

**ORDINANCE NO. 2020-1055**

**AN ORDINANCE OF THE CITY OF CERES ADOPTING COMPREHENSIVE REVISIONS TO TITLE 6, HEALTH AND SANITATION OF THE CERES MUNICIPAL CODE**

**WHEREAS**, the Municipal Code of the City of Ceres (the “Code”) contains the ordinances of the City Council of the City of Ceres (“City”); and

**WHEREAS**, since adoption of the first ordinance in 1918, the Code has not been subject to a comprehensive update. Accordingly, the Code contains many provisions dating back to the early 20<sup>th</sup> century; and

**WHEREAS**, many portions of the Code are unnecessary, antiquated, or incongruous with today’s laws and norms and do not reflect significant updates in state law and the City’s practices, policies, and procedures; and

**WHEREAS**, City staff and the Ceres City Council (“City Council”) have worked carefully with the City Attorney’s office to modernize and prepare significant revisions to the Code; and

**WHEREAS**, in the interests of clarity and accessibility, the City Council wishes to adopt this ordinance superseding the entirety of Title 6, Health and Sanitation.

**NOW, THEREFORE, THE PEOPLE OF THE CITY OF CERES ORDAIN:**

**SECTION 1.** Title 6, Health and Sanitation, of the City of Ceres Municipal Code shall be amended to read as follows: See Attached (Exhibit A).

**SECTION 2.** The City Council authorizes the City Manager and the City Attorney to make any and all necessary edits and changes to the revised titles, including but not limited to, formatting, numbering, and related revisions, that do not change the substance of any section, to effectuate the adoption of Title 6, Health and Sanitation.

**SECTION 3.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional, without regard to whether any portion of the Ordinance would be subsequently declared invalid

or unconstitutional.

**SECTION 4.** This Ordinance shall become effective on March 1, 2020, after its final passage and adoption, and publication of the Ordinance shall occur in a newspaper of general circulation at least fifteen (15) days prior to its effective date, or a summary of the Ordinance published in a newspaper of general circulation at least five (5) days prior to adoption and again at least fifteen (15) days prior to its effective date.

**Passed, Approved, and Adopted** on January 27, 2020.

AYES:	Council Members:	Condit, Durossette, Ryno, Kline, Mayor Vierra
NOES:	Council Members:	None
ABSENT:	Council Members:	None

APPROVED:



Chris Vierra  
Mayor of the City of Ceres

ATTEST:



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Diane Nayares-Perez, CMC  
City Clerk of the City of Ceres

**Title 6**

**HEALTH AND SANITATION**

**Chapters:**

- 6.01 Garbage**
- 6.02 Regulation of Restaurants**
- 6.03 Smoking Pollution Control**
- 6.04 Disposal of Pharmaceutical Controlled Substances**
- 6.05 Weed Abatement**
- 6.06 Vacant and Boarded Buildings**

## Chapter 01

### Sections:

- 6.01.010**     **Definitions.**
- 6.01.020**     **Receptacle Requirements.**
- 6.01.030**     **Maintenance of Receptacle—Containment of Municipal Solid Waste.**
- 6.01.040**     **Collection Contract.**
- 6.01.050**     **Collection Schedule.**
- 6.01.060**     **Collection Charge—Vacant Premises.**
- 6.01.070**     **Mandatory Consent to Collection and Disposal of Municipal Solid Waste.**
- 6.01.080**     **Transportation Without Contract Prohibited—Exception.**
- 6.01.090**     **Common Billing for Municipal Services—Payment—Notice and Termination of Service.**
- 6.01.100**     **Enforcement of Provisions.**
- 6.01.110**     **Chapter Not Exclusive.**
- 6.01.120**     **Deposit Required.**
- 6.01.130**     **Recycling.**
- 6.01.140**     **Unauthorized Entry into Waste Containers.**
- 6.01.150**     **Violations—Penalties.**

### **6.01.010**     **Definitions.**

A. “Authorized recycling agent” means a person or entity that a local governing body, commercial or private entity designates, authorizes, or contracts with to collect its recyclable materials. An authorized recycling agent may be a municipal collection service, private refuse hauler, private recycling enterprise, or private nonprofit corporation or association.

B. “Designated collection location” means a place where an authorized recycling agent has contracted with either the local governing body, commercial, or a private entity to pick up the segregated, recyclable material. This location will customarily be the curbside in single-family residential developments and would be trash enclosures for commercial and industrial developments.

C. "Garbage" means all classes of kitchen and table waste, house waste, offal, swill, and also every accumulation of animal or vegetable matter that attends the preparation, consumption, decay, dealing in or storage of meats, fish, fowl, fruit or vegetables, and other noxious and unwholesome substances, including meat, fish, fowl, fruit or vegetables.

D. “Recyclable materials” means reusable waste materials including, but not limited to, various types of plastic, metal, glass, aluminum, packaging, textiles, paper, books, magazines, boxes, wrappers, green waste and such materials as listed by the Public Works Director as recyclable materials that are to be collected, separated, or processed and used as raw materials, which materials have an economic value in the secondary materials market.

E. "Refuse" means broken crockery, broken or discarded bottles, broken glass, tin vessels, tin cans, tin containers, pasteboard boxes, berry, fruit or other boxes, barrels or containers, paper, rags, straw, feathers, sawdust, packing material, shavings, dirt and noncombustible waste, ashes, cinders, manure and any and all other materials which cannot be defined as garbage, but which are rejected, abandoned or discharged by the owners or producers thereof as useless or no longer desired by the owners or producers. "Refuse" also includes leaves, trimmings from lawns, trees or shrubbery, or rubbish or waste matter produced by the tearing down, alteration or construction of buildings, or discarded metal or other mineral substances from garages, auto wrecking establishments or factories.

F. "Hazardous waste" means those wastes resulting from products purchased by the general public for use which, because of the quantity, concentration, or physical, chemical or infectious characteristics, may pose a substantial known or potential hazard to human health or the environment when improperly treated, disposed or otherwise managed. It shall be unlawful for any person to deposit for collection in any receptacle(s) provided pursuant to this Chapter any item of "hazardous waste" as defined herein.

G. "Municipal solid waste" means garbage, refuse and recyclable materials as defined in this Chapter.

H. "Arranger" or "transporter" means the company or agency that collects and transports the municipal solid waste from the wastewheeler or bin to the disposal site.

I. "Premises" means a parcel with one or more buildings thereon.

J. "Waste container(s)" means any and all containers defined or identified in this Chapter, including, but not limited to: automated collection container, commercial/industrial recycling bin or dumpster enclosure, detachable container, drop box container, recycling container and standard container, vending-machine-type recycling receptacle, and waste wheeler.

#### **6.01.020 Receptacle Requirements.**

The receptacle requirements for the containment of municipal solid waste shall be as follows:

A. Owners or residents of single-family residential dwellings, duplexes, triplexes, or apartment houses of four (4) units or less shall maintain upon their premises at least one wastewheeler and one recycling container per residential unit of a type and size provided by the arranger/transporter and approved by the Public Works Director. The number and size of the wastewheelers and/or bins and recycling containers shall be sufficient to contain all municipal solid waste generated.

B. Owners of apartment houses of more than four (4) units, hotels, restaurants, boarding houses, mobile home parks, hospitals, convalescent hospitals and all other businesses, industrial or commercial uses shall maintain upon their premises a sufficient number of wastewheelers and/or bins and recycling containers to contain all municipal solid waste generated upon the premises

between (may be more than once a week) collections made by the arranger/transporter. The arranger/transport, with the approval of the Public Works Director, shall determine the number, type and size of the receptacle(s) required.

C. Should the City determine that the owners or occupants of any premises within the City are generating, between regular collection periods, more municipal solid waste than can be contained in the type of receptacle(s) being provided to the premises, the City may require that the owners or occupants provide additional or larger receptacles of a type and size determined by the arranger/transporter and the City, and pay for the additional cost of collection for such receptacles in accordance with the rates established by resolution of the City Council.

**6.01.030 Maintenance of Receptacle—Containment of Municipal Solid Waste.**

A. It is unlawful for any person occupying or maintaining any premises within the City where municipal solid waste is created, produced or accumulated, to fail to or neglect to maintain upon their premises the receptacle(s) required pursuant to this Chapter and to deposit and contain within said receptacle(s) all municipal solid waste accumulated by activity upon the premises between the times for the regular collection of municipal solid waste.

B. It shall be the responsibility of each owner or occupant to keep and maintain the receptacle(s) provided to the premises in a reasonably clean and sanitary condition with the lid closed and not overflowing

C. Wastewheelers and recycle containers shall be placed in the street immediately adjacent to the curb for collection in accordance with Section 6.01.050, subdivision (B). At all other times, wastewheelers and recycle containers shall be kept and maintained at a location upon the premises on the side yard of the house outside of the front yard setback adjacent to the house. Wastewheelers are not permitted to be stored in the driveway, in front of the garage or in front of the house.

D. All bins provided by the arranger/transporter shall be kept and maintained upon the premises in such areas and structures as required by the applicable zoning ordinances of the City.

E. With the exception of the annual leaf and limb pickup, all municipal solid waste must be placed in the appropriate receptacle(s) as provided herein.

F. At the time of collection, wastewheelers may not contain more than two hundred (200) pounds of municipal solid waste, so that it may be collected by the automated equipment provided by the arranger/transporter. All municipal solid waste which is delivered for collection contrary to any of the provisions of this Chapter shall be deemed to be a "nonconforming collection" and will not be collected unless separate arrangements have been made with the arranger/transporter. Payment for such special collections will be the responsibility of the owner, renter, developer, or proprietor requesting such service.

**6.01.040 Collection Contract.**

A. The City may enter into a contract for the collection, transportation, and disposal of municipal

solid waste in the City for a period of time to be determined by the City Council. The contract shall be subject to the terms and conditions of this Chapter and such other terms and conditions as may be approved by the City Council. Such contract shall provide that the arranger/transporter shall and will collect, transport and dispose of all municipal solid waste accumulated in the City during the term of the contract and in the manner provided for in this Chapter and shall not charge an amount in excess of the rates specified by City Council resolution. The vehicle in which municipal solid waste is transported through the City streets shall be of a design satisfactory to the City Council.

B. The City Council may in its discretion elect to negotiate a contract for the collection, transportation, and disposal of municipal solid waste in the City with such persons or firms as it may deem desirable. The City Council shall not be required to call for bids on the contract.

**6.01.050 Collection Schedule.**

A. All municipal solid waste accumulated at any private dwelling or residence, hotels, mobile home courts, restaurants, boarding houses, apartment houses or other businesses, shall be removed by the arranger/transporter at least once each week, or more often if determined necessary by the City or Stanislaus County Department of Environmental Resources for health or safety reasons. Recycling may be collected every other week or as approved by City Council. The owner, renter, developer, or proprietor shall be responsible for paying the costs of the additional collection. The City shall have the right to add such cost to the utility bill.

B. Wastewheelers and recycle containers shall not be placed in the City right of way prior to six o'clock (6:00) P.M. on the day before collection and shall be removed by six o'clock (6:00) A.M. following the day of collection. If the collection day is the day before or the day after a weekend and/or holiday, the wastewheeler and recycle containers may remain in the City right-of-way for that weekend and/or holiday.

C. During the leaf and limb program, leaves and limbs may be placed in the City right-of-way as long as they do not present a traffic hazard and do not obstruct stormwater flow.

D. Within the constraints given herein, it is the resident's responsibility to have the municipal solid waste containers in the right-of-way prior to collection. Neither the City nor the arranger/transporter has any responsibility to return to pick up municipal solid waste which is not available at the time the collection vehicle arrives.

**6.01.060 Collection Charge—Vacant Premises.**

The rates, fees and charges for the collection of municipal solid waste shall be set by resolution of the City Council. No persons shall be entitled to any reduction during the time that any premises are unoccupied for any period of time less than a full calendar month. If any premises are to remain unoccupied for one or more full calendar months and no municipal solid waste accumulates therein during such vacancy, no charge shall be made during that time, provided the City is notified in writing of such contemplated vacancy on or before the last day of the preceding month.

**6.01.070 Mandatory Consent to Collection and Disposal of Municipal Solid Waste.**

Except as provided in Section 6.01.080, every owner, tenant, and occupant of any premises within the City shall be required to consent to the collection of municipal solid waste from their premises; and each said person shall pay the monthly charges for said service regardless of the amount of municipal solid waste generated by the use of said premises, except as provided in Section 6.01.060.

**6.01.080 Transportation Without Contract Prohibited—Exception.**

It is unlawful for any person to remove, transport or convey or cause or permit to be removed, transported or conveyed, any garbage or refuse upon or along any street, alley or other public place within the City, unless such person is an employee or agent of the City or is a person, firm or corporation having a valid permit or contract with the City for the collection and disposal of garbage or refuse within the City or is the agent or employee of such person, firm, or corporation having such permit or contract. When the reasonable garbage or refuse needs of a particular individual or firm cannot be met by the current City municipal solid waste franchisee, then upon application being made to the Public Works Director of the City and approval by the Public Works Director for the City and the current City municipal solid waste franchisee, such persons or entities shall be permitted to transport garbage or refuse along the public streets within the City subject to such restrictions and conditions as may be imposed by the Public Works Director of the City. If such exception is granted, the applicant will be required to maintain the minimum collection service by the current City municipal solid waste franchisee. The amount of the minimum collection service and the fee to be charged therefor shall be determined by the franchisee and the Public Works Director of the City. This section does not apply to landscape maintenance contractors hauling trimmings from their work site.

**6.01.090 Common Billing for Municipal Services—Payment—Notice and Termination of Service.**

A. The furnishing of water and sewer service, and the collection and disposal of municipal solid waste, as provided in this Code, shall constitute municipal services and shall be charged as such. Each consumer of municipal services shall receive a common bill for water, sewer and municipal solid waste, which bill shall designate the amount charged for each such municipal service.

B. Bills for municipal services shall be issued on a basis determined by the City Council. The bills shall be due and payable upon presentation, and if not paid shall become delinquent on the sixth day shall become delinquent on the sixth (6th) day of the month following the month in which they are billed. A penalty of ten percent (10%) of the amount of the bill shall be added and the service shall be subject to termination as provided in this Section.

C. 1. If all or a part of the bill for municipal services is not paid, the City may terminate any and all service for which the bill is rendered, provided notice and opportunity to present objections to the bill is first given as provided in this subsection.

2. Prior to the termination of water, sewer or municipal solid waste services for the nonpayment of all or part of any bill for municipal services, the Finance Director shall cause a notice to be mailed to the user at his or her last known address. The notice shall



state the amount of the delinquent account and shall advise the user that services will be terminated within fifteen (15) days from the date of the notice unless the account is paid in full by that date. The notice shall further provide that the user may request a hearing before the Finance Director to present any objections to the bill, provided the hearing is requested in writing and presented to the Finance Director with the fifteen (15) day period required by the notice. If a request for hearing is presented in the manner and within the time required by the notice, service shall not be terminated until the hearing has been held and a determination has been made by the Finance Director.

Immediately upon the receipt of a request for hearing, the Finance Director shall set a date and time for the hearing and shall notify the user of the date and time of hearing either personally or by mail at the last known address. The hearing shall be set not less than five (5) days and not more ten (10) days from the receipt of the written request for hearing. At the hearing the user shall be afforded an opportunity to present any objections to the bill or the termination of service. At the conclusion of the hearing, the Director of Finance shall rule on the objections, make any corrections to the bill that are warranted, and determine if service should be terminated. If the Director of Finance determines that the objections are without merit and that the bill is correct, services shall be terminated within twenty-four (24) hours of the ruling. If the Finance Director determines that the bill is incorrect, the user shall be advised of the correct amount of the bill, and if the adjusted bill is not paid within twenty-four (24) hours, service shall be terminated.

If services are terminated, they shall not be resumed until all delinquent charges are paid plus a reasonable service charge for reconnection of service, which shall be set from time to time by resolution of the City Council.

D. The procedure for terminating utility services for nonpayment as provided in this Section shall not apply to the termination of water service of residential customers. Instead, the procedure as specified in Title 13 shall be followed. However, the procedure as specified in this Section shall continue to apply to commercial users of water service.

E. Owner Responsibility—Lien: Unpaid fees for municipal solid waste services shall be a charge against the owner of the property if the services are in the name of the owner, and a lien against the property for which the services were rendered. Such charge may be added to and collected with the tax charges or assessments for the current year, and the property may be sold in the same manner as sale of property pursuant to the laws of the State.

F. Alternative Connection: In lieu of filing a lien on the property of owner-occupied residences and for all other customers receiving municipal services, the City may hire a collection agency to secure payment of the bill and any applicable charges.

G. Service shall not be terminated unless the amount, including service charges and penalties, exceeds the amount set by City Council resolution.

H. Partial Month: When garbage service is commenced or terminated at anytime between the

beginning and the ending of the monthly billing period, the amount charged for that month shall be prorated on a daily basis from the date of commencement or termination of service as is appropriate.

**6.01.100 Enforcement of Provisions.**

To facilitate the enforcement of this Chapter and to carry out the true intent and purpose hereof, it is lawful for an employee of Stanislaus Department of Environmental Resources, Fire Chief, Police Chief, Code Enforcement Officer, or any authorized designee of such person to do the following:

A. Right of Entry; Search of Premises: Upon presentation of proper credentials to enter the portions of any hotel, restaurant, or commercial premises which are open to the public for the purpose of ascertaining the sanitary condition thereof and the removal of unlawful or dangerous accumulations of municipal solid waste therein or thereon;

B. Abatement Warrants: To secure search warrants for the search of all other portions of public or commercial premises as well as of private residences for the purpose of ascertaining the sanitary conditions thereof or removing unlawful or dangerous accumulations of municipal solid waste therein or thereon, or of determining whether there has been any violation of this Chapter.

The Fire Chief, Police Chief, Code Enforcement Officer, or peace officers and the employees of Stanislaus County Department of Environmental Resources are authorized and directed to enforce the provisions of this Chapter, and any person denying or obstructing such entry or inspection shall be guilty of a misdemeanor and, upon conviction, subject to the punishment herein provided.

C. Notice of Violation:

1. Should the City determine that any utility customer, or person using the utilities with the consent of the customer, has violated the provisions of Section 6.01.030, subdivisions (C) or (D), or Section 6.01.050, subdivision (B), the utility customer shall be served, either personally, by mail, or by posting at the residence or business premises of the customer, a courtesy notice of violation (warning) stating the acts or conduct which constitutes the violation. The second such notice of violation shall notify the customer of the penalty fees assessed for further violations.

2. Should a utility customer, or person using the utilities with the consent of the customer, violate the provisions of Section 6.01.030, subdivisions (C) or (D), or Section 6.01.050, subdivision (B), after being served with the second notice of ordinance violation, then such utility customer shall be served with a notice of violation including the fees for violation of said ordinance provisions. Said notice shall:

- a. Identify the date, time, and circumstances of the violation.
- b. State the amount of the fee to be imposed.

c. The notice of intention to impose a fee for violation of said ordinance provisions shall be served in the same manner as the notice of ordinance violation as provided in Section 6.01.100, subdivision (C)(1).

3. A utility customer shall have the right to appeal in accordance with the appeals process in Title 1.

The utility customer must request an appeal hearing, in writing, within ten (10) days from the date of service of the notice of ordinance violation; or in the case of the imposition of a penalty fee, within fifteen (15) days of the service of the notice of intention to impose a penalty fee. The request for hearing shall be addressed to the City Manager and shall be deemed served only when received by the City. Failure to properly serve the request for hearing within the fifteen (15) day period shall be deemed a waiver of the right to appeal the matter, and the penalty fee will be assessed against the customer's utility account.

The hearing officer or City shall give written notice by mail to the utility customer of the date and time of the appeal hearing, which hearing shall be held not sooner than ten (10) days from the receipt of the request for hearing and not longer than thirty (30) days. With the consent of the appellant, the appeal hearing may be conducted by telephone. The decision of the hearing officer shall be final. If the violation is upheld, the penalty fee shall be assessed to the customer's utility account.

4. Failure of any utility customer to pay the penalty fees imposed as provided herein shall be grounds to discontinue utilities until compliance is obtained.

5. The City Council does hereby designate the Code Enforcement Officer or others as designated by the City Manager, as the persons authorized to investigate violations and to serve any notices required by the provisions of this subsection C.

**6.01.110 Chapter Not Exclusive.**

This Chapter shall not be held to repeal any other health ordinances forbidding the accumulation of municipal solid waste or inflammable matters within the City.

**6.01.120 Deposit Required.**

An advance deposit shall be paid as required pursuant to Title 13. The provisions of that Section are hereby incorporated by reference.

**6.01.130 Recycling.**

A. Intent: The intent of this Section is to provide the authorized recycling agent the right to collect materials for which it has contracted, and provide some regulations against the collection of recyclable material by unauthorized persons. The curbside location in residential developments and trash enclosures in commercial/industrial developments is restricted to the City's authorized recycling agent. The intent is not to restrict competition for recyclable materials between the various authorized recycling agents. It is also not the intent of this Section to prevent

individuals, and/or companies and corporations from delivering recyclable materials to dealers directly or contracting with such recycling agents for the collection of these materials at the owner's locations.

**B. Unauthorized Collection of Recyclable Materials:**

1. No persons, other than the City-authorized recycling or collection agents, or persons having a contract for collection with the owner, shall remove recyclable materials, from residential refuse or recycling waste containers including, but not limited to, waste wheelers, recycle bins, or in commercial/industrial development recyclable materials from any trash enclosure or recycle bin, which have been placed at a designated collection location for the purposes of collection and recycling.
2. Unless otherwise provided by contract, recyclable materials which have been placed inside refuse or recyclable waste containers and placed at the designated collection location, may not be removed from said containers by anyone other than the collection agent authorized by the local governing body, or by the commercial or private entity having control of said containers.

**C. Additional Methods of Disposal:** Any person may donate or sell recyclable materials to any other person whether operating for profit or not-for-profit.

**6.01.140 Unauthorized Entry into Waste Containers.**

The following provisions shall apply for the purposes of regulating the unauthorized entry into waste containers:

**A. Unlawful Search and Entry.**

1. Except as provided in subdivision A.2., it shall be unlawful for any person, to open, rummage, explore, tamper with, move, remove, tip, deface, destroy, scavenge or otherwise search a waste container or the contents thereof.
2. The following persons are excluded from the application of subdivision A.1.:
  - a. The owner of the waste container or someone acting with the consent of the owner.
  - b. Any authorized City, County, State, or Federal personnel in the performance of their duties.
  - c. Employees of the solid waste company that owns the waste container in performance of their duties.

**B. Public Nuisance.**

1. Rummaging, exploring, scavenging, or otherwise searching a waste container is a

violation of the provisions of this Chapter and is hereby declared a public nuisance.

**6.01.150 Violations—Penalties.**

A. Any person who violates any of the provisions of this Chapter shall be guilty of a misdemeanor. In addition, Code Enforcement Officer(s) may elect to seek punishment as an infraction or issue an Administrative Citation as authorized by Title 19 of the Ceres Municipal Code.

B. Any person that continues in violation of this Chapter shall be guilty of a separate and distinct offense for each and every violation.

## Chapter 02

### REGULATION OF RESTAURANTS

**Sections:**

- 6.02.010**      **Definitions.**
- 6.02.020**      **Required Permit Posting.**
- 6.02.030**      **Permit Application.**
- 6.02.040**      **Investigation of Premises.**
- 6.02.050**      **Permit Term.**
- 6.02.060**      **Revocation of Permit.**
- 6.02.070**      **Applicable Law and Regulations.**
- 6.02.080**      **Administration.**
- 6.02.090**      **Liability.**

**6.02.010**      **Definitions.**

Whenever used in this Chapter, unless a different meaning clearly appears from the context:

“Food” or “Beverage” includes all articles used for food, drink, confectionery or condiment, whether simple or compound, and all substances and ingredients used in the preparation thereof for human consumption.

“Itinerant restaurant” means any restaurant operating from temporary facilities serving, offering for sale, selling or giving away food or beverage and includes, but is not limited to, a restaurant where only wrapped sandwiches or other wrapped and packaged, ready-to-eat foods are served, and any mobile unit on which food is prepared and served.

“Restaurant” means any coffee shop, cafeteria, short-order cafe, luncheonette, tavern, sandwich stand, soda fountain, itinerant restaurant, vehicle, private and public school cafeteria or eating establishment, inplant or employee eating establishment, whether private or public, organization, club, including veteran's club, boardinghouse, guest house, or political subdivision which gives, sells or offers for sale, food to the public, guests, patrons, members or employees, as well as kitchens in which food is prepared on the premises for service elsewhere, including catering functions.

“Stanislaus County Health Officer” means the designated Health Officer for the City.

“Vehicle” means any vehicle upon which food or beverage is displayed, sold or offered for sale, or given away.

**6.02.020**      **Required Permit Posting.**

It is declared unlawful for any person to engage in the business of conducting a restaurant within the City without first having obtained, and thereafter keeping posted in a conspicuous place on

the premises for which it is issued, an unexpired permit to conduct such business, as provided in this Chapter.

**6.02.030 Permit Application.**

Any person desiring a permit to conduct a restaurant in the City shall file with the Health Officer, or his authorized representative, an application in writing requesting that a permit be issued to the person therein named. Plans for any new restaurant construction and remodeling shall be submitted to the Health Officer, or his authorized representative, for approval. Such application shall be upon a form supplied by the Health Officer, and shall state that if the permit be granted, the applicant shall conform to and comply with all requirements of this Chapter.

**6.02.040 Investigation of Premises.**

Immediately upon receipt of an application for a restaurant permit, the Health Officer, or his authorized representative, shall investigate the premises on which it is proposed to conduct the business and determine whether the premises and the equipment used or to be used therein comply with the rules and regulations prescribed by this Chapter, and with the laws of the state of California pertaining to restaurants. If satisfied that the premises and equipment comply with such rules and regulations and laws, he shall issue a permit to the applicant to conduct the business. The permit, when issued, shall be kept posted in a conspicuous place on the premises for which it is issued, and no permit shall be transferable from one person to another.

**6.02.050 Permit Term.**

Each permit issued by the Health Officer for conduct of a restaurant shall expire at the end of twelve (12) calendar months from the date of issuance thereof, or at such time as the person to whom such permit was issued ceases to conduct said restaurant, whichever shall first occur.

**6.02.060 Revocation of Permit.**

Any permit to conduct a restaurant may be revoked by the Health Officer in the event that he shall determine that any of the regulations contained in this Chapter have been violated, whereupon said permit shall be surrendered to the Health Officer. Any person whose permit has been revoked by the Health Officer, as herein provided, may appeal to the City Council by filing a written notice of appeal with the City Clerk within ten (10) days of such act of revocation. At its next regular meeting following the filing of a notice of appeal, the City Council shall fix a time and place for hearing the appeal, and the Clerk shall provide notice of the hearing to the appellant and to the Health Officer. At the hearing, the City Council may receive evidence and inquire into the revocation, and shall have power in its discretion to restore the permit, or affirm the act of the Health Officer in revoking said permit. Any restaurant, the permit for which has been revoked by the Health Officer, shall remain closed pending the hearing of any appeal and decision thereon by the City Council.

**6.02.070 Applicable Law and Regulations.**

Any person operating a restaurant within the City shall be governed by the following regulations. The violation of any of these regulations shall be and constitutes grounds for revocation of the permit to conduct said business within the City.

A. Regulation No. 1, Statutes: Any person operating a restaurant shall meet and comply with all requirements of the "California Restaurant Act" and all other laws of the State of California pertaining to restaurants and the premises on which the same are conducted.

B. Regulation No. 2, Equipment: Any piece of equipment or any fixture in any restaurant which has deteriorated to such an extent as to be no longer satisfactory for use, shall be replaced promptly by equipment deemed satisfactory by the Health Officer.

C. Regulation No. 3, Hood: Each cooking stove, griddle or fat fryer used in connection with the restaurant business must have an approved power-ventilation system. Hoods, where used, must have an area at least twenty-five percent (25%) greater than the area of the stove, griddle or fat fryer, and must lead to a forced-air ventilating flue.

D. Regulation No. 4, Plumbing: Every plumbing fixture must be provided with running water. Plumbing fixtures from which wastes are discharged must be properly trapped, each trap must be effectively vented, and these fixtures must be connected to an approved sewerage system.

E. Regulation No. 5, Health Requirements: No person shall handle or serve food or drink in any restaurant, or sanitize any of the utensils or dishes in any restaurant, for a period of time in excess of thirty (30) days, unless such person shall have in his possession a Stanislaus County Health Department tuberculosis clearance card.

F. Regulation No. 6, First Aid Instructions: At all times during which a restaurant is serving food, instructions on first aid to persons choking on food shall be posted in a conspicuous place.

G. Regulation No. 7, First Aid Training: At all times during which a restaurant is serving food, there shall be on the premises at least one person having in his possession a card issued by the Stanislaus County Health Officer showing that, within two (2) years prior thereto, such person received instruction concerning first aid for persons choking on food.

H. Regulation No. 8, Approved Managers: At all times that food is being served, a restaurant shall have on the premises a manager, or other person in charge, who shall have in his possession a certificate of approval issued by the Health Officer. Certification will require training in basic sanitary food handling practices, knowledge of State laws pertaining to food handling, and management responsibilities. The Health Officer shall establish criteria and be responsible for all instructions pursuant to this requirement.

I. Regulation No. 9, Use of Sanitizing Agents: Each restaurant shall be equipped with equipment to test the effectiveness of the chemical sanitizing agent being used for sanitizing purposes within the restaurant. The manager or other person in charge shall be familiar with the type of chemical in use, its method of application, and test procedures.

**6.02.080 Administration.**

The City Council authorizes and directs that this Chapter shall be administered by the public health division of the Stanislaus County Department of Environmental Health. If the public



health division of the County of Stanislaus shall for any reason refuse or otherwise fail to accept the responsibility of administering the provisions of this Chapter, then the City Council shall by resolution designate a new person or agency to act as administrator.

**6.02.090 Liability.**

The City Manager, or any employee charged with the enforcement of this Code, acting in good faith and without malice for the City in the discharge of his duties, shall not thereby render himself liable personally and they are hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of those duties. Any suit brought against the City Manager or employee, because of such act or omission performed by him in the enforcement of any provisions of this Code, shall be defended by the City until final termination of the proceedings.

## Chapter 03

### SMOKING POLLUTION CONTROL

#### Sections:

- 6.03.010**     **Definitions.**
- 6.03.020**     **Purposes.**
- 6.03.030**     **Smoking in City Facilities.**
- 6.03.040**     **Smoking in Public Places.**
- 6.03.050**     **Smoking in Places of Employment.**
- 6.03.060**     **Employer Smoking Policy; Requirements.**
- 6.03.070**     **Exempt Areas.**
- 6.03.080**     **Declaration of Nonsmoking Establishment.**
- 6.03.090**     **Certification of Compliance.**
- 6.03.100**     **Enforcement.**
- 6.03.110**     **Severability.**
- 6.03.120**     **Violations.**
- 6.03.130**     **Penalties.**
- 6.03.140**     **Retaliation and Discrimination Unlawful.**
- 6.03.150**     **Other Applicable Laws.**

#### **6.03.010**     **Definitions.**

The following words and phrases, whenever used in this Chapter, unless the content indicates otherwise, shall be construed as defined in this Section:

“Business” means any sole proprietorship, partnership, joint venture, corporation, or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.

“City of Ceres” means all properties within the existing Municipal corporate boundaries and any additional territory that may be annexed hereafter.

“Dining area” means any enclosed area containing a counter or tables upon which meals are served.

“Employee” means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a nonprofit entity.

“Employer” means any person, partnership, corporation, including a Municipal corporation, or nonprofit entity, who employs the services of one or more individual persons.

“Enclosed area” means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passageways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, "office landscaping" or similar structures.

“Facilities for the treatment, rehabilitation, or support of persons dependent upon drugs or alcohol” means any "enclosed area," as defined herein, which is used for the purpose of providing treatment, rehabilitation, or support services to persons who suffer from drug or alcohol dependency.

“Members of the general public” means shoppers, customers, patrons, patients, students, clients, and other similar invitees of a commercial enterprise or nonprofit entity; and excludes employees thereof, sales representatives, service repair persons, and persons delivering goods, merchandise, or services to a commercial enterprise, nonprofit entity, or City.

“Nonprofit entity” means any corporation, unincorporated association, or other entity created for charitable, philanthropic, educational, character building, political, social, or other similar purposes, the net proceeds from the operations of which are committed to the promotion of the objects or purposes of the organization and not to private financial gain. A public agency is not a nonprofit entity within the meaning of this Section.

“Person” means any natural person, partnership, corporation, unincorporated association, joint venture, business trust, joint stock company, club or other organization of any kind.

“Public place” means any enclosed area to which the public is invited or in which the public is permitted, including, but not limited to:

1. Banks;
2. Educational facilities;
3. Health facilities;
4. Public transportation facilities;
5. Recreation areas;
6. Restaurants;
7. Retail stores;
8. Retail service establishments;
9. Theaters;

10. Retail food production and marketing establishments; and

11. Waiting rooms.

A private residence is not a "public place."

"Restaurant" means any coffee shop, cafeteria, sandwich stand, private and public school cafeteria and any other eating establishment which gives or offers for sale food to the public, guests or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.

"Service line" means any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

"Smoke" means any vapors, gases, particles, or other by-products released into the air as a result of combustion, electrical ignition, or vaporization when the apparent or usual purpose of the combustion, electrical ignition, or vaporization is human inhalation of the byproducts, except when the combusting, igniting, or vaporizing material both contains no tobacco or nicotine, and the usual purpose of inhalation is solely olfactory. Smoke specifically includes, but is not limited to, gases, particles, vapors, other by-products released by electronic smoking devices, tobacco cigarettes, herbal cigarettes, marijuana cigarettes, marijuana vaporizers, and any other type of cigarette, pipe, or implement for the purpose of inhalation of vapors, gases, particles, or other by-products released as a result of combustion, ignition, or vaporization.

"Smoking" or "to smoke" means inhaling, exhaling, burning or carrying any lighted, heated or ignited cigar, cigarette, cigarillo, pipe, hookah, electronic smoking device or paraphernalia; or engaging in an act that generates smoke; or lighting or igniting a pipe, a hookah pipe, a cigar, or a cigarette of any kind including, but not limited to, an electronic cigarette.

"Sports arena" means sports pavilions, gymnasiums, health spas, boxing arenas, indoor swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition or witness sports events.

"Tobacco store" means any retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

#### **6.03.020 Purposes.**

The City Council of the City hereby finds and declares as follows:

A. The U.S. Environmental Protection Agency (EPA) has determined that tobacco smoke is a major source of indoor air pollution, and the Surgeon General's 1986 report on "The Health Consequences of Involuntary Smoking," concludes that exposure to tobacco smoke places healthy nonsmokers at increased risk for developing lung cancer. Other health hazards of

involuntary smoking include respiratory infection, bronchoconstriction and bronchospasm. While all members of the population are truly at increased risk due to exposure to sidestream tobacco smoke, it constitutes a special health hazard for children, the elderly, and people with chronic lung disorders.

B. The Surgeon General labels smoking "the largest single preventable cause of death and disability for the U.S. population."

C. Secondhand marijuana smoke has been identified as a potential health hazard by the California EPA.

D. Employees subject to prolonged exposure to sidestream smoke in the workplace have been found in scientifically conducted studies to experience a loss of job productivity and some have been forced to take periodic sick leave because of reactions to secondhand smoke. Furthermore, studies have shown higher costs to the employer are associated with smoking in the workplace due to increases in absenteeism, accidents, costs of medical care, loss of productivity and cleaning and maintenance requirements. A recent scientific study has reported that sidestream smoke from tobacco may cause a significant amount of cardiovascular disease in the United States and that the number of deaths from this cause may exceed the deaths caused by lung disease associated with sidestream smoke. Smoking in public places and workplaces is a major cause of fires and damage to merchandise and equipment, as well as costly maintenance and repairs to furniture and fixtures.

E. The health care costs produced by smoking-related ailments and diseases constitute a heavy and avoidable financial drain on our community.

F. Air pollution caused by smoking is an offensive annoyance and irritant. Smoking results in serious and significant physical discomfort to nonsmokers and constitutes a health hazard in public places and workplaces.

**6.03.030 Smoking in City Facilities.**

All enclosed facilities owned or leased by the City, including City vehicles are subject to the provisions of this Chapter.

**6.03.040 Smoking in Public Places.**

Smoking shall be prohibited in the following places:

A. Elevators;

B. Buses, taxicabs, and other means of public transit under the authority of the City, and ticket, boarding and waiting areas of public transit depots;

C. Restrooms;

D. Service lines;

E. Retail stores;

F. All areas available to and customarily used by the general public in all businesses and nonprofit entities patronized by the public, including, but not limited to, professional offices and other offices;

G. Restaurants;

H. Public areas of aquariums, galleries, libraries, and museums open to the public;

I. Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance, except when smoking is part of a stage production;

J. Sports arenas and convention halls;

K. Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of the County, City or any political subdivision of the State during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the City;

L. Waiting rooms, hallways, wards and rooms of health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, dentists' offices, and long-term care facilities;

M. Enclosed common areas in buildings, condominiums facilities and long-term care apartment retirement facilities;

N. Polling places;

O. Enclosed common areas in shopping malls;

P. Barbershops, beauty shops, cleaners, laundromats and other places where members of the general public congregate for service or otherwise frequent;

Q. Notwithstanding any other provision of this Section, any owner, operator, manager or other person who controls any establishment or facility may declare that entire establishment or facility as a nonsmoking establishment; and

R. It shall be unlawful, when children are present to smoke in public parks, playgrounds, near schools and daycare facilities.

**6.03.050 Smoking in Places of Employment.**

It shall be the responsibility of employers to provide a smoke-free workplace for all employees,

but employers are not required to incur any expense to make structural or other physical modifications.

**6.03.060 Employer Smoking Policy; Requirements.**

Each employer having an enclosed place of employment located within the City jurisdiction shall adopt within six (6) months from and after the effective date hereof, implement, make known and maintain a written smoking policy which shall contain the following requirements:

Smoking shall be prohibited in all enclosed facilities within a place of employment. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

A. All new businesses shall be required to comply with the provisions of this Section within sixty (60) days after receiving a business license.

B. The smoking policy shall be communicated to all employees within three (3) weeks of its adoption.

C. All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.

**6.03.070 Exempt Areas.**

Notwithstanding any other provision of this Chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this Chapter:

A. Private residences, except when used as a childcare or healthcare facility.

B. Retail tobacco stores.

C. Hotel and motel rooms rented to guests (provided, however, that each hotel and motel designates not less than 50 percent of their guest rooms as nonsmoking rooms and removes ashtrays from these rooms).

D. Meeting places for events or functions of private clubs which are attended exclusively by members of the organization and their invited guests and from which members of the general public are excluded, provided such places are not places of employment as defined in California Labor Code section 6404.5.

E. Facilities for the treatment, rehabilitation or support of persons dependent upon drugs or alcohol as defined in Section 9.20.020 of this Chapter.

**6.03.080 Declaration of Nonsmoking Establishment.**

Notwithstanding any other provision of this Chapter, any owner, operator, manager or other person who controls any establishment described in this Chapter may declare that entire establishment as a nonsmoking establishment.

**6.03.090 Certification of Compliance.**

The Fire Chief, or his authorized representative, shall require, while an establishment is undergoing otherwise mandated inspections, a "self-certification" from the owner, manager, operator or other person having control of such establishment that all requirements of this Chapter have been complied with.

**6.03.100 Enforcement.**

Enforcement of this Chapter shall be by the Fire Chief, Police Chief, Code Enforcement Officer or other authorized individual. Any person who desires to register a complaint under this Chapter may do so by filing it with the Police Chief or Code Enforcement Office, or City Clerk.

**6.03.110 Severability.**

If any provision of this Chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this Chapter are severable.

**6.03.120 Violations.**

It shall be unlawful:

A. For any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this Chapter to fail to comply with any of its provisions.

B. For any persons to smoke in any area where smoking is prohibited by the provisions of this Chapter.

**6.03.130 Penalties.**

Any person who violates any provision of this Chapter by smoking in a posted no-smoking area or otherwise violates any provision of this Chapter is guilty of an infraction, and upon conviction thereof, shall be punished by a fine of one hundred dollars (\$100.00) for the first offense; two hundred dollars (\$200.00) for the second offense (in the same year); and five hundred dollars (\$500.00) for the third offense and for each violation thereafter (in the same year).

**6.03.140 Retaliation and Discrimination Unlawful.**

No person or employer shall discharge, refuse to hire or in any manner discriminate or retaliate against any employee or applicant for employment because such employee or applicant exercises any right to a smoke-free environment afforded by this Chapter.

**6.03.150 Other Applicable Laws.**

This Chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.



## Chapter 04

### DISPOSAL OF PHARMACEUTICAL CONTROLLED SUBSTANCES

**Sections:**

**6.04.010 Declaration of Purpose.**

**6.04.020 Operation of Prescription Drug Drop Box.**

**6.04.010 Declaration of Purpose.**

Unwanted, unused, or expired pharmaceutical controlled substances and commonly known prescription drugs are a public safety, public health, and environmental hazard because they can fall into the hands of children or criminals, or be introduced to the environment through improper disposal.

Experience has shown that parents, patients, and others in possession of such prescription drugs will take advantage of opportunities for the safe and secure disposal of such prescription drugs. One way in which citizens can be provided an opportunity is to place a secure drop box in the lobby of the Ceres Police Department or any other facility designated by the Chief of Police, for the safe disposal of unwanted, unused, or expired pharmaceutical controlled substances.

The Department of Justice has advised that for the purposes of Federal Regulation of Controlled Substances, the City Council, pursuant to Title 21 Code of Federal Regulation part 1301.24(a)(2) may authorize the Chief of Police and his or her designees to possess pharmaceutical controlled substances in the performance of his or her duties. This Chapter will enable the Chief of Police to operate a prescription drug drop box inside the lobby of the Ceres Police Department or other facilities designated by the Chief of Police, upon Council approval by Resolution.

**6.04.020 Operation of Prescription Drug Drop Box.**

In accordance with the purpose and provisions of Title 21 Code of Federal Regulation part 1301.24(a)(2), the Chief of Police and his or her designee are authorized to possess pharmaceutical controlled substances in the performance of his or her duties.

## Chapter 5

### WEED ABATEMENT

**Sections:**

<b>06.05.010</b>	<b>Public Nuisance.</b>
<b>06.05.020</b>	<b>Procedure.</b>
<b>06.05.030</b>	<b>Definitions.</b>
<b>06.05.040</b>	<b>Duty of Owners of Private Property.</b>
<b>06.05.050</b>	<b>Standards.</b>
<b>06.05.060</b>	<b>Violation.</b>

**06.05.010 Public Nuisance.**

All weeds or other rank growths located upon private and public property located within the City, or upon sidewalks and streets, and alleys abutting private property within the City, which constitute a fire menace or which are otherwise a menace to health or safety, are a public nuisance and may be abated as provided in this chapter.

**06.05.020 Procedure.**

The procedure for abatement, including without limitation the definitions, provisions for notice, hearings, appeals, abatement by City forces or contract, the recovery of costs, and the imposition of liens, found in California Government Code Title 4, Part 2, Chapter 13, Article 2 (commencing with Government Code section 39560) is adopted by reference. The procedure established by this chapter shall be an alternative to and cumulative to any other remedy available at law or equity for the abatement of the nuisances defined by law.

**06.05.030 Definitions.**

Certain words and phrases are defined in this section to clarify their use in this chapter. Where a definition is not given or where a question of interpretation arises, the definition found in Cal. Gov't Code Title 4, Part 2, Chapter 13, Article 2 (commencing with California Government Code section 39560) shall control. Or, if not defined in said article, then the definition found in this chapter shall control. Or, if not defined in this chapter, then the normal meaning of the word within the context of its use shall control.

“Superintendent” means the City Manager or designee of the City or his or her authorized representatives, including without limitation the Code Enforcement Officer Officers.

“Weeds” means all grass, weeds, plants or brush growing upon the streets, sidewalks or private property in the City and includes any of the following:

1. Weeds which bear seeds of a downy or wingy nature;
2. Mistletoe or other parasite growth;
3. Sandburrs or puncture vines;

4. Sagebrush, chaparral and any other brush or weeds which attain such large growth as to become, when dry, a fire menace to adjacent improved property;
5. Weeds which are otherwise noxious or dangerous;
6. Poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health;
7. Dry grass, stubble, brush, litter or other flammable material that endangers the public safety by creating a fire hazard.

**06.05.040                      Duty of Owners of Private Property.**

A. It is the duty of every owner of private property within the City to keep their property clear of and to remove and destroy all weeds, rubble, rubbish or other rank growths located on their property. Weeds growing upon any lot or tract of land which appears on the assessment roll as a single parcel and exceeds twenty (20) acres in size may be abated by the removal of such weeds from a thirty (30) foot area around the entire perimeter of the parcel and around all structures situated thereon. In all other cases, weeds must be removed from the entire parcel.

B. It is the duty of every owner of private property within the City to keep their property clear of and to remove all weeds, rubble, rubbish or other obstructions from the sidewalks and the half of the streets abutting their property.

**06.05.050                      Standards.**

In removing or destroying weeds, rubble or rubbish in accordance with this chapter owners shall comply with such standards as may be established by the City Council by resolution.

**06.05.060                      Violation.**

The violation of any of the provisions of this article is unlawful and an infraction. Each day conditions or actions in violation of any provision of this article continue is deemed a separate and distinct offense.

## Chapter 6

### VACANT AND BOARDED BUILDINGS

#### Sections:

- 06.06.010**     **Definitions.**
- 06.06.020**     **Findings.**
- 06.06.030**     **Method of Boarding.**
- 06.06.040**     **Time Period and Maintenance of Boarded or Vacant Buildings.**
- 06.06.050**     **Maintenance and Monitoring of Vacant Buildings.**
- 06.06.060**     **Vacant Building Monitoring Fee.**
- 06.06.070**     **Vacant Building Monitoring Fee Waiver.**
- 06.06.080**     **Vacant Building Monitoring Fee Procedure.**

#### **06.06.010**     **Definitions.**

Except as otherwise provided in this Chapter, the following terms used in this Chapter are defined as set forth in this section:

A. “Boarded” means the covering of all entry points, including all doors and windows, with plywood or other materials for the purpose of preventing entry into the building by persons or animals.

B. “Building” means any structure (including but not limited to any house, garage, duplex, apartment, condominium, stock cooperative, mobile home or other residential buildings or associated accessory structures) and any commercial, industrial or other establishment, warehouse, kiosk, sign or other structure affixed to or upon real property used as a dwelling or for the purpose of conducting a business, storage or any other activity.

C. “Vacant building” means a building that is unoccupied, or occupied by unauthorized persons for any amount of time.

#### **06.06.020**     **Findings.**

The City Council finds that neglected, vacant buildings are a major cause of blight in residential and non-residential neighborhoods. Vacant buildings often attract transients and criminals. Use of vacant buildings by transients and criminals, who may employ improper cooking or heating methods, creates a risk of fire for the vacant building and adjacent properties. Vacant properties are often used as dumping grounds for drug paraphernalia, furniture, tires, garbage, junk, and debris and are often overgrown with weeds and grass creating a wide variety of health and safety concerns. In addition, vacant buildings which are simply boarded up for long periods of time with plywood or other materials to prevent entry by transients or vandals very often discourage economic development, disrupting neighborhood stability, retarding appreciation of property values and prompting blight conditions, all of which interfere with the rights of neighboring property owners and occupants to the full use and enjoyment of their property.

The City currently expends resources monitoring and responding to vacant buildings, because of the numerous health, safety, welfare, and economic problems caused by neglected, vacant buildings. There is already a substantial cost to the City for monitoring neglected, vacant buildings (whether or not those buildings are boarded up) as well as substantial toll on the citizens who are affected by the nuisance conditions created. Therefore, the City Council finds there is an urgent need to refine the process by which these buildings are monitored and remediated.

Boarded buildings are a major cause and source of crime and blight in both residential and non-residential neighborhoods. In addition, vacant buildings which are boarded and unkept, and which are vacant for long periods of time, discourage economic development and hinder appreciation of property values.

**06.06.030 Method of Boarding.**

If an owner or responsible party chooses or is required to board up the windows, doors, and other openings of a building to prevent entry by others, the materials used to board up the building shall be painted to match the color of the existing building.

All windows, doors, and openings shall be secured as per the board up specifications maintained by the City. Plywood is the typical material that is five-eighths (5/8ths) inch, except the security door which shall be three-fourths (3/4ths) inch. Other materials may be used that meet City standards at the discretion of the City Manager, provided the materials are painted to match the boarded property. Removable glass sections must be removed and inside the house.

**06.06.040 Time Period and Maintenance of Boarded or Vacant Buildings.**

No responsible party shall allow a building to stand vacant for more than sixty (60) days, unless one of the following applies:

- A. The building is the subject of an active building permit and the owner is progressing diligently to repair the premises for occupancy.
- B. The building meets all codes, and is actively being offered for sale, lease, or rent.
- C. The building is being maintained in a safe and orderly manner and does not contribute to blight conditions.
- D. Maintenance in a safe and orderly manner shall include:
  - 1. Maintenance of any landscaping and plant materials in good condition;
  - 2. Maintenance of the exterior of the building, including but not limited to paint and finishes, in good condition;
  - 3. Regular removal of all exterior trash, debris and graffiti; and

4. Maintenance of the building in continuing compliance with all applicable codes and regulations.

**06.06.050 Maintenance and Monitoring of Vacant Buildings.**

Active maintenance and monitoring of vacant buildings include all of the following:

A. Maintenance of landscaping and plant materials in good condition;

B. Maintenance of the exterior of the building, including but not limited to paint and finishes, in good condition;

C. Regular removal of all exterior trash, debris, and graffiti;

D. Maintenance of the building in continuing compliance with all applicable codes and regulations;

E. Prevention of criminal activity on the premises, including but not limited to use and sale of controlled substances, prostitution, and criminal street gang activity; and

F. The posting of a notice in a conspicuous place on the front of the building, stating the name, address, and telephone number of both the owner and, if applicable, the owner's agent in control of the building. This notice shall have lettering not less than two (2) inches high, and shall be generally readable from at least thirty (30) feet away.

**06.06.060 Vacant Building Monitoring Fee.**

Any vacant building that also constitutes a public nuisance under Title 19 of this Code shall be subject to a monthly monitoring fee to recover the City's regulatory costs to monitor the vacant building as long as the vacant building remains a public nuisance. The fee shall be set by resolution of the City Council and shall not exceed the estimated reasonable cost of monitoring the vacant building.

**06.06.070 Vacant Building Monitoring Fee Waiver.**

The vacant building monitoring fee shall not be imposed upon a showing by the owner that:

A. The owner has obtained a building permit and is progressing diligently to repair the premises for occupancy;

B. The building meets all applicable codes and is actively being offered for sale, lease or rent;

C. Imposition of the fee would impose a substantial economic hardship on the owner or would hinder the rehabilitation of the building; or

D. The building is being maintained in a safe and orderly manner and does not contribute to blight conditions.

**06.06.080 Vacant Building Monitoring Fee Procedure.**

A. The vacant building monitoring fee shall be billed to the owner of the property and mailed to the owner's address as set forth on the last equalized assessment roll of the county assessor.

B. Any owner billed may apply for a waiver on the grounds set forth in Section 06.06.070 of this section by submitting a written statement of the grounds for the waiver, and the owner's daytime telephone number, to the City within thirty (30) days after the billing is mailed to the owner. The building official shall review the written statement and may contact the owner to discuss the application for waiver. The building official shall prepare a written decision which shall be mailed to the owner.

C. Any owner who disagrees with the decision of the City Manager or designee, may submit a written notice of appeal pursuant to Title 1. Failure to timely appeal the decision of the City Manager or designee relating to a denial of a waiver constitutes a waiver of all rights to an administrative hearing and determination of the matter subject only to review pursuant to California Code of Civil Procedure section 1094.5.

D. If the fee is not paid within sixty (60) days after billing, or within sixty (60) days after the decision of the building official or after the decision upon appeal by the owner becomes final, the fee may be specially assessed against the property involved and made a personal obligation of the owner. If the fee is to be specially assessed against the property, a hearing officer, as designated by the City Manager, shall confirm the assessment and thereafter said assessment may be collected at the same time and in the same manner as ordinary real property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary real property taxes. All laws applicable to the levy, collection, and enforcement of real property taxes are applicable to the special assessment.

E. The designated hearing officer may also cause a notice of lien to be recorded. The notice shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, a description of the real property subject to the lien, and the amount of the fee.