



CITY OF MOUNTAIN HOUSE

ORDINANCE NO. 2024-20

AN ORDINANCE AMENDING TITLE 2 OF THE MOUNTAIN HOUSE MUNICIPAL CODE RELATED CITY ADMINISTRATION

WHEREAS, the City of Mountain House (“City”) came into existence on July 1, 2024, pursuant to the San Joaquin Local Agency Formation Commission’s Resolution 23-1526 Making Determinations, Approving and Ordering a Reorganization to Include Incorporation of the City of Mountain House, etc. (the “LAFCO Resolution”), which resolution the voters confirmed in an election held on March 5, 2024 within the territory of the City.

WHEREAS, pursuant to Section 10 of the LAFCO Resolution, and Government Code section 57376, the City Council’s first official act on July 1, 2024 was to adopt an ordinance (the “City ordinance continuing County ordinances”) providing that all San Joaquin County (“County”) ordinances previously applicable shall remain in full force and effect as city ordinances for a period of 120 days after incorporation, or until the city council has enacted ordinances superseding the county ordinances.

WHEREAS, on July 1, the City Council adopted a Municipal Code consisting of ten titles, including Title 2, City Administration, for the purpose of allowing for the future supersession of the ordinances continued by the City Ordinance continuing County ordinances by way of adding divisions, chapters, and sections to the Municipal Code by City Council ordinance.

WHEREAS, on July 1, the City Council also adopted Chapter 1 of Division 1 of Title 2 (“City Manager”) of the Mountain House Municipal Code.

WHEREAS, the City Council now desires to amend Title 2, City Administration, to add various divisions and chapters adapted without substantive change from the continued County and Mountain House Community Services District ordinances and to renumber, without substantive change, Chapter 1 of Division 1 of Title 2 (“City Manager”) as Chapter 1 of Division 2 of Title 2 of the Mountain House Municipal Code. The additions supersede the provisions of Title 2 in the County and District Codes that were continued by the City Council on July 1.

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

SECTION 1. Amendment of Title 2. Title 2 of the Mountain House Municipal Code is amended in its entirety to read as set forth in the attached Exhibit A.

SECTION 2. Effective Date. This Ordinance shall take effect thirty days after passage.

SECTION 3. Publication and Posting. The City Clerk shall comply with Government Code section 36933's publication and posting requirements.

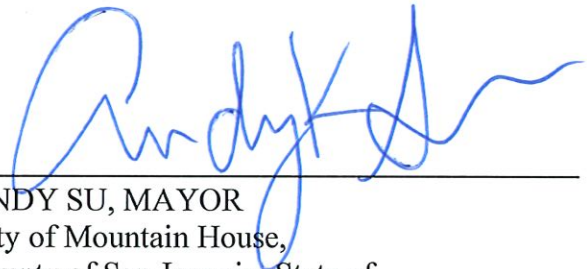
SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

PASSED AND ADOPTED by the City Council of the City of Mountain House, California at a meeting thereof held this 25th day of September 2024 by the following Vote, to wit:

AYES: DISKO, GREEN, HARRISON, TINGLE, MAYOR SU

NOES: NONE

ABSENT: NONE



ANDY SU, MAYOR
City of Mountain House,
County of San Joaquin, State of
California

ATTEST:
City Clerk of the City of Mountain
House, County of San Joaquin, State of
California

By: 

**TITLE 2
CITY ADMINISTRATION**

SECTION 5. DIVISION 1. CITY COUNCIL

SECTION 6. CHAPTER 1 MEETINGS

2-1-100 Time of Meetings

Regular meetings of the City Council shall be held in the chambers of the City Council, 251 East Main Street, Mountain House, California, on the second and fourth Wednesday of the month at 7:00 p.m. or at such other times as may be prescribed by the City Council, but when the regular meeting day falls on a legal holiday, the regular meeting of the City Council shall be held on the next succeeding business day.

SECTION 7. CHAPTER 2 COMPENSATION

2-1-200 Salary.

(a) Pursuant to Section 36516 of the Government Code, which provides that a city council may enact an ordinance providing that each member of the city council shall receive a salary determined by a schedule of population for cities, the members of the City Council shall receive a salary of \$950 per month.

(b) No Councilmember shall be eligible to receive the increase provided herein until one (1) or more Councilmembers begin a new term of office.

SECTION 8. DIVISION 2. OFFICERS

SECTION 9. CHAPTER 1 CITY MANAGER

2-2-100 Position created.

The position of the City Manager is created and established pursuant to Government Code Section 34851. The City Manager shall be appointed by the City Council wholly on the basis of administrative and executive ability and qualifications and shall hold the position at the pleasure of the City Council.

2-2-101 Residence not a condition for employment.

Although it is desirable that the person appointed establish residence within the city within a reasonable period of time, residency within the city shall not be a condition of employment.

2-2-102 Bond required.

The City Manager shall furnish a corporate surety bond to be approved by the City Council in such sum as may be determined by the City Council, and shall be conditioned upon the faithful performance of the duties imposed upon the City Manager as herein prescribed. Any premium for such bond shall be a proper charge against the city.

2-2-103 Designating Acting City Manager.

Within thirty (30) days after appointment, the City Manager shall recommend for Council approval one of the officers or department heads of the city to serve as Acting City Manager during any temporary absence or disability of the City Manager. The approval of the City Council and the appointment by the City Council of an Acting City Manager shall be recorded in the minutes. In case of the absence or disability of the City Manager and failure to choose an Acting City Manager, the City Council may designate some qualified city employee to perform the duties of the City Manager during the period of absence or disability of the City Manager, subject, however, to the person furnishing a corporate surety bond conditioned upon faithful performance of the duties required to be performed unless the person is covered by the city's blanket bond.

2-2-104 Compensation.

The City Manager shall receive such compensation as the City Council shall from time to time determine. In addition, the City Manager shall be reimbursed for all actual and necessary expenses incurred in the performance of official duties with approval of the Council.

2-2-105 Powers and duties—Generally.

The City Manager shall be the administrative head of the government of the city under the direction and control of the City Council except as otherwise provided in this chapter. The City Manager shall be responsible for the efficient administration of all the affairs of the city which are under the Manager's control. In addition to general powers as administrative head, and not as a limitation thereon, the City Manager shall have the duties and powers set forth in Sections 2-1-106 through 2-1-190. In addition, the City Manager shall have authority to take ministerial actions including but not limited to, such things as, issuance of will serve letters; acceptance of services and improvements, infrastructure, easements and rights of ways; agreements and acts to implement tentative maps, subdivision conditions including subdivision improvement and deferred improvement agreement; issuance of encroachment permits; and approval of traffic controls devices and markings except stop signs and traffic signals.

2-2-106 Law enforcement.

It shall be the duty of the City Manager to enforce or cause to be enforced all laws and ordinances of the city and to see that all franchises, contracts, permits and privileges granted by the City Council are faithfully observed.

2-2-107 Authority over employees.

It shall be the duty of the City Manager, and the City Manager shall have the authority to control, order and give directions to all heads of departments and to subordinate officers and employees of the city under the City Manager's jurisdiction through their department heads.

2-2-108 Appointment and removal of city officers.

It shall be the duty of the City Manager pursuant to Government Code Section 34856 to appoint and remove all officers and department heads, including the City Clerk, City Engineer, and the City Treasurer, but excluding the City Attorney. The City Manager shall either approve the appointment, removal, promotion, or demotion of all other city employees or authorize department heads to appoint, remove, promote or demote in certain classes of positions subject to all applicable personnel rules and regulations which may be adopted by ordinance or resolution by the Council.

2-2-109 Negotiation for city service contracts.

It shall be the duty of the City Manager to negotiate all contracts for services for which the city has a service responsibility to its residents and desires to provide such service by contract. The contract shall be approved by the City Council. After the Council approves the contract, it shall be the duty of the City Manager to administer the contract and determine that its provisions are carried out. The City Manager shall report to the Council at such times as the Council may direct on the performance of the service provider.

2-2-110 Administrative reorganization.

It shall be the duty and responsibility of the City Manager to conduct studies and effect such administrative reorganization of services, offices, positions or units under the City Manager's direction as may be indicated in the interest of efficient, effective and economical conduct of the city's business.

2-2-111 Ordinances and measures—Recommendation to City Council.

It shall be the duty of the City Manager to recommend to the City Council for adoption such measures and ordinances as deemed necessary.

2-2-112 Attendance at Council meetings.

It shall be the duty of the City Manager to attend all meetings of the City Council unless excused therefrom by the Mayor individually or the City Council.

2-2-113 Preparation of financial reports to City Council.

It shall be the duty of the City Manager to keep the City Council at all times fully advised as to the financial condition and needs of the city.

2-2-114 Preparation of city budget.

It shall be the duty of the City Manager to prepare and submit the proposed annual budget and the proposed annual salary plan to the City Council for its approval.

2-2-115 Purchasing and expenditure control.

It shall be the duty of the City Manager to see that no expenditures shall be submitted or recommended to the City Council except on approval of the City Manager or authorized representative. The City Manager, or authorized representative, shall be responsible for the purchase of all supplies for all the departments or divisions of the City.

2-2-116 Investigation in city affairs—Complaint investigation.

It shall be the duty of the City Manager to make investigations into the affairs of the city and any department or division thereof, and any contract or the proper performance of any obligations of the city. Further, it shall be the duty of the City Manager to investigate all complaints in relation to matters concerning the administration of the city government and in regard to the service maintained by public utilities in the city.

2-2-117 Supervision of public property.

It shall be the duty of the City Manager to exercise general supervision over all public property which is under the control and jurisdiction of the City Council.

2-2-118 Duties delegated by City Council.

It shall be the duty of the City Manager to perform such other duties and exercise such other powers as may be delegated from time to time by ordinance or other official action of the City Council.

2-2-119 Internal relations.

(a) Council-Manager Relations. The City Council and its members shall deal with the administrative services of the city through the City Manager, except for the purpose of inquiry, and neither the City Council nor any member thereof shall give orders or instructions to any subordinates of the City Manager. The City Manager shall take orders and instructions from the City Council only when sitting in a duly convened meeting of the City Council, and no individual councilmember shall give any orders or instructions to the City Manager.

(b) Department Cooperation. It shall be the duty of all subordinate officers to assist the City Manager in administering the affairs of the city efficiently, economically and harmoniously.

(c) Attendance at Commission Meetings. The City Manager may attend any and all meetings of the Planning Commission and any other commissions, boards or committees created by the City Council. At such meetings, the City Manager shall be heard by such commissions, boards or committees as to all matters the City Manager wishes to address to the members thereof, and inform the members as to the status of the matter being considered by the City

Council. The City Manager shall cooperate to the fullest extent with the members of all commissions, boards or committees appointed by the City Council.

2-2-120 Agreement on employment.

Nothing in this chapter shall be construed as a limitation on the power or authority of the City Council to enter into any supplemental agreement with the City Manager delineating additional terms and conditions of employment not inconsistent with any provisions of the chapter.

2-2-121 Signing of instruments.

Pursuant to the City Council's authority under Government Code § 40602, the City Manager, unless otherwise directed by the City Council, shall sign all warrants drawn on the city treasurer, all written contracts and conveyances made or entered into by the city, and all instruments requiring the City seal.

SECTION 10. CHAPTER 2 PURCHASING AGENT

2-2-200 General Authority.

The City is required under Government Code Section 54202 to adopt policies and procedures, including bidding regulations, governing the purchasing of supplies and equipment.

2-2-201 Inapplicability of Chapter.

This Chapter shall not apply to those purchases of supplies and equipment governed by Article 4 (commencing with Section 20160) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code.

2-2-202 Purchasing Agent.

The office of Purchasing Agent of the City of Mountain House is hereby established. The Mountain House City Manager or the City Manager's designee shall be the Purchasing Agent.

2-2-203 General Duties.

The Purchasing Agent shall have the duties and powers set forth in this Chapter and those set forth in resolutions of the City Council. The Purchasing Agent shall furnish the City Council with the reports and information that the City Council may from time to time require and shall establish methods, procedures and requirements necessary for the fulfillment of his or her duties and the proper functioning of the purchasing operation in an efficient and economical manner. The City has adopted the Uniform Public Construction Cost Accounting Act, Chapter 2 (commencing with Section 22000) of Part 3 of Division 2 of the Public Contract Code as authorized under Public Contract Code Section 20682(g).

(a) ***Personal Property.*** The Purchasing Agent shall purchase for the City all materials, supplies, furnishings, equipment, livestock and other personal property of whatever kind and nature. No purchase of personal property by any person other than the Purchasing

Agent shall be binding upon the City or constitute a lawful charge against any City funds except as authorized by the City Council or as otherwise provided by law.

(b) **Rent.** It shall be the duty of the Purchasing Agent to rent for the City all personal property.

(c) **Lease-Purchase and Service Contracts.** It shall be duty of the Purchasing Agent to negotiate and execute in the name of the City all equipment service contracts and lease-purchase agreements of personal property.

(d) **Independent Contractor Services.** It shall be the duty of the Purchasing Agent to engage independent contractors to perform services for the City with or without furnishing of material.

(e) **Construction and Repair.** It shall be the duty of the Purchasing Agent to employ independent contractors to construct or repair any of the buildings or structures and purchase furnishings, materials, and supplies for use in such construction or repair where the estimated aggregate costs of all furnishings, materials, labor and supplies for use in such construction or repair does not exceed the amount established set forth in Section 20682 of the Public Contract Code.

(f) **Highway Construction.** It shall be the duty of the Purchasing Agent to employ independent contractors to perform work on City roads and highways as provided by this ordinance or the State statutes, whenever the expenses of the work do not exceed the amount set forth therein.

(g) **Sale or Disposal of Personal Property.** The Purchasing Agent may by direct sale or otherwise sell or dispose of any personal property belonging to the City not required for public use, in accordance with this Chapter.

(h) **Transfer of Personal Property.** The Purchasing Agent is hereby authorized to transfer from one (1) City department to another City department any item of personal property.

(i) **Forms.** The Purchasing Agent shall develop, with the approval of Legal Counsel for the City as to legal sufficiency, standard forms and conditions of invitations to bid and purchase orders and contracts and shall also develop and prescribe other forms required in carrying out the provisions of this Chapter, and he or she may amend or eliminate any such form.

2-2-204 Justification of Expenditures.

The Purchasing Agent, after reviewing any requisition for purchasing, may require from an employee a justification of the quantity or quality or the necessity of the items requested. The Purchasing Agent may also require that an employee furnish three acceptable brand names where a brand name is used as specification of an article.

2-2-205 Centralized Purchasing Exceptions.

No purchases or rentals as described in this Chapter shall be made by any City officer or employee without a purchase order or other written authority that is first obtained from the Purchasing Agent, except as authorized by the City Council or as otherwise provided by law.

2-2-206 Bidding Procedures.

Except as required by law, this Chapter, or resolution of the City Council, the Purchasing Agent may make any purchase of personal property or perform any other act hereunder without notice, advertisement, or securing competitive bids. The City Council may establish by

resolution purchasing threshold amounts requiring notice, advertisement or securing competitive bids as the City Council may deem appropriate. In the performance of his or her functions hereunder, the Purchasing Agent shall comply with all applicable statutes, ordinances and regulations. In making purchases, the Purchasing agent shall use methods and procedures that in his or her judgment will secure the lowest price consistent with the quality desirable for the use intended and the needs of the requisitioning employee.

2-2-207 Surplus Property.

Any item of personal property may be declared surplus to the needs of the City by the Purchasing Agent. The Purchasing Agent may maintain a pool of surplus equipment deemed usable and shall make it available to any City department or operation having a need. In disposing of surplus property, the Purchasing Agent shall use such methods and procedures as in his or her judgment will return the greatest value to the City. The Purchasing Agent shall deposit all funds received from the sale of surplus property in the City fund from which the property was originally purchased.

2-2-208 Availability of Funds.

Except in emergencies, as determined by the City Manager, no notice of award of contract shall be issued, no contract shall be signed, and no open-market purchase order shall be issued until the City Manager or designee shall have certified that the unexpended balance in the appropriation or appropriations concerned is sufficient to defray the amount of the contract or purchase order.

2-2-209 Unlawful Purchases.

If any employee of the City purchases or contracts for any supplies, materials, equipment or contractual services contrary to the provisions of this Chapter, the purchase order or contract shall be void and of no effect. The employee making the purchase shall be personally liable for the amount of the purchase or contract, and, if the amount has already been paid for out of City funds, the amount thereof may be recovered in the name of the City in an appropriate action.

2-2-210 Inspection.

The receiving officer or employee shall inspect deliveries of supplies, materials and equipment or the furnishing of contractual services to insure their conformance with the specifications set forth in the purchase order or contract.

2-2-211 Return of Merchandise.

Except in emergencies, as determined by the City Manager, no supplies, materials, or equipment shall be returned to a vendor for trade, credit, or repair, or for any other reason without approval of the Purchasing Agent or designee.

2-2-212 Central Stores Working Capital Fund.

The City Council may establish by resolution from the unappropriated funds of the City, in an amount that the City Council may from time to time by resolution establish. The Purchasing Agent may purchase supplies, materials, services, and equipment in quantity to be

issued to the several offices and departments of the City as needed and shall make payments therefore out of the fund when it is established. As these supplies, materials, services, and equipment are issued to an office or department, the fund shall be reimbursed from the budgeted funds of the requisitioning office or department.

2-2-213 No Mandatory Duty of Care.

This Division is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

2-2-214 Inconsistent Provisions.

To the extent that the provisions of this Division may be inconsistent or in conflict with the terms and conditions of any prior district ordinance, resolution, rule or regulation governing the same subject, the provisions of this Division shall prevail with respect to the subject matter thereof, and such inconsistent or conflicting terms or conditions of prior ordinances, resolutions, rules or regulations are hereby repealed.

SECTION 11. CHAPTER 3 OFFICE HOURS

2-2-300 Transaction of Business.

Except for a one hour lunch break from noon to 1:00 p.m., City officers shall keep their offices open for the transaction of business continuously from 8:00 a.m. until 5:00 p.m. each day of the week, except Saturday, Sunday and regular holidays, unless otherwise prescribed by resolution of the City Council.

2-2-301 Holidays.

All public offices of the City shall be closed on holidays.

SECTION 12. CHAPTER 4 HEARING OFFICER

2-2-400 Definitions.

The following definitions apply to this Chapter:

(a) "Hearing Officer" means a qualified person selected to be a Hearing Officer pursuant to this Chapter.

(b) "Administrative Enforcement" means actions taken by the City to enforce violations of this code pursuant to Title 1, Division 2.

2-2-401 Position of Hearing Officer Created.

The City Council hereby creates the position of Hearing Officer of the City for the purpose of adjudicating enforcement actions or other disputes regarding City determinations under this code as appointed by the City Council.

2-2-402 Hearing Officer's Authority.

A Hearing Officer shall have the authority to conduct hearings pursuant to this Chapter in any proceeding under State law or this code that provides that a hearing be held and that findings of fact or conclusions of law be made by the City or as otherwise engaged by the Council.

2-2-403 Powers and Duties of Hearing Officer.

A Hearing Officer shall have those powers of a County Hearing Officer specified in Sections 27721 and 27722 of the Government Code and is authorized to:

- (a) Conduct hearings specified in this code;
- (b) Issue subpoenas; receive evidence; administer oaths; rule on questions of law and the admissibility of evidence;
- (c) Grant continuances based on good cause shown by one (1) of the parties to the hearing or upon their own independent determination that due process has not been adequately afforded to a party;
- (d) Exercise continuing jurisdiction over the subject matter of the hearing for the purposes of granting a continuance;
- (e) Make findings of fact and legal conclusions;
- (f) Rule upon the merits of the proceeding, including, but not limited to, an administrative enforcement hearing or an administrative appeal hearing, upon consideration of the evidence submitted and then prepare and issue a written decision and order, including, but not limited to:
 - (1) Orders that are necessary to remedy any violations identified in a notice issued in accordance with this code, including authorizing the enforcing official to summarily abate the violation and/or impose conditions for the continued use of the subject property or activity;
 - (2) Impose, modify, or deny administrative penalties. In those cases where the administrative penalty is not fixed, but is subject to a range as otherwise established by this code, the Hearing Officer may set, increase, or decrease, according to proof, the amount of administrative fine, charge, or the daily rate of such administrative fine or penalty;
 - (3) Determine the date upon which the accrual of administrative fines, charges, or penalties shall begin and where the corrections are subsequently completed to the City's satisfaction, the date upon which the accrual of such fines, charges, or penalties shall end. If the violations have not been so corrected, the daily accrual of the administrative fines, charges, or penalties accrued shall continue until the violations are corrected or the legal maximum limit is reached;
 - (4) Determine amounts and order payment of abatement costs, administrative costs, and/or administrative fines, charges, or penalties;
 - (5) Imposition of a lien, special assessment, special collection, or other collection process against a responsible party and any affected property, as appropriate after hearing for objections to the filing of liens or special assessments on real property; and
 - (6) Deferral of the effective date of orders of abatement in cases of extreme hardship to owner-occupants or tenants of dwellings.
- (g) Prepare a record of the proceedings.

2-2-404 Hearing Officer Qualifications.

A Hearing Officer must be an attorney admitted to practice before the courts of the State for at least five (5) years prior to appointment. A person shall not be qualified to serve as a Hearing Officer if they served as a legal representative for, or were employed by, the City within the six (6) months immediately preceding their appointment.

2-2-405 Appointment of Hearing Officer.

Each applicant to the position of Hearing Officer shall submit proof of qualifications to the City Clerk. Selected qualified applicants shall be appointed to a panel of Hearing Officers administered by the City Clerk.

2-2-406 Selection of Hearing Officer.

A party appealing (1) an administrative action by the City relating to a violation of this code issued to them, shall select a Hearing Officer from the panel to serve as a Hearing Officer for their appeal. In the event that the selected Hearing Officer is unable to serve or is disqualified, then the appellant shall select a replacement Hearing Officer from the panel of Hearing Officers or, alternatively, select an Administrative Law Judge through the State of California Office of Administrative Hearings.

2-2-407 Disclosure and Disqualification.

A Hearing Officer shall disqualify themselves from serving as Hearing Officer in a particular matter where they have a conflict of interest within the meaning of the Political Reform Act (Section 87100 et seq. of the Government Code) and shall otherwise comply with the disqualification provisions of the California Code of Judicial Ethics, including, but not limited to, Canon 3.E. Any party may raise objections to the Hearing Officer for the record and ask that the Hearing Officer disqualify themselves. The Hearing Officer shall make the decision to grant or deny the request for disqualification.

2-2-408 Removal/Revocation of Hearing Officer from Panel.

A Hearing Officer may be removed from the Hearing Officer Panel as follows:

(a) A Hearing Officer may be removed from the position of Hearing Officer by the City Manager at any time for cause.

(b) If a Hearing Officer is disbarred, suspended, or put on involuntary inactive status by the California State Bar, or resigns membership to the California State Bar, then the Hearing Officer's appointment will be automatically revoked.

(c) If a Hearing Officer is removed, or their appointment automatically revoked, then the non-City party participating in the hearing shall select a replacement Hearing Officer from the panel of Hearing Officers or, alternatively, select an Administrative Law Judge through the State of California Office of Administrative Hearings.

2-2-409 Term of Hearing Officer.

A Hearing Officer shall serve for four (4) years from appointment. If a Hearing Officer is in the process of hearing a matter when their term expires then that Hearing Officer shall continue to hear that matter until it is complete.

2-2-410 Compensation of Hearing Officer.

A Hearing Officer shall be compensated for their time spent on exercising the authority and duties of a Hearing Officer at the rate of two hundred dollars (\$200.00) per hour and may be reimbursed for actual and necessary expenses. Expenses exceeding two hundred fifty dollars (\$250.00) must be approved in advance by the City Council or the director of the department taking the administrative action.

2-2-411 Administrative Hearing Procedures.

A Hearing Officer shall conduct and preside over hearings pursuant to these procedures unless agreed in writing by the parties to the proceeding or otherwise specified in this Code:

(a) Failure to Appear: Failure to appear at the hearing shall constitute a waiver of any right to object to the decision of the Hearing Officer.

(b) Representation of Parties: During the hearing the parties may be represented by counsel or another representative of the party's choice.

(c) Subpoenas: The Hearing Officer may issue subpoenas and subpoenas duces tecum for the attendance of witnesses and the production of documents before and during the hearing at the request of any party or at their discretion. Compliance with Section 1985 et seq. of the Code of Civil Procedure shall be a condition precedent to the issuance of a subpoena duces tecum. Any amount required to be paid to witnesses appearing pursuant to a subpoena under Section 1985 et seq. shall be paid by the party at whose request the witness was subpoenaed or by the Hearing Officer as a reimbursable expense if they issued the subpoena at their discretion.

(d) Witnesses: Each party shall have the right to call and examine witnesses, introduce exhibits, cross-examine opposing witnesses, impeach any witness, and to rebut evidence.

(e) Oath/Affirmation: In any proceeding before the Hearing Officer, oral testimony offered as evidence shall be taken only on oath or affirmation administered by the Hearing Officer. The witness, or witnesses together, shall be asked to raise their right hand and to swear, or at their election affirm, that the testimony they shall give will be the truth, the whole truth, and nothing but the truth.

(f) Official Notice: At the request of any party, the Hearing Officer may take official notice of any fact that may be judicially noticed by the courts of California. The Hearing Officer shall inform the parties of the matters to be noticed and those matters shall be noted in the record. Each party shall be given a reasonable opportunity to refute any request for the Hearing Officer to take official notice.

(g) Evidence: The technical rules relating to evidence, including but not limited to the California Evidence Code, will not apply during the hearing. The Hearing Officer may allow any relevant evidence to be admitted. The Hearing Officer may reject any evidence they deem to be unreliable, irrelevant, or unduly repetitious. The Hearing Officer shall not consider any oral or documentary evidence presented to them outside of the hearing or during inspection of the premises made pursuant to these procedures unless the parties stipulate in writing to such evidence and the stipulation is made part of the hearing record.

(h) Inspection: The Hearing Officer may inspect any subject premises provided that they (1) give reasonable notice to the parties of the date and time of the inspection, (2) the parties are given an opportunity to be present during the inspection, (3) the Hearing Officer states on the record any material facts observed and their conclusions drawn therefrom, and (4) allows each party the right to rebut or explain any of the Hearing Officer's observations and conclusions.

(i) Briefs: The Hearing Officer may request that the parties to the appeal submit written briefs or statements of their position prior to the hearing. Any such briefs shall be provided to the Hearing Officer and all parties.

(j) Order of Proceeding: The Hearing Officer shall follow this order of proceeding in each hearing. The Hearing Officer may vary this order only if they determine, and state on the record, that special circumstances exist which justify the variance:

(1) Announce the beginning of the proceedings and begin the tape recording of the hearing;

(2) Identify the hearing;

(3) Request that all attendants at the hearing state their names;

(4) Explain to attendants how the hearing will proceed and address any necessary notifications required by these procedures;

(5) Hear any preliminary motions or objections;

(6) Allow parties to make opening statements;

(7) Allow City to present evidence and witnesses;

(8) Allow appellant to present evidence and witnesses;

(9) Allow parties to present rebuttal evidence and witnesses;

(10) Allow parties to make closing statements;

(11) Explain the issuance of the final written decision and appeals procedures; and

(12) Close the hearing and terminate the tape recording of the hearing.

(k) Privilege: The California rules of privilege shall apply during the hearing.

(l) Recording: The Hearing Officer shall record the hearing with an electronic recording device and make that recording available to all parties by request as a recording. Any party may, at their own expense provide for the taking of the testimony by a qualified stenographic reporter.

(m) Continuance: The City Hearing Officer may grant continuances from time to time upon request and for good cause, or upon their own motion.

(n) Motions: Any motions by the parties shall be in writing or made orally on the record during the hearing and shall clearly state the action requested and the grounds relied upon.

(o) Burden of Proof: The City shall have the burden of proof. The proof required shall be a preponderance of the evidence.

(p) Communication with the Hearing Officer: All substantive oral communications with the Hearing Officer shall be held in the presence of all parties. All written communications shall be served on all parties. The Hearing Officer shall disclose any unilateral communications with any party during the hearing.

(q) Disclosure and Disqualification: A Hearing Officer shall disqualify themselves from serving as Hearing Officer in a particular matter where they have a conflict of interest within the meaning of the Political Reform Act (Sections 87100 et seq. of the Government Code) and shall otherwise comply with the disqualification provisions of the Code of Judicial Ethics, Canon 3.E. Any party may raise objections for the record to the Hearing Officer and ask that the Hearing Officer disqualify themselves. The Hearing Officer shall make the decision to grant or deny the request for disqualification.

(r) Final Written Decision: At the conclusion of the hearing, the Hearing Officer shall issue a written decision that affirms, reverses, or modifies the City's determination based on their review of all relevant documents, evidence, and testimony.

(1) The Hearing Officer's decision shall identify the "prevailing party" in the appeal and award to that party reasonable costs and attorney's fees. No party's fees shall be awarded at an hourly rate greater than the hourly rate charged by the City for a Deputy City Attorney.

(2) The Hearing Officer shall send their written decision to the City Clerk and all parties by registered or certified mail within ten (10) days of the conclusion of the hearing, unless the appealing party agrees in writing to a longer period.

(3) The Hearing Officer's written decision shall be final and shall be enforceable thirty-one (31) days after the City Clerk receives it. Receipt will be presumed to have occurred five (5) days after the Hearing Officer mailed the decision to the City Clerk.

(s) Administrative Record: The official administrative record of an appeal proceeding heard by a Hearing Officer shall be comprised of the following: all written notices; all briefs, motions, responses, or objections filed with the Hearing Officer prior to or during the proceeding; all exhibits admitted as evidence during the proceeding; a list of participants present at any session of the hearing; the recording of the proceeding; and, the Hearing Officers' rulings, including all findings, decisions, and orders. The Hearing Officer or City shall maintain the Official Record for five years. The Hearing Officer shall provide a copy of the official record, or requested portion thereof, to any party upon written request and payment by the requesting party of the actual costs of duplication.

2-2-412 Independent Authority.

The employment, performance evaluation, compensation, and benefits of a Hearing Officer shall not be directly or indirectly conditioned upon the outcome of hearings conducted, including, but not limited to, the finding of violations and/or the amount of any penalties imposed or assessed.

2-2-413 Conduct of Witnesses.

If during a proceeding conducted under this Chapter any person disobeys or resists any lawful order, refuses to respond to a subpoena, refuses to take the oath or affirmation as a witness, thereafter refuses to be examined, engages in misconduct, or obstructs the proceeding, a Hearing Officer shall certify the facts to the Superior Court of the County to initiate proceedings pursuant to Section 37106 through 37108 of the Government Code.

2-2-414 Effect on Existing Law.

The provisions of this Chapter constitute an alternative to, and do not supersede, any other provision of law specifying that any matter may be heard or determined by a Hearing Officer.

SECTION 13. DIVISION 3. PROPERTY

SECTION 14. CHAPTER 1 USE OF CITY AUTOMOBILES

2-3-100 Adoption of Regulations.

Provision is hereby made for rules and regulations governing the use of automobiles by City officers and employees and providing penalty procedures in the event of their violation.

2-3-101 Use for City Business Only.

City-owned automobiles shall be used only in the conduct of City business. No City officer or employee shall use, or permit the use of, any City-owned automobile other than in the conduct of City business.

2-3-102 Regulations of City Manager.

The City Manager shall prescribe rules and regulations subject to the approval of the City Council which:

- (a) Define the use of City-owned automobiles which constitutes use in the conduct of City business and distinguish that use from misappropriation for private use.
- (b) Prescribe the procedure for determining and collecting from the officer or employee responsible for misuse the actual costs to the City attributable to misuse of City-owned automobiles and the disposition of those collections.
- (c) Prescribe the records and reports to be kept and made by City departments and department heads relating to the use of City-owned automobiles to the end that misuse may be discovered with a minimum of record keeping.
- (d) Govern the use and storage of City-owned automobiles.

2-3-103 Duties of City Manager.

The City Manager shall administer the provisions of this Chapter, and the rules and regulations adopted pursuant thereto, except that it shall be the duty of each department head to carry out and enforce this Chapter and said rules and regulations within his department.

2-3-10. Reserved.

SECTION 15. CHAPTER 2 UNCLAIMED PROPERTY

2-3-200 Holding Period.

Unclaimed property except unclaimed bicycles and toys shall be held by the Chief of Police or City Manager for a period of at least four (4) months, and unclaimed bicycles and toys shall be held for a period of at least three (3) months.

2-3-201 Sale at Auction.

After the expiration of a period of four (4) months, except that in the case of unclaimed bicycles and toys, after the expiration of a period of three (3) months, from the time unclaimed property has come into the possession of the Chief of Police or City Manager, it may be transferred to the Purchasing Agent for sale to the public at public auction. Any property remaining unsold after being offered at public auction may be destroyed or otherwise disposed of by the Purchasing Agent. If property is transferred to the Purchasing Agent pursuant to this Section, the property shall not be redeemable by the owner or other person entitled to possession.

2-3-202 Notice of Sale; Disposition of Proceeds.

Notice of sale shall be given by the Purchasing Agent at least five (5) days before the time fixed therefor by publication once in a newspaper of general circulation published in the City. Proceeds of sale as hereinbefore provided shall be deposited in the treasury of the City. It is hereby declared to be a misdemeanor for the Chief of Police, or any member of their staff or for the Purchasing Agent or any member of their staff to purchase any property at any sale held under the provisions of this Chapter.

SECTION 16. CHAPTER 3 ADVERTISING ON CITY PROPERTY

2-3-300 Advertising.

No person subject to the police power of this City shall paste, tack, or otherwise place or fasten any paster, poster, handbill, card, or any advertising matter whatever upon any building, bridge, windmill, tank, or other property of the City, or paint, print, engrave, carve, or otherwise place any letter, word, or picture upon any City property, or in any way advertise upon or by means of any City property except City park property with the approval of the City Council.

SECTION 17. DIVISION 4. PUBLIC PARKS

SECTION 18. CHAPTER 1. GENERAL PROVISIONS

2-4-100 Short Title.

This Chapter may be known as, and may be cited as, the “Park Ordinance.”

2-4-102 Compliance.

No person shall enter, be, or remain in any park unless he or she complies with all of the regulations set forth in this Chapter applicable to such park and with all other applicable laws, ordinances, rules and regulations. Failure to comply with this Chapter may result in eviction, citation or arrest.

2-4-103 Enforcement

The City Manager, chief law enforcement officer, and their designees, who may be agents, shall enforce the provisions of this Division.

2-4-104 Punishment for Violations.

Any violation of this Chapter is punishable as an infraction by a fine of not more than two hundred fifty dollars (\$250.00) or is punishable as a misdemeanor.

SECTION 19. CHAPTER 2. RULES AND REGULATIONS

2-4-200 Specific Regulations.

The following rules and regulations apply to all public parks except as otherwise stated.

(a) ***Harmful Objects.*** A person shall not throw, leave, keep, or maintain any object in such a manner or in such a place that any person or animal may be injured or any structure or vehicle may be damaged thereby. Nor shall any person play or engage in model airplane flying, radio controlled or non-radio controlled model powerboat operation or the use of any other power driven or noise producing hobby or recreational device, driving of golf balls, archery, hardball or any similar games of a hazardous nature, except at such places and times as shall be specifically established by the City Manager.

(b) ***Damages.*** No person shall cut, break, injure, deface, or disturb any plant, rock, building, monument, fence, bench, or other structure, apparatus, or property; or to pluck, pull up, cut, take or remove any wood, shrub, grass, plant or flower; or to mark or write upon any building, monument, fence, bench, or other structure; or to carry any flowers, shrubs, or branches into or through the park. Nor shall any person willfully tamper with, or damage any water or gas pipe, valve, hydrant, stopcock, sewer, basin, fixture, electrical equipment, or other construction in any park.

(c) ***Rubbish.*** No person shall throw, leave, place, deposit or dispose of any garbage, refuse, wastepaper, bottles, or cans in any place in a park other than into a garbage can or receptacle maintained therein for that purpose. Nor shall any person place any household garbage in any trash receptacle within a park. No person shall remove any garbage, refuse, wastepaper, bottles, cans or aluminum from any City receptacle without a permit issued by the City Manager.

(d) ***Glass Containers.*** No person shall possess any beverage container made of glass in any park or playground or to bring, carry, or transport any beverage container made of glass into any park or playground.

(e) ***Notices.*** No person shall distribute any handbills or circulars, or to post, place or erect any bill, notice, paper, or advertising device or matter of any kind without the written permission of the City Manager.

(f) ***Events.*** No person shall sell or offer for sale any merchandise, article or thing whatsoever, or conduct any class, special event, tournament, whether or not for profit, or locate any inflatable party jumpers or portable event structures in any park, without a permit issued by the City Manager. The vendor or person conducting a class, event or tournament shall have the permit in possession in the park at all times that vendor or person is within a park for the purpose of such sale or activity.

(g) ***Sales.*** The City Manager may permit vending in certain areas of parks. The City Manager shall not grant permission to vend unless the vendor agrees in writing to pay the City vendor fee, as established by resolution of the City Council of Directors. The City Manager may revoke any license or authorization for such sale or event upon failure of the vendor or person conducting the event to pay the required vendor fee.

(h) ***Fires Prohibited.*** No person shall ignite or permit to be ignited, or maintained or permit to be maintained, a fire in any location in a park except in a designated campfire site, barbecue pit, fireplace or cooking area provided by the City for the purpose of maintaining a fire, except as permitted in writing by the City Manager.

(i) ***Animals.*** No person shall bring into a park any animal other than dogs or cats except as hereafter specifically provided or as otherwise permitted by the City Manager. Persons in charge of dogs and cats are responsible for the immediate removal and proper disposal of all dog or cat waste.

(j) ***Dogs.*** Dogs shall be licensed. No person may bring and maintain in any park more than two (2) dogs except with the written permission of the City Manager and the dog(s) shall be kept on a leash or chain not to exceed six (6) feet in length, and under the immediate control of its owner or custodian. Dogs are not permitted on golf courses. Upon the posting of signs, the City Manager may designate areas in which dogs are prohibited and may designate areas in which dogs are permitted without a leash or chain.

(k) ***Nature Preserves and Trails.*** No person shall bring any animal within or upon any area designated as a nature preserve or nature trail. Unless otherwise posted dogs are permitted on equestrian trails, bicycle and hiking trails. Horses are permitted on marked equestrian trails provided that they are under the immediate and reasonable control of the rider.

(l) Subsections (j) through (l) inclusive of this Section shall not apply to “seeing eye” and “guide” dogs, provided that such dogs shall remain under the immediate control of the person the dog is assisting.

(m) ***Grazing.*** A person shall not permit any cattle, horses, goats, sheep, swine, or any other domestic animal to graze in any park, except on property designated for such purpose.

(n) ***Protection of Animals.*** No person shall molest, hurt, disturb, injure, trap, take, net, poison, harm or kill any kind of animal or fish, or so attempt, except that fish or frogs may be taken other than for commercial purposes in accordance with the State fishing laws and regulations. The foregoing provision shall not apply to persons employed by the City, the State, or by the United States to destroy predatory animals or birds or beasts as defined in the Food and Agricultural Code when acting in the course of their employment. The foregoing provision shall not apply to park employees taking natural specimens under the direction of the City Manager.

(o) ***Washing and Repairing Vehicles.*** No person shall engage in the washing, cleaning, polishing, repairing, renovating, changing fluids, or painting of any motor vehicle, trailer, or other wheeled conveyance or bicycle within a park.

(p) ***Washing.*** No person shall place in any park waters any edible matter, dish or utensil or wash or cleanse in any park waters any such edible matter, dish, or utensil or commit any nuisance in or near such waters or pollute any park waters or bathe in park waters except as permitted in Section 2-4-201.

(q) ***Hours.*** It shall be unlawful for any person to enter, remain, or loiter within the limits of any park owned by the City between one (1) hour after sundown and one (1) hour before sunrise the next day. The time provisions hereof shall not apply to community centers or those places in each park designated as lighted recreation areas, such as tennis courts and ball fields. However, in no event shall any person remain in any lighted recreation area in such park after 10:00 p.m., nor enter such park before 6:00 a.m., unless permission is received from the City Manager. The provisions hereof shall not apply to the entry upon park property in the course of duty of any peace officer or other duly authorized public employee.

(r) **Camping.** No person shall camp in any part of the park system except in areas designated for that purpose by the City Manager. “Camping” is defined as erecting a tent or shelter or arranging bedding, or both, for the purpose of, in such a way as will permit remaining overnight. Use of houseboats or boats, or both, or any of them for the purpose of sleeping, during the nighttime hour, whether anchored, moored, or beached, is also defined as camping. Use of any parked or standing vehicle for the purpose of sleeping during nighttime hours is also defined as camping.

(s) **Skate Boards and Roller Skates.** No person shall use a skateboard or roller skates in any park, except within a designated facility provided for that purpose, without prior approval by the City Manager.

(t) **Weapons.** Except as otherwise authorized by law, no person shall use, maintain, possess, or discharge any firearm, air gun, spring gun, bow and arrow, sling shot or any other weapon potentially hazardous to wildlife or human safety within the boundaries of any park or within two hundred (200) feet thereof. It shall be unlawful to shoot any of the aforementioned weapons into or across the park. The foregoing provisions shall not apply to persons employed by the City, any city, the State or by the United States to destroy predatory animals or birds or beasts as defined in the Food and Agricultural Code when acting in the course of their employment. Persons permitted to possess firearms, other than peace officers in the course of their employment, must register all firearms and other weapons with the City, identifying type, number, and amount of ammunition and location of weapon storage while within the park.

2-4-201 Aquatic Use of Park.

Swimming and bathing are prohibited except in those areas designated by the City Manager.

The City Manager shall adopt water safety rules regulating swimming and bathing areas. This Section does not apply to waters subject to the provisions of the California Harbors and Navigation Code.

2-4-202 Riding and Hiking Trails.

(a) No person shall operate any motor vehicle on or over any riding or hiking trail or any designated service road, except with the permission of the City Manager, or in case of emergency.

2-4-203 Park Closure and Establishment of Prohibited Areas.

(a) A park or facility may be closed to public entry or may be vacated whenever a menace to the public health or safety is created by a calamity such as flood, storm, fire, earthquake, explosion, accident or other disaster, or when, in the opinion of the City employees charged with the protection and safety of the public, a hazardous condition exists. Authority for such action rests with the City Manager, any duly appointed Peace Officer, or any designated uniformed City employee.

(b) The City Manager may from time to time establish prohibited or limited areas to avoid interference in development, construction and management, or provide for security, safeguarding or preservation of property within the park system. The City Manager shall declare an area prohibited or limited by written order, specifying the period thereof. The order may include such classes of persons who may enter therein and the conduct of such proper activities

or official duties as the City Manager may prescribe. The order may also limit the number of persons in an area. The City Manager may deny use of park facilities to anyone who violated park ordinances, rules and regulations.

(c) Any unauthorized person who willfully and knowingly enters an area closed, prohibited or limited pursuant to subsections (a) or (b) or who willfully remains within such area after receiving notice to evacuate or leave shall be guilty of a misdemeanor.

2-4-204 Alcoholic Beverages Prohibited- Exception.

No person shall consume in any park any malt, spirituous or vinous liquor having an alcoholic content in excess of one (1) percent by volume, except as authorized by permit issued by the City Manager. The City Manager may not issue a permit without proof of any license or permit as required by the Alcoholic Beverage Control Act.

2-4-205 Entry of Creeks and Rivers.

Upon posting signs, the City Manager may prohibit entrance to creeks and rivers.

2-4-206 Public Access to Mountain House Creek.

All public access to Mountain House Creek is restricted to City of Mountain House designated trails. It shall be a violation of this Chapter for any person to deviate from the designated trails and enter into City property in or around Mountain House Creek. City of Mountain House officials shall issue citations to any noncomplying party for violation of this Section, and all other remedies including trespass or any other relevant violation.

The following rules and regulations shall apply to the Temporary Dog Park (“Dog Park”) located at Assessor Parcel Number 209-16-23 unless otherwise stated.

(a) The Dog Park hours shall be from sunrise to sunset, seven (7) days per week, except those times needed for closure due to maintenance and repairs.

(b) Dogs must be leashed when entering and exiting the Dog Park. Dogs must remain leashed at all times while outside of the fenced areas, and are not permitted to be off leash in the parking lot. Leashes must be in the hand of the Owner/Handler at all times while dogs are outside of the fenced areas.

(c) Each Owner/Handler is legally responsible for his or her dog(s). The Mountain House Community Services District and those operating the Dog Park assume no responsibility for any injuries to humans or animals that occur in or around the Dog Park.

(d) Dogs using the “small dog area” of the Dog Park must weigh less the twenty-five (25) pounds.

(e) Dogs using the Dog Park must have a current dog license from their area of residence (City or County) and must have a current rabies vaccine. Owners/Handlers may be asked to produce license and vaccine documentation upon request by the Mountain House Community Services District officials and those operating the Dog Park. Dogs without licenses and/or rabies vaccine records shall be required to leave the Dog Park until such documentation can be produced.

(f) Each Owner/Handler is responsible for the supervision of his or her dog(s) at all times. All Owners/Handlers must maintain control of their dog(s) at all times.

(g) Dogs displaying aggressive or anti-social behavior are prohibited in the Dog Park and will be required to leave the Dog Park. Female dogs in heat are not allowed in the Dog Park.

- (h) Owners/Handlers are responsible for cleaning up dog feces.
- (i) No children under the age of sixteen (16) are permitted in the Dog Park unless accompanied by an adult.
- (j) Glass containers are not allowed in the Dog Park.
- (k) Spike collars are prohibited due to the risk of injury to other animals and people.
- (l) Food of any kind, including human food, is prohibited within the Dog Park fenced area with the exception of small, bite sized dog training treats.
- (m) Dog owners must promptly fill any holes dug by their dog.
- (n) Failure to abide by these Dog Park rules may result in loss of park privileges.

SECTION 20. CHAPTER 3. FEES AND PERMITS

2-4-300 Fees and Permits.

(a) The City Council may adopt a schedule of fees for the use of parks. The City Manager may deny a permit on the basis that the applicant does not meet the requirements of the rules and regulations, or past performance indicated noncompliance with park rules and regulations, or on the basis that the proposed use is injurious to the public safety, peace, and enjoyment of the park. An applicant for a permit may appeal the denial thereof to the City Council. The determination by the City Council shall be final. When such fee schedule or permits are adopted, it shall be unlawful to be in a park except by payment of the fee or in accordance with the required permit.

(b) The City Manager shall not issue a permit until proof of any required insurance is provided that is consistent with City Council ordinances, rules, and policy. The insurance shall name the City, its officers, agents and employees as additional insured, be primary coverage and indemnify the City, its officers, agents and employees for any and all losses including, but not by way of limitation, attorney's fees and legal cost that the City, its officers, agents and employees may suffer by use of the permit.

(c) The City Manager may issue permits reserving the exclusive use of a portion of a City park for a specific date and time period. It shall be a violation of this Ordinance for any person to interfere with the permit holder's exclusive use of a park as set forth in the permit, including, but not limited to, refusing to relinquish use or occupancy of the reserved premises. Any person who violates this Section shall be subject to the punishment and enforcement provisions of Section 2-4-104 and Division 2 of Title 1 of this Ordinance Code.