2-306. ROLL CALL.** Before proceeding with the business of the Council, the City Clerk or his/her deputy shall call the roll of the members, and the names of those present shall be entered in the minutes.

**SECTION 2-307. QUORUM.** A majority of all the members elected to the Council shall constitute a quorum at any regular or special meeting of the Council. A vote of the majority of the quorum shall be sufficient to pass or adopt any motion, order or resolution, other than an ordinance or a resolution required by the Charter or other applicable law to have a greater vote for adoption.

**SECTION 2-308. ORDER OF BUSINESS.** All meetings of the Council shall be open to the public,

except closed sessions permitted under the Ralph M. Brown Act, and Government Code Sections 54950 et seq., as amended. Promptly at the hour set on the day of each regular meeting, the members of the Council, the City Manager, the City Clerk, and the City Attorney shall take their regular stations in the Council Chamber, and the business of the Council shall be taken up for consideration and disposition in the order determined by Council resolution. Such order of business may be altered in any particular instance with the approval of the Council.

**SECTION 2-309. READING OF MINUTES.** Unless a reading of the minutes of a Council meeting is requested by a member of the Council, such minutes may be approved without reading if the Clerk has previously furnished each member with a copy thereof.

**SECTION 2-310. RULES OF DEBATE.**

(a) Presiding Officer May Debate And Vote. The President of the Council or such other member of the Council as may be presiding may move, second and debate from the chair, subject only to such limitations of debate as are by Council Resolution or this Section imposed on all members.

(b) Getting The Floor - Improper References To Be Avoided. Every member desiring to speak shall address the chair, and, upon recognition by the presiding officer, shall confine any comments to the question under debate, avoiding all personalities and indecorous language.

(c) Interruptions. A member, once recognized, shall not be interrupted when speaking unless it be to call him or her to order, or as herein otherwise provided. If a councilmember, while speaking, is called to order, the councilmember shall cease speaking until the question of order is determined, and, if in order, he/she shall be permitted to proceed.

(d) Privilege Of Closing Debate. The Councilmember moving the adoption of an ordinance or resolution shall have the privilege of closing the debate.

(e) Motion To Reconsider. A motion to reconsider any action taken by the Council may be made only on the day such action was taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made by one of the prevailing side, but may be seconded by any member, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or any other motion at a subsequent meeting of the Council so long as the ability to make such motion meets the requirements of applicable laws.

Notwithstanding this subsection, when the Mayor makes a written request for Council reconsideration in accordance with Article 3 of Chapter 2 of this Code and Charter Section 605(d), the Council shall reconsider the action without a motion to reconsider.

(f) Remarks Of Councilmember - When Entered In Minutes. A Councilmember may request, through the presiding officer, the privilege of having an abstract of his or her statement on any subject under consideration by the Council entered in the minutes. If the Council consents thereto, such statement shall be entered in the minutes.

(g) Synopsis Of Debate - When Entered In Minutes. The Clerk may be directed by the presiding officer, with consent of the Council, to enter in the minutes a synopsis of the discussion on any question coming regularly before the Council.

**SECTION 2-311. ADDRESSING THE COUNCIL.** Any person desiring to address the Council, at any time, shall first secure the permission of the presiding officer.

**SECTION 2-312. MANNER OF ADDRESSING COUNCIL--TIME LIMIT.** Each person addressing the Council shall step up to the microphone. A person addressing the Council will be asked, but not required, to give his or her name and address in an audible tone of voice for the city's records. Unless further time is granted by the Council, speakers will be limited to three minutes. All remarks shall be addressed to the Council as a body and not to any member thereof. No person, other than the Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the presiding officer. No question shall be asked a Councilmember except through the presiding officer.

**SECTION 2-313. SILENCE CONSTITUTES AFFIRMATIVE VOTE.** Unless a member of the Council states that he or she is not voting, silence shall be recorded as an affirmative vote.

**SECTION 2-314. DECORUM.**

(a) By Councilmembers. While the Council is in session, the members must preserve order and decorum, and a member shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the Council nor disturb any member while speaking or refuse to obey the orders of the Council or its presiding officer, except as otherwise herein provided.

(b) By Persons. While the Council is in session, all persons must preserve order and decorum. No person shall engage in conduct or speech which is designed to or is likely to provoke others to violent or riotous behavior, which disturbs the peace of the meeting by loud and unreasonable noise, which is irrelevant or repetitive, or which disrupts, disturbs or otherwise impedes the orderly conduct of the Council meeting.

(c) Breach of Decorum. The presiding officer shall request that a person who is breaching the rules of decorum cease such conduct. If, after receiving a warning from the presiding officer, a person persists in disturbing the meeting, the presiding officer may order the person to leave the Council meeting. If such person does not leave, the presiding officer may request the Police Department, or City Hall security personnel pending arrival of Police Department personnel, to take appropriate action.

Any person who resists removal may be charged with a violation of this Section and shall be guilty of a misdemeanor.

**SECTION 2-315. PERSONS AUTHORIZED BEYOND PODIUM.** No person, except city officials and their representatives may be permitted beyond the podium in the Council Chamber without the express consent of the Council.

**SECTION 2-316. SPECIAL COMMITTEES.** All special committees shall be appointed by the presiding officer, unless otherwise directed by the Council.

**SECTION 2-317. READING OF ORDINANCES.** At the time of the adoption of an ordinance after reading of the title, any member of the Council may request the reading of the ordinance in full. If no such request is made, the reading of the ordinance in full shall be deemed to have been waived by the Council. If a member requests the reading of an ordinance in full, its reading can only be waived by a vote of four members of the Council.

**SECTION 2-318. RULES OF PROCEDURE.** The rules set forth in this article shall serve as the primary Rules of Procedure for Council meetings. The Council may supplement those rules by the adoption of Council resolutions. The Council may also use the current edition of ROBERT'S RULES OF ORDER, NEWLY REVISED. It is understood that Robert's Rules are a guide only and may not be used to violate mandatory charter, code, or statutory provisions which may govern a particular matter.

## **ARTICLE 4 CITY MANAGER AND ADMINISTRATIVE ORGANIZATION**

- Sec. 2-401. Administrative Organization.
- Sec. 2-402. City Manager Authority.
- Sec. 2-403. Number of Positions Authorized.
- Sec. 2-404. Delegation of Authority Generally.

### **SECTION 2-401. ADMINISTRATIVE ORGANIZATION.**

The departments, divisions, offices and agencies of the city shall be those provided for in the annual budget of the city as approved by the Council. Any amendments shall be made by resolution as required by Section 801 of the Charter.

### **SECTION 2-402. CITY MANAGER AUTHORITY.**

(a) The officer filling the position designated in the city budget as "City Manager" shall be vested with all of the powers, rights, duties and responsibilities imposed upon the City Manager by the charter or by any city ordinance, resolution, agreement, document or other authority. Whenever the term "City Manager" is utilized in any such ordinance, resolution, agreement, document or authority, it shall mean the "City Manager" as so designated.

(b) The City Manager may execute all authorized contracts and documents on behalf of the City, except where applicable law requires otherwise.

**SECTION 2-403. NUMBER OF POSITIONS AUTHORIZED.** The number of positions which are authorized in any of the offices or departments of the city shall be determined in the preparation of the annual budget. Such determination, however, shall not preclude the addition of positions during the fiscal year as may be needed in the service of the city, provided the funds to cover the expense of such employment are transferred, if necessary, from one of the existing appropriations, to the appropriation applicable to such employment. The Council is authorized to provide for such employment by ordinance or resolution and shall be deemed to have done so in the ordinance or resolution adopting the annual budget.

**SECTION 2-404. DELEGATION OF AUTHORITY GENERALLY.** Unless expressly prohibited by charter, state law or this Code, whenever by the provisions of this Code any power is granted to, or a

duty is imposed upon, a City employee, the power may be exercised or the duty performed by a duly appointed deputy, designee or other person duly authorized by law.

## **ARTICLE 5 EMERGENCY SERVICES ORDINANCE**

Sec. 2-501. Title and Purpose.

Sec. 2-502. Definitions.

Sec. 2-503. Declaration of Emergency.

Sec. 2-504. Emergency Services Council.

Sec. 2-505. Emergency Services Organization.

Sec. 2-506. Powers and Duties of Director of Emergency Services During Disaster, Emergency or State of Emergency.

Sec. 2-507. Departments, Divisions, Services and Staff of the Emergency Services Organization.

Sec. 2-508. Suspension of Certain Regulations during Alarm Period.

Sec. 2-509. Volunteers.

Sec. 2-510. Closing of Public Ways.

Sec. 2-511. General Provisions.

Sec. 2-512. Punishment of Violations.

**SECTION 2-501. TITLE AND PURPOSE.** This article shall be known as the Emergency Services Ordinance of the City of Fresno. Its purpose is to implement and complement the California Emergency Services Act (Chapter 7, Division 1, Title 2 of the Government Code, Section 8550, et seq.), and shall be liberally construed to effect the purposes thereof.

### **SECTION 2-502. DEFINITIONS.**

(a) Civil Defense or Emergency Services means the preparation for and carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters or emergencies.

(b) Disaster or Emergency shall mean any extraordinary air pollution, fire, flood, riot, storm, epidemic, earthquake, sudden and severe energy shortage or the threat thereof, or any actual or threatened enemy attack or sabotage, which causes or threatens to cause long term health issues, or loss of life or property and in which occurrences the responsibility devolves upon the regularly constituted authorities for the maintenance of public peace and order and the preservation of life and property. It shall not include any conditions resulting from a labor controversy. When proclaimed, as provided by this article, a disaster or emergency shall also mean "local emergency," within the meaning of the California Emergency Services Act.

### **SECTION 2-503. DECLARATION OF EMERGENCY.**

(a) The Mayor, or in his or her absence, the Council President, or in the absence of both the Mayor and Council President, the City Manager may request the Council of the City of Fresno to proclaim the existence or threatened existence of a disaster or emergency and the termination thereof, if said Council is in session, or to issue such proclamation if said Council is not in session, subject to confirmation by said Council at the earliest practicable time;

(b) The Mayor, or in his or her absence, the Council President, or in the absence of both the Mayor and Council President, the City Manager may request the Governor to proclaim a state of

emergency in the City or in an area in and around the City, when in the opinion of the Director the prevailing conditions are such that they are or are likely to become beyond the control of the services, personnel, equipment, and facilities of the City or the City in combination with any other local agency available to meet the emergency.

**SECTION 2-504. EMERGENCY SERVICES COUNCIL.** The Council of the City of Fresno shall serve as the Emergency Services Council for the City of Fresno. The Emergency Services Council shall be a disaster council as described in Article 10, Section 8610 of the Government Code, upon proper certification. The Council shall provide for continuity of government to ensure the proper performance of its duties as the Emergency Services Council and may reconstruct itself pursuant to Government Code Section 8643. Vacancies filled in such manner shall be for the sole purpose of serving as Emergency Service Council and only until vacancies are filled as required by the Charter.

**SECTION 2-505. EMERGENCY SERVICES ORGANIZATION.** The City of Fresno Office of Emergency Services is hereby created and shall consist of the following:

(a) The City Manager, who shall be Director of Emergency Services pursuant to Section 2-506 of this article. If the City Manager is unavailable, as defined herein, an Assistant City Manager shall assume the powers and duties of the City Manager as Director of Emergency Services.

(b) Fire Chief, who shall be assistant Director of Emergency Services. In addition, Assistant directors, designated by the City Manager in successive order, who shall be Assistant City Managers and/or City Department Directors. In the absence of, or at the direction of, the Director and Assistant Director, the first available succeeding Assistant Director shall act on all matters within the purview of this article.

(c) The City of Fresno Emergency Preparedness Officer shall be the Emergency Services Coordinator, who shall have the responsibility to:

(1) Coordinate the City's Emergency Services Program in accordance with applicable State and Federal guidelines;

(2) Coordinate the development of the City's Emergency Operations Plan;

(3) Provide advisory assistance to responsible City departments concerning assigned operations during emergency situations; and

(4) Interact with the news media, the medical community, other public agencies, and the general public to promote disaster preparedness and mitigation activities.

(d) Such directors, heads, and chiefs of operating City departments, divisions, sections, or services as may be directed or required to render services connected with Emergency Services.

(e) Such representatives of civic, business, labor, veterans, professional, or other organizations having an official group or organization Emergency Service responsibility as may be appointed by the Director with the advice and consent or ratification of the Emergency Services Council.

(f) All officers and employees of this City, together with those volunteer forces enrolled to aid them during a disaster or emergency, and all groups, organizations, and persons, pressed into service under the provisions of this article, who by agreement or operation of law may be charged with duties incident to the protection of life and property in this City during a disaster or emergency.

**SECTION 2-506. POWERS AND DUTIES OF DIRECTOR OF EMERGENCY SERVICES DURING DISASTER, EMERGENCY OR STATE OF EMERGENCY.** In the event of the proclamation of a disaster or emergency as herein provided or by the proclamation of a state of emergency by the Governor or the State Director of Emergency Services, the Director is hereby empowered to:

(a) Control and direct the effort and personnel of the Emergency Services Organization of this City for the accomplishment of the purposes of this article and to make and issue rules and regulations on matters reasonably related to the protection of life and property of the public;

(b) Direct coordination and cooperation between divisions, services, and staff of the Emergency Services Organization of this City, and to resolve questions of authority and responsibility that may arise between them;

(c) Request, contract for, receive, and implement State and Federal aid of all types, including measures available under California Emergency Services Act relating to disaster preparedness and relief;

(d) Order the opening or closing of any building or premises owned or controlled by the City, as in his discretion he may determine to be in the public interest;

(e) The powers granted under subsection (d) above may be so exercised as to any public building or premises when the agency in control thereof requests or allows such action;

(f) Establish at some central, safe, and enclosed place in this City, a room or rooms, which shall be in use in times of imminent public danger as the center from which the Emergency Services Organization shall be directed and coordinated. The Director shall establish one or more alternate control centers for use in case the primary control center is damaged, destroyed, or otherwise unusable;

(g) Designate, and have marked, as necessary, highway evacuation routes for use in connection with regional and state disaster plans;

(h) Represent the Emergency Services Organization of this City in all dealings with public or private agencies pertaining to disaster or emergency services.

(i) Make and issue rules, regulations, and proclamations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, proclamations must be confirmed at the earliest practicable time by the Emergency Services Council;

(j) Obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property of the people, and bind the City for the fair value thereof, and if required immediately, to commandeer the same for public use. Any expenditures made in such connection with emergency service activities, including mutual aid activities, shall be deemed

conclusively to be for the direct protection and benefit of the inhabitants and property of the City;

(k) Command the aid of as many citizens of this community as he or she thinks necessary in the execution of his duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for registered emergency service worker volunteers;

(l) Require emergency service of any City officer or employee and require any City officer or employee to remain available on a standby basis, for regular and emergency service, but without compensation for remaining so available, notwithstanding any salary resolution or other form of ordinance to the contrary;

(m) Order a general curfew applicable to such geographical areas of the City or to the City as a whole, as he or she deems advisable and applicable during such hours of the day or night as he or she deems necessary in the interest of the public safety and welfare, and reasonably calculated to avoid damage or injuries to persons, property, or the public peace; the curfew is defined as, and shall be when so declared, a prohibition against any person or persons being or remaining in any alley, street, highway, public property or vacant premises within the curfew area;

(n) Make in the interest of public safety and welfare any or all of the following orders:

(1) Order the closing of all retail liquor stores;

(2) Order the closing of all beer taverns;

(3) Order the closing of all private clubs or portions thereof wherein the consumption of intoxicating liquor or beer is permitted;

(4) Order the discontinuance of the sale of beer and liquor;

(5) Order the discontinuance of selling, distributing, or giving away gasoline or other flammable liquid, flammable or combustible products in any container, other than a gasoline tank properly affixed to a motor vehicle;

(6) Order the closing of gasoline stations and other establishments, the chief activity of which is the sale, distribution, or giving away of firearms, ammunition, or explosives of any character whatsoever;

(7) Order the discontinuance of selling, distributing, dispensing, or giving away of firearms, ammunition or explosive of any character whatsoever;

(8) Order the closing of any and all establishments or portions thereof, the chief activity of which is the sale, distribution, dispensing, or giving away of firearms or ammunition;

(9) Order the closing of any and all establishments and premises where crowds gather or tend to gather, including, but not limited to, theaters, stadiums, dance halls, gymnasiums, amusement areas, etc.;

(10) Issue other orders relating to the closing of businesses or areas or portions

thereof or restricting the activity of similar establishments, which might be special targets of, or supply depots for, unruly persons; and

(11) Order a price or rate freeze on consumer goods or lodging facilities which may have limited availability as a result of an emergency or disaster situation; and

(o) Execute all ordinary powers as City Manager, all of the special powers conferred by this article or by resolution adopted pursuant thereto, all powers conferred by the Charter, any statute, ordinance, or agreement approved by the Council for the City of Fresno, or by any other lawful authority to exercise complete authority over the city and to exercise all police power vested in the city by the Charter.

**SECTION 2-507. DEPARTMENTS, DIVISIONS, SERVICES, AND STAFF OF THE EMERGENCY SERVICES ORGANIZATION.** The functions, powers, and duties of the Fresno Emergency Services Organization shall be distributed among such departments, divisions, services, and special staff as the Director may prescribe subject to the approval of the Emergency Services Council by resolution. Insofar as possible, the form of organization, titles, and terminology shall conform to recommendations of the federal government and the Emergency Services agency of the State of California.

**SECTION 2-508. SUSPENSION OF CERTAIN REGULATIONS DURING ALARM PERIOD.** The provisions of every law of this city and every administrative order made pursuant thereto, requiring any illumination (lighting) to be maintained in conflict with this article or with any rule or regulation made pursuant to this article, shall be deemed suspended during the period when any civil defense or emergency services warning signal is in effect requiring the blacking out or darkening of the city or any part thereof.

**SECTION 2-509. VOLUNTEERS.** All persons, other than officers and employees of the city, volunteering services pursuant to provisions of this article, shall serve without compensation from the city. While engaged in such services, they shall have and enjoy the same immunities as officers and employees of the city performing similar duties. Volunteer registration shall be in compliance with current State Disaster Service Worker Program guidelines.

**SECTION 2-510. CLOSING OF PUBLIC WAYS.** A proclamation made pursuant to this article shall constitute a calamity under Penal Code Section 409.5 and be authority for the Chief of Police to take the steps therein provided and authorized and pursuant to authority of this article.

**SECTION 2-511. GENERAL PROVISIONS.** The following general provisions apply to proclamations, rules and orders made pursuant to the foregoing sections of this article.

(a) Any proclamation or order promulgated pursuant to the authority conferred by this article shall be in force and effect from the time of promulgation and until amended or repealed by the Director, or Assistant Director, or until repealed by the Council.

(b) Any conditions or activities conducted or maintained contrary to the proclamation or orders are public nuisances.

(c) All proclamations and orders, other than the closing of public ways under Section 2-510

shall be in writing and shall be available for public inspection at the place and during the hours fixed by the Director.

(d) Persons going to or coming from or attending to any public utility, health or disaster or emergency service, or duly authorized by any news service, newspaper, radio, television, or network to gather or report the news, shall not be subject to any curfew ordered under this article.

(e) This article shall not be construed so as to conflict with any state or federal statute, regulation, or order relating to conditions in the city during the effectiveness of said proclamations or orders.

**SECTION 2-512. PUNISHMENT OF VIOLATIONS.** It shall be a misdemeanor for any person during a disaster/or emergency:

(a) Willfully to obstruct, hinder, or delay any member of the emergency services organization in the enforcement of any lawful rule, proclamation, or regulation issued pursuant to this article, or in the performance of any duty imposed upon him by virtue of this article;

(b) To do any act forbidden by any lawful rules or regulations issued or curfew ordered pursuant to this article, or,

(c) To wear, carry, or display, without authority, any means of identification specified by the emergency services agency of the State of California or the City of Fresno.

## **ARTICLE 6 PUBLICATIONS AND OFFICIAL ADVERTISING**

Sec. 2-601. Official Newspaper.

Sec. 2-602. Necessary Proofs.

**SECTION 2-601. OFFICIAL NEWSPAPER.** Any newspaper of general circulation which is printed and published in the City of Fresno which meets the requirements of Sections 6000 to 6007 of the Government Code of the State of California pertaining to "Publications and Official Advertising", and which has also obtained a judicial decree in the Superior Court of the State of California in and for the County of Fresno under the provisions of Sections 6020 to 6027 of said Government Code pertaining to "Establishing Standard as Newspaper of General Circulation" shall be deemed an official newspaper of the City of Fresno in which shall be published all official advertising for the City of Fresno, save and except where such official advertising is required by law or otherwise or by an order of the Council to be published in a newspaper of general circulation printed and published outside the Fresno city limits.

**SECTION 2-602. NECESSARY PROOFS.** Every publisher of a newspaper who desires to take advantage of the privileges conferred by Section 2-601 shall file with the City Clerk the necessary proofs showing that his newspaper has procured the judicial decree specified by Section 2-601.

## **ARTICLE 7 DISPLAY OF FLAGS AND EMBLEMS**

Sec. 2-701. Display of POW/MIA Flag.

**SECTION 2-701. DISPLAY OF POW/MIA FLAG.** So that the people of Fresno will not forget the sacrifices of those members of the United States armed forces who, after the termination of hostilities, remain prisoners of war or missing in action, as well as the sacrifices of missing United States nonmilitary personnel and civilians, the flag of the National League of Prisoner-of-War/Missing-in-Action (POW/MIA) Families, a black and white banner symbolizing the United States' missing, shall be displayed in front of the Fresno City Hall on each and every day that the Flags of the United States, the State of California, and the City of Fresno are displayed. At the discretion, and at administrative directive, of the City Manager, the POW/MIA flag may be displayed with the same frequency at other city facilities where the Flags of the United States, the State of California, and the City of Fresno are displayed. The display of the POW/MIA flag shall serve as a reminder to people everywhere of our country's firm resolve to achieve the fullest possible accounting for every member of the United States Armed Forces, and United States nonmilitary personnel and civilians.

This section shall cease to apply and the display requirement for the POW/MIA flag shall terminate upon a determination by the President of the United States that the fullest possible accounting has been made of all members of the Armed Forces and civilian employees of the United States who have been identified as prisoner of war or missing in action in Southeast Asia.

## **ARTICLE 8 BOARDS AND COMMISSIONS**

Sec. 2-801. Board and Commissions Created by Charter.

Sec. 2-802. Limited Boards and Commissions.

**SECTION 2-801. BOARDS AND COMMISSIONS CREATED BY CHARTER.** The following boards and commissions are created by the Charter:

Planning Commission (Sections 906, 907)

Civil Service Board (Sections 908, 909)

Retirement and/or Pension Boards (Section 910).

**SECTION 2-802. LIMITED BOARDS AND COMMISSIONS.** All boards, commissions, committees and similar bodies not created by Charter, by ordinance or by resolution of the Council shall automatically terminate two years from their creation, unless otherwise specified by the Council.

## **ARTICLE 9 CONFLICT OF INTEREST**

Sec. 2-901. Conflict of Interest Code.

Sec. 2-902. Penalties.

Sec. 2-903. Project Area Committee Members.

### **SECTION 2-901. CONFLICT OF INTEREST CODE.**

(a) The Political Reform Act, Government Code Sections 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal Code of Regs. Section 18730, which

contains the terms of a standard Conflict of Interest Code which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. The terms of such standard Conflict of Interest Code and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference as the City's Conflict of Interest Code, along with the Appendix, which shall be that Council resolution in which employees are designated and disclosure categories are set forth, constitute the Conflict of Interest Code of the City of Fresno.

(b) Pursuant to Section 4 of the standard Conflict of Interest Code, designated employees shall file statements of economic interest with the City Clerk. Statements for all designated employees will be retained by the City Clerk.

**SECTION 2-902. PENALTIES.** A violation of any provision of this article shall constitute a misdemeanor and shall be subject to such additional penalties as are specified in the Political Reform Act of 1974 (Government Code Sections 81000 et seq.).

**SECTION 2-903. PROJECT AREA COMMITTEE MEMBERS.** For purposes of this article, members of project area committees established under Community Redevelopment Law, Health and Safety Code Section 33000 et seq. shall be deemed designated employees.

## **ARTICLE 10 ELECTIONS**

- Sec. 2-1001. Resolution Requesting County Clerk to Conduct Elections.
- Sec. 2-1002. Time for Meeting to Install Elected Officers.
- Sec. 2-1003. Filing Fees for Mayor and Council Candidates.
- Sec. 2-1004. Filing Fee Waiver Petition.
- Sec. 2-1005. Filing Fee Waiver Procedures.
- Sec. 2-1006. Filing Fee Waiver Requirements.

### **SECTION 2-1001. RESOLUTION REQUESTING COUNTY CLERK TO CONDUCT ELECTIONS.**

(a) The Council may by resolution request the County Clerk of the County of Fresno to assume and discharge any or all of the functions of the City Clerk relating to the conduct of municipal elections, as those functions are or may be hereafter delineated under the provisions of the Elections Code of California for the holding of elections in general law cities. The resolution may request such functions to be performed in all future city elections until the request is withdrawn by further resolution of the Council to be transmitted to the County Clerk not less than one hundred eighty days prior to any general or special municipal election, and may request and authorize the County Clerk to furnish all the voting equipment and supplies and to pay the cost of publications of notices and to compensate election officers and other necessary personnel.

(b) The resolution may request and authorize the County Clerk to:

(1) Establish precincts and designate the polling places within the city consisting of either regular election precincts established for holding state or county elections or as such precincts may be divided, altered or consolidated in accordance with the provisions of the Elections Code of California;

(2) Appoint the election officers required by the Elections Code of California to be

appointed in municipal elections, from the register of applicants for such positions on file in his office, and present to the Council, at a regular meeting, a list of such precincts and polling places and the names of the election officers appointed to serve therein for approval and confirmation by the Council. The County Clerk may also be authorized to appoint substitute election officers and designate different polling places without approval and confirmation by the Council whenever, after such list has been approved and confirmed as provided herein, any election officer named in such list is unable or refuses to serve or a polling place designated in such list shall for any reason become unavailable.

(c) The resolution may request and authorize the County Clerk to canvass the returns of municipal elections and the returns of any district election with which a municipal election is consolidated, and to prepare and present to the Council, at its usual place of meeting, a certified abstract showing the whole number of votes cast for city candidates and city measures, the total votes cast for each candidate for a municipal office and for and against each city measure submitted in each election, and the number of votes cast at each precinct for each candidate for a municipal office and for and against each measure. The resolution shall provide that the abstract of the returns of any municipal election shall be presented at the first regular Council meeting following completion of the canvass of the returns of a municipal election, at which meeting the Council shall declare the results of the municipal election.

(d) The resolution shall provide for the repayment to the County of its costs in the conduct of each municipal election including a reasonable charge for the use of voting equipment. Upon receipt of a bill from the County covering the total cost of conducting any consolidated election within the City, the Director of Finance shall bill and collect from any district participating in the consolidated election its proportionate share of such total cost.

**SECTION 2-1002. TIME FOR MEETING TO INSTALL ELECTED OFFICERS.** On the first Tuesday following the first Monday of each odd numbered calendar year, the Council shall meet to install the newly-elected officers. This is the date on which new terms of office begin as set forth in Section 303 of the Charter. The installation of officers elected by special election to complete a term of office shall be at the meeting in which Council declares the special election results as set forth in Section 2-1001(c) of this Code.

**SECTION 2-1003. FILING FEES FOR MAYOR AND COUNCIL CANDIDATES.** The City Council, by resolution, may establish filing fees for the elective office of Mayor and Councilmember. Those fees shall not exceed the cost reasonably borne for conducting the election for the seat in question. The costs to be covered by the filing fees shall include all costs associated with the candidate's filing, including, but not limited to, the proportional cost in administering the election by the City Clerk or County Clerk under contract to provide election services.

**SECTION 2-1004. FILING FEE WAIVER PETITION.** In lieu of payment of the filing fees required under Section 2-1003, a candidate may gather signatures on a form to be provided by the City Clerk or County Clerk under contract to provide election services. For Council candidates, the number of signatures required shall be two hundred and fifty registered voters registered to vote within the Council district boundary. Candidates for Mayor shall collect five hundred signatures from voters registered within the City. A voter may sign both the nomination papers and the Filing Fee Waiver Petition for each candidate. A voter may only sign one filing fee waiver form for each office in which he or she is eligible to vote.

**SECTION 2-1005. FILING FEE WAIVER PROCEDURES.** By resolution, the City Council may adopt further regulations to implement the filing fee waiver process. The filing fee waiver forms shall be provided at no cost to each candidate upon request. However, the elections official may, rather than provide the candidate with the number of forms necessary to gather the requisite signatures, or, upon request of a candidate, provide the candidate with a master form, which may be duplicated by the candidate for the purpose of circulating additional petitions. No other form except the furnished form, or duplicates thereof, shall be used by a candidate to secure signatures. All forms shall be made available commencing forty-five days before the first day for circulating nominating papers. However, in case of vacancies for which a special election is authorized or required to be held to fill the vacancy, and where the prescribed nomination period would commence less than forty-five days after the declaration of the vacancy by the City Council, the forms shall be made available within five working days after the City Council declaration. The forms to be used shall be in substantially the same form as the nomination papers signature form.

**SECTION 2-1006. FILING FEE WAIVER REQUIREMENTS.** The fee waiver process shall be subject to the following provisions:

(a) Any registered voter may sign an in-lieu-filing-fee petition for any candidate for whom he or she is eligible to vote.

(b) If a voter signs more candidate's petitions than there are offices to be filled, the voter's signatures shall be valid only for those petitions which, taken in the order they were filed, do not exceed the number of offices to be filled.

(c) In-lieu-filing-fee petitions shall be filed at least fifteen days prior to the close of nomination period. Upon receipt of the minimum number of in-lieu-filing-fee signatures required, the elections official shall issue nomination papers provisionally. Within ten days after receipt of a petition, the elections official shall notify the candidate of any deficiency. The candidate shall then, prior to the close of the nomination period, submit a supplemental petition to cover the deficiency.

(d) Each candidate may submit a greater number of signatures to allow for subsequent losses due to invalidity of some signatures. The elections official shall not be required to determine the validity of a greater number of signatures than that required by this section.

## **ARTICLE 11 CANDIDATES FOR ELECTIVE CITY OFFICE-CAMPAIGN CONTRIBUTION LIMITS**

Sec. 2-1101. Title.

Sec. 2-1102. Purpose and application.

Sec. 2-1103. Definitions.

Sec. 2-1104. Off-year contribution prohibition.

Sec. 2-1105. Campaign contributions--Limitations on amount.

Sec. 2-1106. Loans.

Sec. 2-1107. Affiliated entities: aggregation of contributions.

Sec. 2-1108. Restrictions on contributions by candidates.

Sec. 2-1109. Return of excessive contributions.

Sec. 2-1110. Separate bank account for attorney's fees.

Sec. 2-1111. Enforcement authority--Complaints, legal action, investigatory powers.

Sec. 2-1112. Enforcement.

Sec. 2-1113. Applicability of other laws.

**SECTION 2-1101. TITLE.** This article may be cited as the "Local Campaign Contribution Limits Ordinance" of the City of Fresno.

**SECTION 2-1102. PURPOSE AND APPLICATION.** The purpose of this article is to ensure that individuals and interest groups have a fair and equal opportunity to participate in municipal elective and governmental processes. This article is intended to supplement, and in no way conflict with, the Political Reform Act of 1974 ("Political Reform Act"), as amended. Statutory references to specific provisions of the Political Reform Act shall include its amendments.

**SECTION 2-1103. DEFINITIONS.**

(a) Unless the particular provision or the context otherwise requires, the provisions, definitions of words and phrases, and interpretations of the Political Reform Act codified in Government Code Sections 81000 et seq., and its implementing regulations in California Code of Regulations, Title 2, Sections 18110 et seq., as amended, are to be relied upon in administering this article.

(b) "Election" means any direct primary election, any general municipal election, and any special municipal election as outlined in Charter Sections 1400 and 1401. For purposes of this article, "election" does not include recall elections or elections on ballot measures.

(c) "Enforcement Authority" means the officer, agent or organization designated by resolution of the Council to enforce the provisions of this article. Nothing in this article shall be construed as limiting the authority of any law enforcement agency or prosecuting attorney to enforce the provisions of this article.

(d) "Entity" means any person, other than an individual.

(e) "Majority-owned" means an ownership of more than 50 percent.

(f) "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, a controlled committee, and any other organization or group of persons acting in concert, as defined in Government Code Section 82047.

(g) "Political Party Committee" means a state central committee or county central committee of an organization that meets the requirements for recognition as a political party pursuant to Section 5100 of the Elections Code, as defined in Government Code Section 85206.

(h) "Small contributor committee" as defined in Government Code Section 85203, means any committee that meets all of the following criteria:

- (1) The committee has been in existence for at least six months; and
- (2) The committee receives contributions from 100 or more persons; and
- (3) No one person has contributed to the committee more than two hundred dollars

(\$200) per calendar year; and

(4) The committee makes contributions to five or more candidates.

**SECTION 2-1104. OFF-YEAR CONTRIBUTION PROHIBITION.** In accordance with Charter Section 309, no Mayoral candidate, Council candidate, or any committee controlled by such person shall solicit or accept any contribution in support of such candidate's election prior to the date fixed by law for the filing of nomination papers with respect to such election, or following the year in which such election is held.

**SECTION 2-1105. CAMPAIGN CONTRIBUTIONS--LIMITATIONS ON AMOUNT.**

(a) A person, other than a small contributor committee or a political party committee, may not make to any candidate for elective City office, and a candidate for elective City office may not accept from a person, any contribution totaling more than three thousand two hundred dollars (\$3,200) per election. The provisions of this section do not apply to a candidate's contributions of his or her personal funds to his or her own campaign.

(b) A small contributor committee may not make to any candidate for elective City office, and a candidate for elective City office may not accept from a small contributor committee, any contribution totaling more than six thousand four hundred dollars (\$6,400) per election.

(c) The contribution limitations set forth in this article shall be adjusted in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index, as determined by the Fair Political Practices Commission pursuant to Government Code Sections 83124, 85301(a), and 83502(a).

**SECTION 2-1106. LOANS.**

(a) The provisions of this article do not apply to loans and extensions of credit made to a candidate by a commercial lending institution in the lender's regular course of business on terms available to members of the general public for which the candidate is personally liable.

(b) In accordance with Government Code Section 85307, a candidate for elective City office may not personally lend to his or her campaign an amount, the outstanding balance of which exceeds one hundred thousand dollars (\$100,000). A candidate may not charge interest on any loan he or she made to his or her campaign.

**SECTION 2-1107. AFFILIATED ENTITIES: AGGREGATION OF CONTRIBUTIONS.**

(a) The contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual.

(b) If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

(c) Contributions made by entities that are majority-owned by any person shall be aggregated

with the contributions of the majority owner and all other entities majority-owned by that person, unless those entities act independently in their decisions to make contributions.

(d) Contributions made by a husband and wife may not be aggregated, and shall be treated as contributions from separate persons. Contributions made by a child under 18 years of age is presumed to be a contribution from the parent or guardian of the child.

**SECTION 2-1108. RESTRICTIONS ON CONTRIBUTIONS BY CANDIDATES.** A candidate for elective office or committee controlled by that candidate may not make any contribution to any candidate for elective city office in excess of the limits for persons set forth in Section 2-2205(a).

**SECTION 2-1109. RETURN OF EXCESSIVE CONTRIBUTIONS.** The candidate or the candidate's controlled committee shall return any amount in excess of the contribution limit set forth in this article to the contributor within 14 days of receipt. The excess contribution and the date of its return shall be reported on a form prepared or provided by the City Clerk.

**SECTION 2-1110. SEPARATE BANK ACCOUNT FOR ATTORNEY'S FEES.**

(a) A candidate for elective city office or an elected city officer may establish a separate account to defray attorney's fees and other related legal costs incurred for the candidate's or officer's legal defense if the candidate or officer is subject to one or more civil or criminal proceedings or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officer's governmental activities and duties. These funds may be used only to defray those attorney fees and other related legal costs.

(b) A candidate may receive contributions to this account that are not subject to the contribution limits set forth in this article. However, all contributions shall be reported in a manner prescribed by the Political Reform Act.

(c) Once the legal dispute is resolved, the candidate shall dispose of any funds remaining after all expenses associated with the dispute are discharged for one or more of the purposes set forth in the Political Reform Act.

**SECTION 2-1111. ENFORCEMENT AUTHORITY--COMPLAINTS, LEGAL ACTION, INVESTIGATORY POWERS.**

(a) Any person who believes that a violation of any portion of this article has occurred may file a report with the Enforcement Authority. If the Enforcement Authority determines that there is reason to believe a violation of this article has occurred, he or she shall make an investigation. Whenever the Enforcement Authority has reason to believe a willful violation of this article has occurred or is about to occur, he or she may institute such legal action at such time as he or she deems necessary to prevent further violations or to redress prior violations.

(b) The Enforcement Authority shall have such investigative powers as are necessary for the performance of the duties prescribed in this article and may demand, and shall be furnished, records of campaign contributions and expenses at any time.

## **SECTION 2-1112. ENFORCEMENT.**

(a) Each candidate or treasurer who received part or all of the contributions in violation of the contribution limits of this article, shall pay promptly, from available campaign funds, if any, the amount received in excess of the amount permitted in this article, to the City Controller for deposit in the General Fund of the city, even though outstanding debts remain unpaid because of such forfeiture.

(b) Any person who knowingly or willfully causes another person to violate any provision of this article, or who aids and abets any other person in the violation of any provision of this article, shall be liable under the provisions of this section.

(c) Prosecution of violation of any provision of the article shall be commenced within four years after the date of the violation.

(d) The enforcement provisions of this section are in addition to, and not in place of, any means of enforcement or remedies at law.

(e) Any person who violates any of the provisions of this article shall, in addition to any other provisions of this article, be subject to the enforcement provisions set forth in the Political Reform Act, which are hereby incorporated by reference.

(f) The Enforcement Authority may institute such legal action at such time as he or she deems necessary to prevent further violations or to redress prior violations.

**SECTION 2-1113. APPLICABILITY OF OTHER LAWS.** Nothing in this article shall exempt any person from, or excuse such person's noncompliance with, applicable provisions of any other laws of the state or any other jurisdiction.

## **ARTICLE 12 REGISTRATION OF LOBBYISTS**

- Sec. 2-1201. Title.
- Sec. 2-1202. Definitions.
- Sec. 2-1203. Registration; Time.
- Sec. 2-1204. Registration Fee.
- Sec. 2-1205. Registration Requirements.
- Sec. 2-1206. Renewal of Registration.
- Sec. 2-1207. Registration Statement; Amendment; Termination.
- Sec. 2-1208. Exemptions.
- Sec. 2-1209. Enforcement.
- Sec. 2-1210. Applicability of Other Laws.

**SECTION 2-1201. TITLE.** This article may be cited as the "Registration of Lobbyists Ordinance" of the City of Fresno.

### **SECTION. 2-1202. DEFINITIONS.**

(a) Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning, and application of words

and phrases used in this article, and, except to the extent that a particular word or phrase is otherwise specifically defined in this section, the definitions and provisions contained in Article 2 of Chapter 1 of this Code shall govern the construction, meaning, and application of words and phrases used in this article. The definition of each word or phrase shall constitute, to the extent applicable, the definition of each word or phrase which is derivative from it, or from which it is a derivative, as the case may be.

(b) "Elective Officer" shall mean the Mayor and councilmembers acting in their capacity as (1) Mayor or councilmember; or (2) member of the Redevelopment Agency; or (3) member of any board, commission or committee created by the Charter, ordinance or resolution of Council.

(c) "Lobbyist" means any person who is employed or contracts for economic consideration, other than reimbursement for reasonable travel expenses, to perform lobbying services which shall include communicating directly or through his or her agents with any elective officer or staff member for the purpose of influencing, supporting, promoting, modifying, opposing, delaying or advancing any municipal legislation.

(d) "Municipal legislation" means resolutions, motions, appeals, applications, petitions, hearings, nominations, ordinances, amendments, and other matters pending, proposed, or which may eventually come before the Council.

(e) "Person" means an individual, proprietorship, firm, syndicate, committee, labor organization, joint venture, joint stock company, partnership, association, club, company, limited liability company, corporation, business trust, or any other organization or group of persons acting in concert.

**SECTION 2-1203. REGISTRATION; TIME.** Every lobbyist shall register by filing a registration statement with the City Clerk no later than 10 days after accepting employment or contracting as a lobbyist.

**SECTION 2-1204. REGISTRATION FEE.** Each lobbyist required to file a registration statement under this article shall be charged a registration fee in the amount specified in the Master Fee Schedule designated in the Master Fee Resolution, as amended by the Council from time to time.

**SECTION 2-1205. REGISTRATION REQUIREMENTS.** The registration statement of a lobbyist shall include:

(a) If the person is an individual, the full name, business address, telephone number, the name and address of his or her employer, if any, or his or her principal place of business if the person is self employed.

(b) For all those persons other than an individual registering hereunder, the full name, business address and telephone number of each person who will be providing lobbying services on behalf of the lobbyist.

(c) The full name and business address of each and every client for whom the lobbyist is employed or contracts to provide lobbying services.

(d) Any other information required by the Council consistent with the purposes and provisions of this article.

**SECTION 2-1206. RENEWAL OF REGISTRATION.** Each registered lobbyist which will be conducting activities which require registration shall renew its registration annually by filing a registration statement with the City Clerk on or before April 1st of each year. Such lobbyist shall be charged a renewal of registration fee in the amount specified in the Master Fee Schedule except that lobbyists who file their initial registration within thirty days of April 1st shall not be required to renew their registration.

**SECTION 2-1207. REGISTRATION STATEMENT; AMENDMENT; TERMINATION.** If any change occurs in any of the information contained in a registration statement, an appropriate amendment shall be filed with the City Clerk by the tenth day of the month following the month in which the change occurred. However, if the change includes the addition of the name of a client, the registration statement of the lobbyist shall be amended and filed to show that change prior to the lobbyist engaging in lobbying services as set forth in this article. Lobbyists which cease all activity which required registration shall file a notice of termination within 20 days after such cessation.

**SECTION 2-1208. EXEMPTIONS.** The provisions of this article are not applicable to:

(a) Any elected public official acting in his or her official capacity, or any governmental or public agency employee acting within the scope of his or her employment or any employee of the city acting upon terms and conditions of his or her employment.

(b) Any newspaper or other periodical of general circulation, book publisher, radio or television station (including any individual who owns, publishes, or is employed by any such newspaper or periodical, radio or television station) which in the ordinary course of business publishes news items, editorials, or other comments, or paid advertisement, which directly or indirectly urge action upon municipal legislation.

(c) A person when representing a bona fide church or religious society solely for the purpose of protecting the public's right to practice the doctrines of such church.

(d) An attorney acting on behalf of others in the performance of a duty or service, which duty or service lawfully can be performed for such other only by an attorney licensed to practice law in the State of California.

(e) A person who is a member or employee of any nonprofit organization when representing such nonprofit organization for the sole purpose of promoting the interest of such nonprofit organization, unless such employee is engaged primarily in lobbying services for such nonprofit organization.

(f) A person who is an employee of any business entity when representing such business entity for the sole purpose of promoting the interest of such business entity unless such employee is engaged primarily in lobbying services for such business entity.

**SECTION 2-1209. ENFORCEMENT.** The City Attorney may institute such legal action at such time as he or she deems necessary to prosecute, enjoin, or to redress a violation of any of the provisions

of this article.

**SECTION 2-1210. APPLICABILITY OF OTHER LAWS.** Nothing in this article shall exempt any person from, or excuse such person's non-compliance with applicable provisions of any other laws of the State or any other jurisdiction.

**ARTICLE 13 REDEVELOPMENT AND COMMUNITY DEVELOPMENT**

- Sec. 2-1301. Construction.
- Sec. 2-1302. Agency.
- Sec. 2-1303. Commission--Housing and Community Development Commission.
- Sec. 2-1304. Community.
- Sec. 2-1305. Community Development.
- Sec. 2-1306. Community Redevelopment Law
- Sec. 2-1307. Council Declared to be the Agency.
- Sec. 2-1308. Community Development Program.
- Sec. 2-1309. Commission Functions in Community Development.

**SECTION 2-1301. CONSTRUCTION.** The general provisions and definitions contained in the Community Redevelopment Law, except as modified by this article, and the general provisions and definitions set forth in this article shall govern the construction of this article, unless the context otherwise requires.

**SECTION 2-1302. AGENCY.** "Agency" means the Council in the exercise of the powers granted to it as the Redevelopment Agency of the city by the Community Redevelopment Law and this article. .

**SECTION 2-1303. COMMISSION – HOUSING AND COMMUNITY DEVELOPMENT COMMISSION.**

(a) There is hereby created a community redevelopment commission which shall be known as the Housing and Community Development Commission, or for purposes of this article, the "Commission". The Commission is created pursuant to and shall be subject to the provisions of Article IX of the Charter governing boards and commissions of the city, and is empowered to and shall perform the functions of a community redevelopment commission under the Community Redevelopment Law of the State (Health and Safety Code Section 33000 et seq.) The Commission shall also perform such advisory functions as are delegated to it by the provisions of this Code or other action of the Council. No member of the Commission shall acquire any interest in any property within any redevelopment project area. Each member who owns or has any direct or indirect financial interest in such property shall immediately make a written disclosure of it to the Council.

(b) All matters of business associated with or required for the planning, undertaking, construction, operation, or administration of a redevelopment project, which are within the powers of the Agency under the Community Redevelopment Law, shall be first presented to the Commission. The Commission, functioning as a community redevelopment commission, shall consider and pass upon each such matter and, where final action by the Agency is required, shall transmit to the Agency its recommendation for action thereon.

(c) The matters of business referred to in subsection (a) hereof shall include:

(1) The acquisition and disposition of real property and rights or interests therein in redevelopment project areas, including the screening and recommending of contracts with purchasers and developers of property to be marketed and disposed of by the Agency and the recommending upon developers' plans for construction on such property;

(2) Recommendation to the Agency of contracts for services and for demolition, site improvement, construction, property appraisals and other contracts, including leases, necessary or appropriate for the carrying out of authorized activities of the Agency; and

(3) Any other business or activity which the Agency is authorized or required by the Community Redevelopment Law to undertake or perform.

(d) The Agency shall not take final action on any such business of the Agency until it has received the recommendation of the Commission thereon; provided that the Agency may receive, consider, and finally act upon, without recommendation of the Commission, any item of business submitted by the Agency to the Commission for consideration and recommendation and on which no Commission recommendation has been transmitted to the Agency within thirty days from the date of submission by the Agency or within such further time as shall have been allowed by the Agency.

**SECTION 2-1304. COMMUNITY.** "Community" means the city.

**SECTION 2-1305. COMMUNITY DEVELOPMENT.** "Community development" means the overall program formulated by the community for the physical, environmental, and economic improvement of the community, including in its scope, without limitation, provision for decent housing, a suitable living environment, and the expansion of economic opportunity for all within the community but with emphasis on the needs of persons of low and moderate income. Formulation of a community development program includes planning and replanning, design and redesign, construction, clearance, reconstruction, rehabilitation, historical preservation, open space development, neighborhood facilities development, economic development and industrial recruitment, and human services to further the objectives of the program, for all or part of designated survey and activity areas singly or in combination, and also includes provision for such residential, industrial, recreational, public, or other facilities necessary or appropriate for the public welfare.

**SECTION 2-1306. COMMUNITY REDEVELOPMENT LAW.** "Community Redevelopment Law" means the Community Redevelopment Law of the State, as set forth in Part 1 of Division 24 (commencing with Section 33000) of the Health and Safety Code of the State, and as the same shall be amended.

**SECTION 2-1307. COUNCIL DECLARED TO BE THE AGENCY.**

(a) The purpose of the action taken by the Council herein to assume all the rights, powers, duties, privileges and immunities heretofore vested in the Redevelopment Agency of the city, created and existing and heretofore functioning as an appointive agency pursuant to and under the Community Redevelopment Law, is to effectuate a consolidation and coordination of redevelopment project activities within the community with related planning, capital improvements, housing promotion and rehabilitation, public works, and other projects and activities conducted by the city. The principal objectives of such consolidation and coordination are the ultimate reduction or elimination of duplication of personnel effort through consolidation of functions, and improved

coordination of the budgeting and administration or redevelopment project activities with community development activities of the city. The Council finds, therefore, that its action declaring itself to be the Agency will serve the public interest and promote the public safety and welfare in a more effective manner than the current organization.

(b) The Council declares that the Redevelopment Agency of the city has been designated and has continuously existed for more than three years. The Council has conducted a public hearing, duly noticed and held as required by the Community Redevelopment Law, and finds that there has been full public disclosure of all reports and proposals relating to the Council's intent to declare itself the Agency.

(c) Under and pursuant to the Community Redevelopment Law, the Council declares itself to be the Redevelopment Agency of the city. On the effective date of the ordinance adding this chapter to the Code the members of the Council shall become the members of the Agency and the appointive members heretofore comprising such agency shall cease to be members thereof and their appointive offices shall be vacated.

(d) The action of the Council herein declaring itself to be the Agency shall effect no change in the status of the Redevelopment Agency of the city as an existing public body, corporate and politic, which shall continue to exist as the same legal entity without change. Such action shall not be construed as making the Agency a department or other part of the government of the city, but the city as a municipal corporation and the agency shall be and remain separate, independent legal entities.

**SECTION 2-1308. COMMUNITY DEVELOPMENT PROGRAM.** Projects comprising a community development program shall be formulated and proposed by the City Manager and/or the Executive Director of the Redevelopment Agency annually or as otherwise directed by the Council. Such projects shall include among their objectives the following:

(1) The elimination of slums and blight and the prevention of blighting influences and the deterioration of property and neighborhood and community facilities of importance to the welfare of the community, principally persons of low and moderate income;

(2) The elimination of conditions which are detrimental to health, safety, and public welfare, through code enforcement, demolition, interim rehabilitation assistance and related activities;

(3) The conservation and expansion of the city's housing stock in order to provide a decent home and a suitable living environment for all persons, but principally those of low and moderate income;

(4) Achievement of a balanced relationship, through coordinated and mutually supportive activities, of the community's physical facilities with the ability of the community to deliver services, principally for persons of low and moderate income;

(5) The attainment of a more rational utilization of land and other natural resources and the better arrangement of residential, commercial, industrial, recreational, and other needed activity centers;

(6) The reduction of the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower income and the revitalization of deteriorating or deteriorated neighborhoods to attract persons of higher income; and

(7) The restoration and preservation of properties of special value for historic, architectural or esthetic reasons through the redevelopment process or other means.

#### **SECTION 2-1309. COMMISSION FUNCTIONS IN COMMUNITY DEVELOPMENT.**

(a) The Commission shall review and make recommendations to the Council on each proposed community development project.

(b) The Commission may:

(1) Recommend to the Council the development of housing and community development goals and objectives;

(2) Recommend to the Council the implementation of projects and activities designed to accomplish such goals and objectives; and

(3) Recommend to the Council the inclusion in any currently proposed or future community development program of any public project, improvement, or activity within the purposes and objectives of community development as delineated in this chapter;

(4) Report to the Council its evaluation of such projects and activities as the Council may initiate in accomplishing adopted goals and objectives.

(c) The Council shall not take final action on any proposed community development project until it has received the recommendation of the Commission thereon; provided that the Council may receive, consider and finally act upon, without recommendation of the Commission, any such project submitted by the Council to the Commission for consideration and recommendation and on which no Commission recommendation has been transmitted to the Council within thirty days from the date of submission by the Council, or within such further time as shall have been allowed by the Council.

**SECTION 6.** This ordinance shall become effective and in full force and effect on the 90th day after its final passage.

\* \* \* \* \*

STATE OF CALIFORNIA )  
COUNTY OF FRESNO ) ss.  
CITY OF FRESNO )

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the

\_\_\_ day of \_\_\_\_\_, 2007.

AYES :  
NOES :  
ABSENT :  
ABSTAIN :

Mayor Approval: \_\_\_\_\_, 2007

Mayor Approval/No Return: \_\_\_\_\_, 2007

Mayor Veto: \_\_\_\_\_, 2007

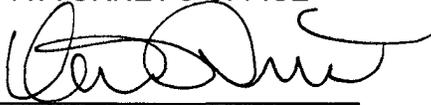
Council Override Vote: \_\_\_\_\_, 2007

REBECCA E. KLISCH  
City Clerk

BY: \_\_\_\_\_

Deputy

APPROVED AS TO FORM:  
CITY ATTORNEY'S OFFICE

BY: 

KATHRYN C. PHELAN  
DEPUTY CITY ATTORNEY

KCP:sz[41247sz/kcp/ORD]5/30/07