I. CALL TO ORDER: Commissioner Shaw
   ➢ Pledge of Allegiance: Commissioner Price
   ➢ Roll Call: Commissioner Briant, Commissioner Ellis, Commissioner Price, Commissioner Krick and Commissioner Shaw

II. SELECTION OF CHAIRMAN:
   1. Motion and Second
   2. Discussion on motion
   3. Call the question (Roll call vote)

III. PUBLIC COMMENTS:

At this time, the general public is invited to address the Planning Commission concerning any items that are not listed on the agenda, or items which are on the Agenda that are not public hearings or other items under the jurisdiction of the Planning Commission. Comments from the public of any non-agenda items will be limited to Five (5) minutes in accordance with City policy.

IV. CONSENT CALENDAR ITEMS:

Note: All items listed on the Consent Calendar may be enacted by a single motion without separate discussion. If a discussion or a separate vote on any item is desired by a Planning Commissioner, that item may be removed from the Consent Calendar and considered separately. All remaining items not removed from the Consent Calendar by a Planning Commissioner shall be voted on prior to discussion of the item(s) requested to be pulled.

1. Minutes of November 4, 2015 meeting.................................................................Page 1
V. PUBLIC HEARINGS:

1. ZONE TEXT AMENDMENT (ZTA) #15-97505
ECONOMIC DEVELOPMENT-BILLBOARDS OR OUTDOOR ADVERTISING
SIGNS.

Staff Report………………………………………………………………………………Page 8

Order of Procedure:
1. Request staff report / Questions of staff
2. Open public hearing
3. Close public hearing
4. Planning Commission discussion
5. Motion and Second
6. Discussion on motion
7. Call the question (Roll call vote)

Recommendation:

Staff recommends that the Planning Commission adopt Resolution No. 2015-12.

I. Recommending to the City Council the adoption a Categorical Exemption for
the subject project; and

II. Recommending to the City Council the approval of Zone Text Amendment
#15-97505 and adoption of Ordinance No. 1493 and Resolution No. 2015-96
Establishing Design Guidelines.

2. DESIGN REVIEW NO. 15-7005 FOR THE REMODEL AND EXPANSION OF AN
EXISTING COMMERCIAL BUILDING AND THE CONSTRUCTION OF A 6,950
SQUARE FOOT BUILDING PAD AT 300 S. HIGHLAND SPRINGS AVENUE (APN:
419-140-040) WITHIN THE SUN LAKES VILLAGE SPECIFIC PLAN.

Staff Report…………………………………………………………………………………………Page 117

Order of Procedure:
1. Request staff report / Questions of staff
2. Open public hearing
3. Close public hearing
4. Planning Commission discussion
5. Motion and Second
6. Discussion on motion
7. Call the question (Roll call vote)

Recommendation:

Staff recommends that the Planning Commission adopt Resolution No. 2015-13.
I. Adopting a Categorical Exemption, pursuant to Section 15301 (Existing Facilities) and Section 15303 (New Construction or Conversion of Small Structures) for Design Review No. 15-7005; and

II. Approving Design Review No. 15-7005 subject to the Conditions of Approval.

VI. REPORTS FROM ASSISTANT CITY ATTORNEY:

1. REVIEW OF ORDINANCES CONCERNING DEAD TREES AND SHRUBS.
   I. Review Chapter 8.48 of the Banning Municipal Code, consider its provisions regulating maintenance of dead trees and shrubs on private property, and provide further direction to staff.

   II. Review Chapter 12.48 of the Banning Municipal Code, consider its provisions regulating maintenance of dead trees and shrubs on public property, and provide further direction to staff.

   [No action is recommended at this time]

   Staff Report………………………………………………………………………………………………………………………………………………………………………Page 153

2. REVIEW OF ORDINANCES CONCERNING PARKING AND LOT CONSTRUCTION STANDARDS.
   I. Review Chapters 17.28 and 17.88 of the Banning Municipal Code, consider its provisions regulating parking and loading standards, and provide further direction to staff.

   [No action is recommended at this time]

   Staff Report………………………………………………………………………………………………………………………………………………………………………Page 189

VII. PLANNING COMMISSIONER COMMENTS:

VIII. COMMUNITY DEVELOPMENT DIRECTOR’S COMMENTS:

IX. ADJOURNMENT:

   The City of Banning Planning Commission is hereby adjourned to the regular Planning Commission meeting of December 2, 2015 starting at 6:30 p.m. in the City Council Chambers.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Division (951) 922-3125. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting [28 CFR 35.102-35.104 ADA title II].
City of Banning

PLANNING COMMISSION MINUTES

October 7, 2015

A regular meeting of the City of Banning Planning Commission was held on Wednesday, October 7, 2015 at 6:30 p.m., in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, CA, 92220.

**Commissioners Present:**
- Commissioner Ellis
- Commissioner Krick
- Commissioner Shaw
- Commissioner Briant
- Commissioner Price

**Staff Present:**
- Acting Community Development Director, Brian Guillot
- Assistant City Attorney, Robert Khuu
- Contract Planner, Yvonne Franco
- Recording Secretary, Sandra Calderon

I. **CALL TO ORDER**

Commissioner Shaw welcomed Commissioner Krick to the Planning Commission and Acting Community Development Director Guillot introduced the new Assistant City Attorney, Robert Khuu.

II. **PUBLIC COMMENTS:**

None

III. **CONSENT CALENDAR**

1. Minutes of July 1, 2015

**ACTION (ELLIS/BRIANT):**

(Motion Carried 4-1) Commissioner Krick abstained

IV. **PUBLIC HEARINGS:** (This item is continued from the meeting of July 1, 2015).

1. **CONDITIONAL USE PERMIT NO. 15-7002 FOR A PROPOSED FREEWAY ORIENTED SIGN LOCATED AT 220 E. RAMSEY STREET (APN: 541-181-009,**
Acting Community Development Director Guillot presented the staff report and stated that this item is familiar to the Planning Commission in that it involves a freeway oriented sign for the project commonly known as Village at Paseo San Gorgonio, the City Council is still in negotiations and has not concluded the project extension and at this time the item is being recommended be continued to the November 4th regular Planning Commission meeting.

Commissioner Krick asked if it would be possible to get a few items that are of question for the next meeting such as the type of illumination the sign is going to have.

Guillot said he will be glad to bring the information to the November 4th meeting.

Commissioner Ellis said that he feels that continuing this item to the next meeting is unrealistic because we have no agreements yet and there’s a lot of work that needs to be done. A comment was brought up once from an audience member that there was concerned about the location of the sign on the proposed ordinance that lists all thirteen (13) parcels and he thinks that the Planning Commission should have a say where the final location of the sign goes.

This project had numerous issues with construction regarding what is going up there. He’s concerned that this is based on a promise to build 7000 s.f. and instead a 3000 s.f. its built, then we would have permitted a sign that it’s for the larger building and he feels that this item should be tabled until we receive a firm commitment.

Commissioner Shaw asked staff the difference between continuing and tabling an item.

Assistant City Attorney Khuu explained that if they move to table, you hold until you look at it later and it doesn’t necessarily continue the item into the future. If you move to continue the item then it would have to be a date certain and the recommended date is November 4th because it’s a CUP.

Commissioner Price asked staff if this item has been talked about since the month of July.

Guillot confirmed and explained that it was originally presented in July and at that time the City Council was negotiating with the Developer and he understands that this item will be addressed by the City Council at their next meeting, but for the Planning Commission because of what was expressed in the previous meetings, his recommendation is that the item continues to the November meeting.

Commissioner Ellis mentioned that Council Member Miller is working on the negotiations and it seem to be the same as the last Council meeting two weeks ago. He feels that it’s unnecessary to continue the meeting until a commitment is made.

Commissioner Shaw opened public hearing.
Inge Schuler a Banning resident said that when the citizens speak-up and voice their concerns over projects that are on the agenda, they should not be accused of negativism whether it comes from a Council Member or from staff. She mentioned that it seems that the only positive people currently in favor are: Pardee, Pearlman and Pittasi.

Shuler mentioned that the electorate is invested in this town and to be called “negative” it’s absolutely insulting because this happens at open council meetings and she feels very upset about it.

Shuler said that this sign has been before us, the City purchased the five (5) acres across City Hall for $4 Million of Community Redevelopment funds, then sold the land to Mr. Pearlman for $1.2 Million who has since been a disappointment and now the project is basically dead, he’s defaulted on everything, no extension or construction has been observed. It’s a non-existent project and doesn’t make sense to approve a sign.

Shuler mentioned that Vanir has a track record of devastation, misery and destruction from Texas all the way to Colton until 1992.

Rick Pippenger a Banning citizen said that he doesn’t agree on putting up a sign at the site. The Developer hasn’t spent any money into the property and is not present at any meetings.

Pippenger feels that the Planning Commission should recommend to Council that the project gets eliminated and find someone that can come in and built a nice project because this project wasn’t originally planned, it came through a back door deal with the City Manager who’s not here any longer. He encourages all citizens to participate in future Planning Commission and City Council meetings to voice their opinions.

Dorothy Familetti-McLean citizen of Banning requested to table the Pearlman/Vanir project since its uncertain what is going to take place. She asked why would the Planning Commission want to approve a sign when we don’t know the outcome of the project?

Familetti-McLean feels the project is a mistake. The townspeople don’t want it and it will not make the town better, it will detract from the quaintness and beauty of the town.

She feels no action should be taken to promote this parcel, sign, or anything that deals with the project. Take the parcel back and create something that will enhance the future of Banning.

Commissioner Shaw closed public hearing.

Commissioner Shaw opened the floor for discussion.

Assistant City Attorney Khuu was asked to clarify the difference between tabling and continuance of an item. He said, if an item is tabled without being continued, no action is being taken by the Commission which is the equivalent of denying the CUP.
Commissioner Ellis thanked the public for the comments and their expressed concerns.

He mentioned that he drives 8th St. to Hargrave St. and notices there are no signs in the area and one concern about this sign is the fact that it’s going to say “Riverside County Probation Parole and District Attorney’s Office” this is going to be the as large as a billboard and it’s pretty scary.

Commissioner Ellis said that as far as what the Assistant Attorney said regarding tabling and continuing the item, he sees no reason to continue something until we know there is something conclusive and appreciates the audience feelings on that.

Commissioner Shaw opened the floor for a motion.

**ACTION (ELLIS/KRICK): A motion was moved, seconded and carried that the Planning Commission take the following action:**

I. Table Conditional Use Permit No. 15-7002 for a Proposed Freeway Oriented Sign Located at 220 E. Ramsey Street (APN: 541-181-009,010,011,012,024,025,026,027 and 28; and 541-183-001, 002, 003 and 004) within the Downtown Commercial (DC) Zoning District.

Commissioner Shaw opened the floor for a discussion on the motion.

Commissioner Ellis said that all the Commissioners represent everyone in town and appreciates that they have the insight and the fortitude to represent the public.

*(Motion Carried 5 -0)*

2. **HOUSING**  
ZONE TEXT AMENDMENT NO. 15-97506 REGARDING SIDE YARD SETBACKS IN THE LOW DENSITY RESIDENTIAL (LDR) ZONING DISTRICT.

Yvonne Franco Contract Planner presented the staff report and mentioned that this item proposes to amend the Residential Redevelopment standards and Title 17 by reducing the side-yard setback for lots that were subdivided prior to February 2006 with lot widths of less than 70 ft. and the second part would include a table note that was omitted under the former zone amendment Ordinance 1370. She mentioned that generally the older housing stock located in the north of the I-10 will benefit from this reduce side yard set-back.

For the other amendment, it adds table note 8 to the table for the table of Residential Development Standards because it was omitted under the Ordinance 1370.

Commissioner Krick asked if a person has a lot that’s 70 ft. wide and want a 5 ft. side yard setback you won’t get it?

Guillot said that is correct, it has to be less than 70 ft.
Commissioner Krick asked if a lot is 70 ft. lot is the set-back 5 ft. or 10 ft.?

Guillot said it is 10 ft. He directed the attention to the design standard under LDR the minimum lot width is 70 ft. and if a lot is 70 ft. then they will be required to meet the 10 ft. setback and it only applies to lots before 2006.

Commissioner Ellis asked how the Fire Department feels about bringing houses closer?

Guillot said that the Fire Code is more specific than our zoning regulations the Fire Code generally requires a 10 ft. separation between structures and that would take president over any setbacks.

Commissioner Ellis said he didn’t find anything on the books related to sprinkler systems in homes and asked if we have any ordinances related to that.

Guillot said that the sprinkler system regulations are found in the adopted State of California Fire Code, and his understanding is that a sprinkler system will be required for all new homes.

Commissioner Ellis said that it didn’t make sense when he read the staff report, he thought that we were going to try to help the property owners of 70 ft. or smaller lots to utilize their property more for growth.

Commissioner Krick said that he’s concern was the break off of 69 ft. vs. 70 ft. using a round number 70 or less, not 69 or less.

Franco said that the older lots are less than 70 ft. width, and does not think they would have a problem with going to the 5 ft.

Commissioner Ellis asked why it was changed in the year of 2006?

Guillot said that he wasn’t involved during that process, but he assumes that a 70 ft. lot in a Low Density Residential (LDR) zone is a more common lot width. He added that the purpose of the this proposal, is because there is so much of existing housing stock that was subdivided before the modern requirements of the 70 ft. x 90 ft. minimum and would like to encourage investment in the existing housing stock and if you look at the recently adopted Housing Element of the General Plan it’s a goal to try to do that.

Commissioner Briant said that drove up Hargarve Street and looked as some of the lots in that area and they seemed about 30 or 40ft. wide.

Guillot said that we do have lots that are quite less than 50 ft. wide in some areas of the city and the reason the NE part of town was highlighted is because that’s where many of them exist, but these types of lots are in almost all portions of the city.

Commissioner Ellis asked if we are limited on a total number of ZTA’s that can be made per year.

Guillot said no, we’re not.
Commissioner Shaw opened the floor for public hearing.

None

Commissioner Shaw opened the floor for a motion.

**ACTION (ELLIS/KRICK): A motion was moved, seconded and carried that the Planning Commission take the following action:**

I. Recommending to the City Council the adoption a Categorical Exemption for the subject project; and

II. Recommending to the City Council the approval of Zone Text Amendment No. 15-97506 and adoption of Ordinance No. 1492.

For parcels subdivided before February 14, 2006, in the Low Density Residential (LDR) zoning district with a non-conforming lot width that is **70 feet or less**, a minimum side-yard setback of five (5) feet shall be allowed.

**(Motion Carried 5-0)**

V. **PLANNING COMMISSION COMMENTS**

Commissioner Ellis mentioned that he checked with Guillot on some Ordinances related dead trees and bushes; unfortunately there was a fire in the neighborhood. The Fire Chief said that many ornamental plants there were dead and that was a contributing factor in that fire.

Commissioner Ellis said he would like in the future a review of our Ordinances and if needed add more substance and try to remove some of the dead trees from our city. He added that he knows the city owns many trees and doesn’t know the responsibility or liability if a city tree start a fire and wouldn’t like to see that happen. The drought condition is not getting any better and would like to see this topic discussed in the future.

Guillot mentioned that there are two sets of regulations, it basically states that dead shrubbery and dead trees on private properties may be declared a nuisance, and another ordinance that authorizes the City Engineer/Public Works Director to maintain trees in the public right-o-way and if they’re dead or deceased, he’s authorized to remove them. A report can be brought back to the Planning Commission for review if that’s the Planning Commission wish.

Commissioner Ellis mentioned that he was asked to discuss our ordinance on parking vehicles on different types of grounds. There are many older homes that don’t have concrete driveways.

Guillot said that we do have regulations related to this, and will be happy to share them.
Commissioner Ellis said that many citizens have been told that they can’t park their vehicles on gravel, but there numerous business in town that have dirt parking lots, some with gravel, and he feels that we should have consistency and enforcement, mainly to our commercial properties initially.

Guillot said staff can also do a research and a report.

VI. COMMUNITY DEVELOPMENT DIRECTOR’S REPORT

Acting Community Development Guillot welcomed Commissioner Krick and mentioned that wanted to remind the Planning Commissioners that will give consideration to appointing a permanent Chairman at our next meeting.

Commissioner Ellis said that would like to see a reasonable time frame once you’re appointed as a Commissioner to make sure that the ethical training is taken, certificates received and filed.

Guillot mentioned that he was discussing with the Assistant City Attorney some of the trainings that need to be taken by the Planning Commission such as the Brown Act and others that he would like to bring forward.

VII. ADJOURNMENT

There being no further business, the meeting was adjourned at 7:17 p.m.

Respectfully submitted,

Sandra Calderon
Recording Secretary

THE ACTION MINUTES SUMMARIZE ACTIONS TAKEN BY THE PLANNING COMMISSION. A COPY OF THE MEETING IN ITS ENTIRETY IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK’S OFFICE.
DATE: November 4, 2015

TO: Planning Commission

FROM: Brian Guillot, Acting Community Development Director

SUBJECT: Zone Text Amendment (ZTA) #15-97505 Economic Development-Billboards or Outdoor Advertising Signs

RECOMMENDATION:

Staff recommends that the Planning Commission adopt Resolution No. 2015-12 (Attachment 1):

I. Recommending to the City Council the adoption a Categorical Exemption for the subject project; and

II. Recommending to the City Council the approval of Zone Text Amendment #15-97505 and adoption of Ordinance No. 1493 (Attachment 2) and Resolution No. 2015-96 Establishing Design Guidelines (Attachment 3).

APPLICANT INFORMATION:

Applicant: City of Banning
99 E. Ramsey Street
Banning, CA 92220

BACKGROUND:

The construction of new billboards is prohibited by the current sign regulations. At times, the City receives requests to relocate existing billboards because the owner of the parcel would like to develop the property with another use, for example a retail store, and the billboard is in the way of the new development. In order to accommodate both businesses (the retail store and advertising company billboard) it is necessary to amend the sign regulations to allow relocation
agreements.

It is a policy of the State of California to encourage relocation agreements which allow development in a planned manner without expenditure of public funds while allowing the continued maintenance of private investment and a medium of public communication. Cities are specifically empowered to enter into relocation agreements on whatever terms are agreeable to the display owner and the city and to adopt ordinances or resolutions providing for the relocation of displays.

The City of Banning is bisected by Interstate 10 (I-10) from east to west and has over five miles of frontage along the freeway. Traffic counts prepared by Caltrans showed that for the year 2009 on average as many as 147,000 vehicles per day travel the interstate. The number of vehicles traveling the interstate is an opportunity for businesses located along this transportation corridor to capture motorists’ attention to exit the freeway to shop, eat at restaurants, or stay at hotels in the City of Banning. However, that opportunity needs to be balanced with scenic values and/or aesthetics, and the health, safety, and welfare of the community as it relates to billboards or outdoor advertising signs. Over the years, different sign regulations have been adopted resulting in a mix of billboards, pole signs, and other advertising devices.

The need for this balance is identified by the different Goals and Policies in the City’s General Plan as follows:

**Economic Development Policy 6** states “**Encourage and facilitate highway-serving commercial development at appropriate Interstate-10 interchanges within the City limits**” (GP p. III-43).

While the subject of scenic vistas and aesthetics are not part of the goals or policies of the adopted General Plan for the City of Banning, these subjects are important to the community as they may define or identify particular parts of a community; and, be used by individuals in the decision making process for locating homes and/or businesses within the city. Billboards or outdoor advertising signs contribute little towards enhancing the scenic qualities and scenic vistas (aesthetic values) of the community. Therefore, sign regulations serve the need to limit billboards or outdoor advertising signs in order to enhance this valuable community asset.

**Billboards or outdoor advertising signs**

There are approximately 45 billboards located along the interstate, 39 of which are double-faced and 6 that are single-faced. The City adopted an updated “Zoning Ordinance” in January 2006 that prohibits the installation of new billboards BMC Section 17.36.060(D). Prior to that update, the City’s regulations also prohibited billboards. However, a few billboard installations were permitted through approval of a conditional use permit and a variance. The existing billboards are considered legal non-conforming and may not be upgraded under the present non-conforming
policy of the Zoning Ordinance BMC Chapter 17.88.

Also, State of California regulations prohibit the placement of billboards adjacent to a designated “scenic highway” or “landscaped freeway.” See Attachment 6 – Outdoor Advertising Act, Sections 5440 and 5440.1. Please note that I-10 through the pass area is eligible as a state scenic highway; however, it is not officially designated as such at this time. Highway 243 from the City of Banning city limits to Highway 74 is designated as a scenic highway. Portions of I-10 in the City of Banning are designated as a “landscaped freeway” (see Attachment 9 for locations).

**Adopted Regulations**

The City Council adopted the present “Zoning Ordinance” in January 2006 that included Chapter 17.36, Sign Regulations. The sign portion of the ordinance prohibits new billboards or outdoor advertising signs. Signs used to advertise a commercial or industrial business are permitted only as a monument sign limited to 8 feet in height; or, a wall sign that is mounted on the building wall; and, freeway oriented signs are allowed through approval of a Conditional Use Permit by Planning Commission.

On April 25, 2011, a similar study session was conducted that resulted in the adoption of the freeway oriented sign regulations. For that study session a telephone survey was conducted to obtain a general idea of how other local agencies are regulating digital billboards and is included with this report. See Attachment 5. Please keep in mind that the information provided in this survey is not comprehensive.

On September 22, 2015, the City Council and Planning Commission held a joint study session to specifically provide policy guidance to staff regarding billboard relocation agreements. A set of notes from that meeting as well as the minutes are included in Attachment 5 of this report. Where possible, the issues identified in that meeting have been incorporated into the draft ordinance and resolution proposed for this report.

**ISSUES AND OPPORTUNITIES**

A number of cities in Southern California have taken advantage of a state law that allows a city to enter into a relocation agreement with billboard advertisers. See Attachment 6, Section 5412.

Staff is recommending revising the sign portion of the Zoning Ordinance in order to provide incentives that meet both the needs of the community and the economic interests of those involved with this issue.

The proposed revision would allow no new billboard installations, except that it would allow upgrades of an existing billboard subject to a billboard relocation agreement that would require the removal of existing billboards, in exchange for the construction of a digital technology billboard. This recommendation includes design requirements to be approved by City Council in
the relocation agreement and by resolution. See Attachment 3.

Digital Billboards and Changeable Message Displays

This new technology is giving advertisers the unparalleled ability to change their ad messages quickly and efficiently. Many advertisers offer the digital billboards for public service announcements and for community information. This could include safety alerts such as those issued by the State of California in connection with AMBER alerts\textsuperscript{1}; and, publicizing local events like Stagecoach Days. Lamar Outdoor Advertising has provided a letter to the City highlighting their position regarding proposed changes to the City's sign regulations (see Attachment 10).

An example of a newly constructed digital billboard is shown in Attachment 8 of this report. It is located in San Bernardino along Interstate 10. Notice that the sign includes an architectural base that enhances the appearance of the installation.

Digital billboards are updated electronically through a variety of methods. Some are networked together, most are operated remotely, and all of them can be updated quickly, sometimes with just the click of a computer mouse. A major concern with digital billboards is the brightness of the electronic displays. Current technology permits the automatic adjustment of the display to balance the brightness with the available ambient light at any given time.

Issues

It is strongly recommended that guidelines be developed to determine under what objective circumstances relocation agreements should be entered into. Objective criteria are necessary to ensure the validity of the proposed text amendment, as guidelines or discretionary criteria will vest too much discretion in city staff or city officials such that it would be in violation of freedom of speech laws.

Digital billboards, when they replace off-site advertising structures, become exponentially more valuable. Traditional billboards rent by the week or month. Digital billboards rent by increments of minutes, often seconds. Thus, any time that a city wants to remove a billboard by eminent domain, the cost of doing so will be significant, if not prohibitive. Amortization provisions in the municipal code are unenforceable, based on Section 5412; however, any amortization provisions entered into as part of the relocation agreement are valid, at least under the Outdoor Advertising Act.

There is some concern that drivers may be distracted by digital billboards. At this time, there is not enough evidence to determine whether electronic billboards are dangerously distracting to drivers. This is from the Federal Highway Administration:

\textsuperscript{1} "AMBER" stands for "America's Missing: Broadcast Emergency Response." In short, it is a child abduction notification system.
In summary, from the perspective of strict statistical hypothesis testing, the present literature review is inconclusive with regard to demonstrating a possible relationship between driver safety and [Commercial Electronic Variable Message Signs] exposure. From this perspective, the more stringent restrictions on the placement of billboards found in other countries might be regarded as a conservative precautionary measure, erring on the side of protecting public health from a possible but unproven threat and not as a response to an established driving safety hazard. That is not to say that such a conservative approach is inappropriate, but it should be acknowledged as such.


PROPOSED AMENDMENTS TO THE SIGN REGULATIONS:

Amend Section 17.36.030 Definitions by adding the following:

Billboard. See outdoor advertising sign.

Electronic message center means a sign having the capability of presenting variable advertising message displays by projecting an electronically controlled light pattern against a contrasting background, and which can be programmed to change such message display periodically. An electronic message center is neither an animated sign nor a simulated motion sign.

Outdoor advertising structure (Billboard) means any sign with a commercial message, other than a directional sign, which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where the sign is located, or to which it is affixed. Commercial copy on any outdoor advertising sign may be replaced with noncommercial copy. Outdoor advertising structures/billboards shall not include subdivision or tract signs (see Section 17.36.080), signage affiliated with solar powered electric vehicle charging stations, or signs installed pursuant to a city sign program.

Pylon sign. A freestanding sign that is permanently supported by one or more uprights, braces, or poles, or other similar structural components that are architecturally compatible with the main structure of the site.

Relocated billboard. An existing billboard that is located in the city that is relocated through a City Council approved Relocation Agreement. The relocated billboard is not considered a new outdoor advertising sign.

Amend Section 17.36.060 Prohibited signs by amending paragraph (D) as follows:

The following signs are inconsistent with the sign standards set forth in this chapter, and are
therefore prohibited:

(D) Billboards or Outdoor advertising signs. However, notwithstanding any other provision of this chapter, and consistent with the California Business & Professions Code Outdoor Advertising Act provisions, billboards or outdoor advertising signs, including electronic message centers, electronic message boards, and changeable message boards, may be considered and constructed as part of a relocation agreement requested by the city and entered into between the city and a billboard and/or property owner. The replacement of a static billboard face with an electronic message center, electronic message board, or changeable message board shall be considered a relocation for purposes of this section. Such agreements may be approved by resolution of the City Council upon terms that are agreeable to the city in their sole and absolute discretion including any design guidelines. The execution of a relocation agreement shall not operate to change the status of any billboard as a nonconforming use for purposes of this code.

Add the following Sections:

17.36.180 Signs within adopted specific plan areas.
Signs within adopted specific plan areas shall conform to the sign requirements as indicated within the individual specific plan. However, in the event sign requirements are not provided in the individual specific plans, all signs within the specific plan areas shall conform to the provisions of Chapter 17.36. If the land use within the specific plan is not specifically identified in the Zoning Ordinance, the most appropriate (closely related) use of the area shall apply, as determined by the Community Development Director.

17.36.190 Flags, banners and pennants on city-owned light poles.
Notwithstanding §17.36.070, the City of Banning may install flags, banners, and/or pennants on city-owned utility poles. The City Manager shall establish a written banner program to regulate the installation of flags, banners, and pennants on City-owned utility poles. Banners and pennants shall be installed in compliance with the banner program established by the City Manager.”

In addition to those things negotiated and agreed to by the respective parties for billboard relocation agreements, the following design guidelines are recommended to be adopted by City Council in a resolution:

1. Consideration of a relocated billboard and a relocation agreement allowing an electronic message center will require the removal of at least one existing billboard for each electronic message center face.

2. The scenic view south of Interstate 10 from Sunset to Hargrave should be preserved as there are no existing billboards at this location.

3. As long as the company operating the billboard with electronic messaging within the City, the City shall have the right to place public service announcements on any such electronic messaging center. The limits on public service announcements will be stipulated in the relocation agreement.
4. The relocation agreement should prohibit the use of onsite electric generators to power the digital billboards for normal operations.

5. The sign face for any relocated billboard shall not overhang onto Interstate 10 or any other state highway.

6. The relocated billboard shall be shielded to prevent light or glare intrusion onto adjoining properties that are located within five-hundred (500) feet of such relocated billboard.

7. Message changes on any electronic message center shall be limited to one message every six (6) seconds, or that allowed by the California Department of Transportation, whichever is greater.

8. No electronic message center shall simulate motion or exhibit any images or series of image that could be considered “animated” in any way, including but not limited to sequential still images that update faster than once every 6 seconds. No electronic message center shall contain any flashing, sparkling, intermittent, or moving lights. There shall be no flashing or scrolling messages. Changes in color or light intensity on a still image or message at a rate faster than once every 6 seconds are also not permitted.

9. Each electronic message center shall contain automatic dimmers that maintain a maximum luminance of 4,000 nits during the daylight hours, and 2,000 nits from dusk (official sunset) to sunrise and during times of fog (One nit is equivalent to one candela per square meter.). Each electronic message center shall be equipped with a mechanism to monitor brightness.

10. A relocated billboard shall not be illuminated between the hours of 11 p.m. to 5 a.m. when located within five-hundred (500) feet of an existing residential property, or residentially zoned property.

11. The City shall have the right to place emergency service announcements on any such electronic messaging center. The limits on emergency service announcements will be stipulated in the relocation agreement.

12. The advertiser shall agree not to display advertising for adult entertainment, mud wrestling, alcohol (except beer and wine), tobacco products of any type, or other content that could be reasonably considered sexually explicit or pornographic by community standards. Objectionable advertising shall be stipulated in the relocation agreement.

13. Relocated billboards shall not be allowed in the Downtown Commercial (DC) zoning district.

14. Relocated billboards shall require permit approval through the Building and Safety Division, Caltrans, the Riverside County Airport Land Use Commission if located within a compatibility zone, and any other responsible agency.

15. Whenever practicable, relocated billboards should include architectural enhancements
that add aesthetic appeal to the relocated billboard.

16. Relocated billboards shall not exceed 55 feet in height. Consideration to reducing the height of any proposal shall be required to minimize impacts to scenic vistas. This may be accomplished through the submittal of written plans and photographic simulations.

17. Relocated billboards shall not exceed a face area of 14 feet by 48 feet.

ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)
In accordance with the requirements of the California Environmental Quality Act (CEQA), the City Council has analyzed proposed Zone Text Amendment No. 15-97505 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zone Text Amendment No. 15-97505 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Multiple Species Habitat Conservation Plan (MSHCP)
The amendments to the Zoning Ordinance do not relate to any one physical project and are not subject to the MSHCP. Further, projects that may be subject to this Ordinance will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

REQUIRED FINDINGS OF APPROVAL FOR ZONE TEXT AMENDMENT NO. 15-97505:

The California Government Code and Section 17.116.050 of the City of Banning Zoning Ordinance require that Zone Text Amendments meet certain findings prior to recommendation of approval by the Planning Commission and approval by the City Council. The following findings are provided in support of the approval of the Zone Text Amendment No. 15-97505.

Finding No. 1: Proposed Zone Text Amendment No. 15-97505 is consistent with the goals and policies of the General Plan.

Findings of Fact: Proposed Zone Text Amendment No. 15-97505 is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations within the City will not change, and the text amendments will result in meeting some of the objectives of the General Plan and more specifically that of the Economic Development
Element.

The primary Economic Development Element Goal is to provide "A balanced, broadly-based economy that provides a full range of economic and employment opportunities, while maintaining high standards of development and environmental protection". The proposed amendments to sign regulations of the Zoning Ordinance are intended to allow development of properties occupied by existing billboards or outdoor advertising signs by allowing the City Council to enter into relocation agreements with owners. By allowing relocations, an opportunity is created to establish additional retail development along the City's highway serving commercial corridor creating a potential for increased sales tax revenue and job creation. Zone Text Amendment No. 15-97505 does not propose to amend or change the existing development standards of the Zoning Ordinance. Therefore, the proposed zone text amendments will help meet the objective of the primary economic development goal of benefiting the economy while maintaining high development standards.

Furthermore, Economic Development Policy 6 states "Encourage and facilitate highway-serving commercial development at appropriate Interstate-10 interchanges within the City limits" (GP p. III-43). The proposed amendments to the sign regulations are intended to encourage and facilitate highway serving commercial development by allowing the relocation of billboards or outdoor advertising signs that would otherwise prevent development due to the potential loss of the advertising asset. Therefore, the proposed zone text amendments will foster improvements not just at the interchanges but along the entire commercial corridor.

**Finding No. 2:** Proposed Zone Text Amendment No. 15-97505 is internally consistent with the Zoning Ordinance.

**Findings of Fact:** Proposed Zone Text Amendment No. 15-97505 is consistent with the purpose and objective of the Zoning Ordinance to ensure orderly development of all lands within the city to protect the public health, safety, and welfare. This is accomplished by allowing relocation agreements as approved by City Council resolution whereby the advertising asset may be preserved while facilitating development in accordance with the City’s existing Zoning Ordinance and development standards.

Furthermore, where clarification is needed in regard to other sign types and more specifically future or existing specific plan sign approvals; and, the allowing of banners on city owned facilities which is a past practice of the City, the proposed amendments include Section 17.36.180 and Section 17.36.190 respectively, setting forth regulations intended to maintain consistency within the sign regulations of the Zoning Ordinance.

**Finding No. 3:** The City Council has independently reviewed and considered the
requirements of the California Environmental Quality Act.

Findings of Fact: In accordance with the requirements of the California Environmental Quality Act (CEQA), the City Council has analyzed proposed Zone Text Amendment No. 15-97505 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zone Text Amendment No. 15-97505 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

PUBLIC COMMUNICATION

The proposed Zone Text Amendment was advertised in the Record Gazette newspaper on October 23, 2015 (Attachment 4). As of the date of this report, staff has not received any verbal or written comments for or against the proposal.
Prepared By:

[Signature]

Brian Guillot
Acting Community Development Director

Attachments:

1. PC Resolution No. 2015-12
2. Draft Ordinance No. 1493
3. Draft CC Resolution No. 2015-96
4. Public Hearing Notice
5. Minutes Joint Study Session held September 22, 2015
6. Copy of Outdoor Advertising Act – State of California
7. Copy of Chapter 17.36 sign regulations
8. Photograph of existing digital billboard in San Bernardino
9. Designated as a “landscaped freeway” list
ATTACHMENT 1
PC Resolution No. 2015-12
RESOLUTION NO. 2015-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA, RECOMMENDING APPROVAL TO THE CITY COUNCIL OF CATEGORICAL EXEMPTION AND APPROVAL OF ZONE TEXT AMENDMENT (ZTA) #15-97505 AMENDING THE SIGN REGULATIONS OF THE ZONING ORDINANCE (TITLE 17 OF THE BANNING MUNICIPAL CODE) TO ALLOW THE RELOCATION OF EXISTING BILLBOARDS OR OUTDOOR ADVERTISING SIGNS IN ACCORDANCE WITH THE OUTDOOR ADVERTISING ACT

WHEREAS, on February 14, 2006, the City Council of the City of Banning adopted Ordinance No. 1339 approving Zone Change 03-3501 repealing the existing zoning ordinance and adopting the new Zoning Ordinance that included sign regulations; and

WHEREAS, the new Zoning Ordinance and included sign regulations makes no provision for the relocation of existing billboards or outdoor advertising signs as allowed by the Outdoor Advertising Act (Business and Professions Code §5412); and

WHEREAS, State of California desires to encourage local entities and display owners to enter into relocation agreements which allow local entities to continue development in a planned manner without expenditure of public funds while allowing the continued maintenance of private investment and a medium of public communication; and

WHEREAS, cities are specifically empowered to enter into relocation agreements on whatever terms are agreeable to the display owner and the city and to adopt ordinances or resolutions providing for the relocation of displays; and

WHEREAS, the Planning Commission has authority pursuant to Section 17.116.030 (Planning Commission Action on Amendments) of the City of Banning Municipal Code to make a written recommendation to the City Council to approve, approve with modifications, or disapprove amendments to the Zoning Ordinance; and

WHEREAS, the City Council has reviewed the proposed Zone Text Amendment for compliance with the California Environmental Quality Act (CEQA) and it is determined that Zone Text Amendment No. 15-97502 is not a ‘project” under CEQA Guidelines 15061(b)(3); and

WHEREAS, on October 23, 2015, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the project, which included the Categorical Exemption and Zone Text Amendment No. 15-97505; and

WHEREAS, on November 4, 2015, the Planning Commission held the noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition
to, the project, and at which the Planning Commission considered the Categorical Exemption and Zone Text Amendment No. 15-97505.

NOW THEREFORE, the Planning Commission of the City of Banning does hereby resolve, determine, find, and order as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

The following environmental findings are made and supported by substantial evidence on the record before the Planning Commission, including and incorporating all evidence in the staff report and attendant attachments thereto:

California Environmental Quality Act (CEQA)
In accordance with the requirements of the California Environmental Quality Act (CEQA), the Planning Commission has analyzed proposed Zone Text Amendment No. 15-97505 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zone Text Amendment No. 15-97505 may have a significant adverse effect on the environment, and thus the adoption of this Resolution is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Multiple Species Habitat Conservation Plan (MSHCP)
The amendments to the Zoning Ordinance do not relate to any one physical project and are not subject to the MSHCP. Further, projects that may be subject to this Resolution will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

SECTION 2. REQUIRED FINDINGS FOR ZONE TEXT AMENDMENT NO. 15-97505.

The California Government Code and Section 17.116.050 (Findings) of the City of Banning Municipal Code require that Zone Text Amendments meet certain findings prior to recommendation of approval by the Planning Commission and approval by the City Council. The Planning Commission hereby makes the following findings, as supported by substantial evidence on the record including and incorporating all facts and evidence in the staff report and its attendant attachments, in support of the recommendation for approval of the Zone Text Amendment No. 15-97505:

Finding No. 1: Proposed Zone Text Amendment No. 15-97505 is consistent with the goals and policies of the General Plan.

Findings of Fact: Proposed Zone Text Amendment No. 15-97505 is consistent with the goals and policies of the General Plan, insofar as the General Plan
designations and Zoning designations within the City will not change, and the text amendments will result in meeting some of the objectives of the General Plan and more specifically that of the Economic Development Element.

The primary Economic Development Element Goal is to provide "A balanced, broadly-based economy that provides a full range of economic and employment opportunities, while maintaining high standards of development and environmental protection". The proposed amendments to sign regulations of the Zoning Ordinance are intended to allow development of properties occupied by existing billboards or outdoor advertising signs by allowing the City Council to enter into relocation agreements with owners. By allowing relocations, an opportunity is created to establish additional retail development along the City’s highway serving commercial corridor creating a potential for increased sales tax revenue and job creation. Zone Text Amendment No. 15-97505 does not propose to amend or change the existing development standards of the Zoning Ordinance. Therefore, the proposed zone text amendments will help meet the objective of the primary economic development goal of benefiting the economy while maintaining high development standards.

Furthermore, Economic Development Policy 6 states "Encourage and facilitate highway-serving commercial development at appropriate Interstate-10 interchanges within the City limits" (GP p. III-43). The proposed amendments to the sign regulations are intended to encourage and facilitate highway serving commercial development by allowing the relocation of billboards or outdoor advertising signs that would otherwise prevent development due to the potential loss of the advertising asset. Therefore, the proposed zone text amendments will foster improvements not just at the interchanges but along the entire commercial corridor.

**Finding No. 2:** Proposed Zone Text Amendment No. 15-97505 is internally consistent with the Zoning Ordinance.

**Findings of Fact:** Proposed Zone Text Amendment No. 15-97505 is consistent with the purpose and objective of the Zoning Ordinance to ensure orderly development of all lands within the city to protect the public health, safety, and welfare. This is accomplished by allowing relocation agreements as approved by City Council resolution whereby the advertising asset may be preserved while facilitating development in accordance with the City’s existing Zoning Ordinance and development standards.

Furthermore, where clarification is needed in regard to other sign types and more specifically future or existing specific plan sign approvals; and, the allowing of banners on city owned facilities which is a past practice of the City, the proposed amendments include Section 17.36.180 and Section
17.36.190 respectively, setting forth regulations intended to maintain consistency within the sign regulations of the Zoning Ordinance.

**Finding No. 3:**  
The City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

**Findings of Fact:**  
In accordance with the requirements of the California Environmental Quality Act (CEQA), the City Council has analyzed proposed Zone Text Amendment No. 15-97505 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zone Text Amendment No. 15-97505 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

**SECTION 3. PLANNING COMMISSION ACTION.**

The Planning Commission hereby takes the following action:

Adoption of Planning Commission Resolution No. 2015-12:

1. Recommending to the City Council the adoption of a Categorical Exemption for Zone Text Amendment No. 15-97505; and

2. Recommending to the City Council the adoption of Ordinance No. 1493 approving Zone Text Amendment No. 15-97505 and Resolution No. 2015-96 Establishing Design Guidelines.
PASSED, APPROVED AND ADOPTED this 4th day of November 2015.

Eric Shaw, Vice-Chairman
Banning Planning Commission

APPROVED AS TO FORM
AND LEGAL CONTENT:

Robert Khuu
Aleshire & Wynder, LLP
Assistant City Attorney
City of Banning, California

ATTEST:

Sandra Calderon, Recording Secretary
City of Banning, California

CERTIFICATION:

I, Sandra Calderon, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2015-12, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 4th day of November, 2015, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Recording Secretary
City of Banning, California
ATTACHMENT 2
Draft Ordinance No. 1493
ORDINANCE NO. 1493

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING CATEGORICAL EXEMPTION AND ZONE TEXT AMENDMENT NO. 15-97505 AMENDING THE SIGN REGULATIONS OF THE ZONING ORDINANCE (TITLE 17 OF THE BANNING MUNICIPAL CODE) TO ALLOW THE RELOCATION OF EXISTING BILLBOARDS OR OUTDOOR ADVERTISING SIGNS IN ACCORDANCE WITH THE OUTDOOR ADVERTISING ACT

WHEREAS, on February 14, 2006, the City Council of the City of Banning adopted Ordinance No. 1339 approving Zone Change 03-3501 repealing the existing zoning ordinance and adopting the new Zoning Ordinance that included sign regulations; and

WHEREAS, the new Zoning Ordinance and included sign regulations makes no provision for the relocation of existing billboards or outdoor advertising signs as allowed by the Outdoor Advertising Act (Business and Professions Code §5412); and

WHEREAS, the State of California desires to encourage local entities and display owners to enter into relocation agreements which allow local entities to continue development in a planned manner without expenditure of public funds while allowing the continued maintenance of private investment and a medium of public communication; and

WHEREAS, cities are specifically empowered to enter into relocation agreements on whatever terms are agreeable to the display owner and the city and to adopt ordinances or resolutions providing for the relocation of displays; and

WHEREAS, the City Council has authority per Chapter 17.116 (Zoning Ordinance Amendments) of the City of Banning Municipal Code to approve, approve with modifications, or disapprove amendments to the Zoning Ordinance; and

WHEREAS, on ____________ during a duly advertised public hearing, the Planning Commission adopted Resolution No. 2015-____ recommend to the City Council the adoption of Ordinance No. 1493 approving the Categorical Exemption and Zone Text Amendment No. 15-97505; and

WHEREAS, on the ______th day of ____________ the City gave public notice as required under Chapter 17.68 (Hearings and Appeals) of the City of Banning Municipal Code by advertising in the Record Gazette newspaper of the holding of a public hearing at which the Categorical Exemption and Zone Text Amendment would be considered; and

WHEREAS, on the ______th day of ____________ the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or
opposition to the proposed amendments, and at which time the City Council considered the Categorical Exemption and Zone Text Amendment No. 15-97505; and

WHEREAS, at this public hearing on the _______th day of __________________ the City Council considered and heard public comments on the proposed Categorical Exemption and Zone Text Amendment; and

WHEREAS, the City Council has carefully considered all pertinent documents and the staff report offered in this case as presented at the public hearing held on the _______th day of __________________.

NOW THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Banning as follows:

SECTION 1. ENVIRONMENTAL.

California Environmental Quality Act (CEQA)
In accordance with the requirements of the California Environmental Quality Act (CEQA), the City Council has analyzed proposed Zone Text Amendment No. 15-97505 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zone Text Amendment No. 15-97505 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Multiple Species Habitat Conservation Plan (MSHCP)
The amendments to the Zoning Ordinance do not relate to any one physical project and are not subject to the MSHCP. Further, projects that may be subject to this Ordinance will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

SECTION 2. REQUIRED FINDINGS.

The California Government Code and Section 17.116.050 (Findings) of the City of Banning Municipal Code require that Zone Text Amendments meet certain findings prior to the approval by the City Council. The following findings are provided in support of the approval of the Zone Text Amendment No. 15-97505.

Finding No. 1: Proposed Zone Text Amendment No. 15-97505 is consistent with the goals and policies of the General Plan.
Findings of Fact: Proposed Zone Text Amendment No. 15-97505 is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations within the City will not change, and the text amendments will result in meeting some of the objectives of the General Plan and more specifically that of the Economic Development Element.

The primary Economic Development Element Goal is to provide "A balanced, broadly-based economy that provides a full range of economic and employment opportunities, while maintaining high standards of development and environmental protection". The proposed amendments to sign regulations of the Zoning Ordinance are intended to allow development of properties occupied by existing billboards or outdoor advertising signs by allowing the City Council to enter into relocation agreements with owners. By allowing relocations, an opportunity is created to establish additional retail development along the City’s highway serving commercial corridor creating a potential for increased sales tax revenue and job creation. Zone Text Amendment No. 15-97505 does not propose to amend or change the existing development standards of the Zoning Ordinance. Therefore, the proposed zone text amendments will help meet the objective of the primary economic development goal of benefiting the economy while maintaining high development standards.

Furthermore, Economic Development Policy 6 states “Encourage and facilitate highway-serving commercial development at appropriate Interstate-10 interchanges within the City limits” (GP p. III-43). The proposed amendments to the sign regulations are intended to encourage and facilitate highway serving commercial development by allowing the relocation of billboards or outdoor advertising signs that would otherwise prevent development due to the potential loss of the advertising asset. Therefore, the proposed zone text amendments will foster improvements not just at the interchanges but along the entire commercial corridor.

Finding No. 2: Proposed Zone Text Amendment No. 15-97505 is internally consistent with the Zoning Ordinance.

Findings of Fact: Proposed Zone Text Amendment No. 15-97505 is consistent with the purpose and objective of the Zoning Ordinance to ensure orderly development of all lands within the city to protect the public health, safety, and welfare. This is accomplished by allowing relocation agreements as approved by City Council resolution whereby the advertising asset may be preserved while facilitating development in accordance with the City’s existing Zoning Ordinance and development standards.

Furthermore, where clarification is needed in regard to other sign types and more specifically future or existing specific plan sign approvals; and,
the allowing of banners on city owned facilities which is a past practice of the City, the proposed amendments include Section 17.36.180 and Section 17.36.190 respectively, setting forth regulations intended to maintain consistency within the sign regulations of the Zoning Ordinance.

**Finding No. 3:** The City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

**Findings of Fact:** In accordance with the requirements of the California Environmental Quality Act (CEQA), the City Council has analyzed proposed Zone Text Amendment No. 15-97505 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zone Text Amendment No. 15-97505 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

**SECTION 3. CITY COUNCIL ACTION.**

The City Council hereby takes the following actions:

1. **Adoption of Categorical Exemption.** In accordance with Public Resources Code Section 21006 and CEQA Guidelines Section 15061 the City Council hereby adopts the Categorical Exemption prepared pursuant to CEQA Guidelines Section 15061(b)(3) for Zone Text Amendment No. 15-97505.

2. **Approve Zone Text Amendment No. 15-97505.**

Amend Section 17.36.030 Definitions by adding the following:

“Billboard. See outdoor advertising sign.

Electronic message center means a sign having the capability of presenting variable advertising message displays by projecting an electronically controlled light pattern against a contrasting background, and which can be programmed to change such message display periodically. An electronic message center is neither an animated sign nor a simulated motion sign.
Outdoor advertising structure (Billboard) means any sign with a commercial message, other than a directional sign, which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where the sign is located, or to which it is affixed. Commercial copy on any outdoor advertising sign may be replaced with noncommercial copy. Outdoor advertising structures/billboards shall not include subdivision or tract signs (see Section 17.36.080), signage affiliated with solar powered electric vehicle charging stations, or signs installed pursuant to a city sign program.

Pylon sign. A freestanding sign that is permanently supported by one or more uprights, braces, or poles, or other similar structural components that are architecturally compatible with the main structure of the site.

Relocated billboard. An existing billboard that is located in the city that is relocated through a City Council approved Relocation Agreement. The relocated billboard is not considered a new outdoor advertising sign.

Amend Section 17.36.060 Prohibited signs by amending paragraph (D) as follows:

The following signs are inconsistent with the sign standards set forth in this chapter, and are therefore prohibited:

“(D) Billboards or Outdoor advertising structures. However, notwithstanding any other provision of this chapter, and consistent with the California Business & Professions Code Outdoor Advertising Act provisions, billboards or outdoor advertising signs, including electronic message centers, electronic message boards, and changeable message boards, may be considered and constructed as part of a relocation agreement requested by the city and entered into between the city and a billboard and/or property owner. The replacement of a static billboard face with an electronic message center, electronic message board, or changeable message board shall be considered a relocation for purposes of this section. Such agreements may be approved by resolution of the City Council upon terms that are agreeable to the city, pursuant to administrative guidelines, as adopted by the City Council resolution. The execution of a relocation agreement shall not operate to change the status of any billboard as a nonconforming use for purposes of this code.”

Add the following Sections:

“17.36.180 Signs within adopted specific plan areas.
Signs within adopted specific plan areas shall conform to the sign requirements as indicated within the individual specific plan. However, in the event sign requirements are not provided in the individual specific plans, all signs within the specific plan areas shall conform to the provisions of Chapter 17.36. If the land use within the specific plan is not specifically identified
in the Zoning Ordinance, the most appropriate (closely related) use of the area shall apply, as determined by the Community Development Director.

17.36.190 Flags, banners and pennants on city-owned light poles.
Notwithstanding §17.36.070, the City of Banning may install flags, banners, and/or pennants on city-owned utility poles. The City Manager shall establish a written banner program to regulate the installation of flags, banners, and pennants on City-owned utility poles. Banners and pennants shall be installed in compliance with the banner program established by the City Manager.”

SECTION 4. SEVERABILITY.

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

SECTION 5. PUBLICATION; EFFECTIVE DATE.

The City Clerk shall certify to the passage and adoption of this ordinance, and shall make a minute of the passage and adoption thereof in the records of and the proceedings of the City Council at which the same is passed and adopted. This ordinance shall be in full force and effect thirty (30) days after its final passage and adoption, and within fifteen (15) days after its final passage, the City Clerk shall cause it to be published in a newspaper of general circulation and shall post the same at City Hall, 99 E. Ramsey Street, Banning, California.
PASSED, APPROVED, AND ADOPTED this ___day of ___________, 2015.

____________________
Deborah Franklin, Mayor  
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

____________________
Lona Laymon, City Attorney  
Aleshire & Wynder, LLP

ATTEST:

____________________
Marie A. Calderon, City Clerk  
City of Banning, California

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1493 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the _______ day of ________________, 2015, and was duly adopted at a regular meeting of said City Council on the ______ day of ________________, 2015, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

____________________
Marie A. Calderon, City Clerk  
City of Banning, California
ATTACHMENT 3
Draft CC Resolution No. 2015-96
RESOLUTION NO. 2015-96

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, ESTABLISHING DESIGN GUIDELINES FOR BILLBOARD OR OUTDOOR ADVERTISING SIGN RELOCATION AGREEMENTS IN ACCORDANCE WITH THE SIGN REGULATIONS OF THE ZONING ORDINANCE AND THE OUTDOOR ADVERTISING ACT

WHEREAS, on February 14, 2006, the City Council of the City of Banning adopted Ordinance No. 1339 approving Zone Change 03-3501 repealing the existing zoning ordinance and adopting the new Zoning Ordinance that included sign regulations; and

WHEREAS, the new Zoning Ordinance and included sign regulations makes no provision for the relocation of existing billboards or outdoor advertising signs as allowed by the Outdoor Advertising Act (Business and Professions Code §5412); and

WHEREAS, State of California desires to encourage local entities and display owners to enter into relocation agreements which allow local entities to continue development in a planned manner without expenditure of public funds while allowing the continued maintenance of private investment and a medium of public communication; and

WHEREAS, cities are specifically empowered to enter into relocation agreements on whatever terms are agreeable to the display owner and the city and to adopt ordinances or resolutions providing for the relocation of displays; and

WHEREAS, sign regulations of the Zoning Ordinance now makes provisions for approval of relocation agreements by City Council through adoption of Ordinance No. 1493;

WHEREAS, the City Council desires to establish design guidelines for billboard, or outdoor advertising relocation agreements;

NOW THEREFORE, the City Council of the City of Banning does hereby resolve, determine, find, and order that in addition to those things negotiated and agreed to by the respective parties for billboard relocation agreements, the following design guidelines are approved:

1. Consideration of a relocated billboard and a relocation agreement allowing an electronic message center will require the removal of at least one existing billboard for each electronic message center face.
2. The scenic view south of Interstate 10 from Sunset to Hargrave should be preserved as there are no existing billboards at this location.

3. The City shall have the right to place public service announcements on any such electronic messaging center. The limits on public service announcements will be stipulated in the relocation agreement.

4. The relocation agreement should prohibit the use of onsite electric generators to power the digital billboards for normal operations.

5. The sign face for any relocated billboard shall not overhang onto Interstate 10 or any other state highway.

6. The relocated billboard shall be shielded to prevent light or glare intrusion onto adjoining properties that are located within five-hundred (500) feet of such relocated billboard.

7. Message changes on any electronic message center shall be limited to one message every six (6) seconds, or that allowed by the California Department of Transportation, whichever is greater.

8. No electronic message center shall simulate motion or exhibit any images or series of images that could be considered "animated" in any way, including but not limited to sequential still images that update faster than once every 6 seconds. No electronic message center shall contain any flashing, sparkling, intermittent or moving lights. There shall be no flashing or scrolling messages. Changes in color or light intensity on a still image or message at a rate faster than once every 6 seconds are also not permitted.

9. Each electronic message center shall contain automatic dimmers that maintain a maximum luminance of 4,000 nits during the daylight hours, and 2,000 nits from dusk (official sunset) to sunrise and during times of fog (One nit is equivalent to one candela per square meter.). Each electronic message center shall be equipped with a mechanism to monitor brightness.

10. A relocated billboard shall not be illuminated between the hours of 11 p.m. to 5 a.m. when located within five-hundred (500) feet of an existing residential property, or residentially zoned property.

11. The City shall have the right to place emergency service announcements on any such electronic messaging center. The limits on emergency service announcements will be stipulated in the relocation agreement.

12. The advertiser shall agree not to display advertising for adult entertainment, mud wrestling, alcohol (except beer and wine), tobacco products of any type, or other content that could be reasonably considered sexually explicit or pornographic by community standards. Objectionable advertising shall be stipulated in the relocation agreement.
13. Relocated billboards shall not be allowed in the Downtown Commercial (DC) zoning district.

14. Relocated billboards shall require permit approval through the Building and Safety Division, Caltrans, the Riverside County Airport Land Use Commission if located within a compatibility zone, and any other responsible agency.

15. Whenever practicable, relocated billboards should include architectural enhancements that add aesthetic appeal to the relocated billboard.

16. Relocated billboards shall not exceed 55 feet in height. Consideration to reducing the height of any proposal shall be required to minimize impacts to scenic vistas. This may be accomplished through the submittal of written plans and photographic simulations.

17. Relocated billboards shall not exceed a face area of 14 feet by 48 feet.
PASSED, APPROVED AND ADOPTED this \( \text{th} \) day of \( \_\_\_\_\_\_\_ \), 2015.

Deborah Franklin, Mayor

City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

Lona Laymon, City Attorney
Aleshire and Wynder, LLP.

ATTEST:

Marie A. Calderon, City Clerk
City of Banning, California

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2015-96 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the \( \text{th} \) day of \( \_\_\_\_\_\_\_ \), 2015.

AYES:
NOES:
ABSENT:
ABSTAIN:

Marie A. Calderon, City Clerk
City of Banning, California
ATTACHMENT 4
Public Hearing Notice
Record Gazette
216 N. Murray St.
Proof of Publication
(2015 S.C.C.P)
124657-AMEND. (ZTA #15-97505)

State of California
County of Riverside

I am a citizen of the United States and a resident of the State of California. I am over the age of eighteen years, and not a party to or interested in the above action. I am the principal clerk of the printer and publisher of Record Gazette, a newspaper published in the English language in the City of Banning, County of Riverside, and adjudicated a newspaper of general circulation as defined by the laws of the State of California by the Superior Court of the County of Riverside, under the date October 14, 1986, Case No. 54737. That the notice, all of which the petition is a copy, has been published in such regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

October 29, 2015

Executed on: 10/23/2015
At Banning, CA

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Signature

ZTA 15-97505
ATTACHMENT 5
Minutes Joint Study Session
September 22, 2015
Policy Direction
Comments/Issues brought forward during the Joint Study Session
City Council-Planning Commission
September 22, 2015

Re: Billboards or outdoor advertising signs

1. The proposed sign regulation changes should include a requirement for maintenance of the billboards.

Section 17.36.100 of the existing sign regulations already addresses this comment in significant detail; and, the maintenance requirements of the existing code would apply to billboards or outdoor advertising signs.

2. The scenic view south of Interstate 10 from Sunset to Hargrave should be preserved as there are no existing billboards at this location.

Staff will recommend that the City Council adopt design guidelines to address this comment.

3. Any exchange of a digital billboard for an existing billboard should include the square footage of the existing billboard advertising face, not just the sign face or structure.

Staff received additional comments from City Council and Planning Commission at the joint study session requesting that any design guidelines for a relocation agreement allow a single sign owner the ability to enter into relocation agreement. This would seem to preclude the examination of the square footage in exchange for a relocation. However, staff can recommend to City Council that the square foot of the sign face be considered as a design guideline for relocation agreements.

4. The City should reserve time in each relocation agreement for promotion of local events.

This will be incorporated into the design guidelines recommended to be adopted by City Council.

5. The City should require the relocation agreement to include advertising for local businesses at a discounted or reduced rate.

The City Attorney has advised that this requirement would be problematic as it we need to apply conditions for relocating a billboard even-handedly.

6. The exchange formula (existing billboard for a digital billboard) should only require one billboard as a minimum requirement for exchange, as requiring more than one exchange is not fair to those who own just one billboard.

This will be incorporated into the design guidelines recommended to be adopted by City Council.

7. As a source of revenue, the city should institute an outdoor advertising tax for each
existing billboard and any proposed relocations.

The City Attorney has advised that this action would require a voter approval for local tax levies. This would require additional direction from City Council

8. The scenic view should be valued above all relocations and not block the view of the mountains.

This will be incorporated into the design guidelines recommended to be adopted by City Council.

9. The relocation agreement should prohibit the use of electric generators to power the digital billboards.

This will be incorporated into the design guidelines recommended to be adopted by City Council.

bg
MINUTES 09/22/15
CITY COUNCIL SPECIAL MEETING
BANNING, CALIFORNIA

A special joint meeting of the Banning City Council and the Banning Planning Commission was called to order by Mayor Franklin on September 22, 2015 at 3:01 p.m. at the Banning Civic Center Large Conference Room, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Miller
Councilmember Moyer
Councilmember Peterson
Councilmember Welch
Mayor Franklin

COUNCIL MEMBERS ABSENT: None

COMMISSIONERS PRESENT: Commissioner Briant
Commissioner Ellis
Commissioner Krick
Commissioner Price

COMMISSIONERS ABSENT: Chairman Shaw

OTHERS PRESENT: Dean Martin, Interim City Manager/Interim Administrative Services Dir.
Brian Guillot, Acting Community Development Dir.
Sandra Calderon,
Sonja De La Fuente, Office Specialist
Marie A. Calderon, City Clerk

WORKSHOP REPORTS

1. Economic Development – Billboards or Outdoor Advertising Signs

Acting Director Guillot addressed the Council and the Commissioners seeking a policy direction regarding this subject with no action is recommended at this time. Any actions brought forward would go first to the Planning Commission and then to the City Council regarding amending our sign regulations. At this time Action Director Guillot started his power-point presentation on this item (see Exhibit “A” attached). He said what staff is proposing is related to economic development and that is why it was titled as such and has to do with our billboards or outdoor advertising regulations. Currently our regulations prohibit any new billboards. However, we do have conditions where billboards are located on existing vacant parcels of land as shown on the screen. This is an example of the 3500 block of West Ramsey Street where a billboard is located in the commercial
zoning district. The land would like to be developed for some retail use perhaps however, if the owner of that sign would want to develop the property and tore the sign down, that would be a complete loss to them of that advertising mechanism. So what staff is proposing is to amend the sign regulations simply to allow a relocation agreement approved by City Council. No new signs are proposed through these changes.

Acting Director Guillot continued with his presentation giving some background on the existing billboards. He needs to hear from the public, the Planning Commission and the Council as to what minimum exchange would we require, how many sign faces would we want traded for the ability to provide the digital billboard technology and that is one of the issues they would need to discuss. He said if there are any other items that should be added to the design guidelines related to this, please let him know. He briefly went over the benefits from changing our sign regulations to allow relocations and said he would appreciate hearing from the Council and the Commission about any other benefits.

Councilmember Welch said he thought he heard that one of things that would be determined is the number for replacement like a 2 for 1 and then the location has to be ratified by Caltrans.

Acting Director Guillot said the reason for that is because we would want Caltrans input on their regulations because there are a number of things in there that are the responsibility of Caltrans. Ultimately, the City is the permitting agency but would want to respect what Caltrans had to say. We wouldn’t obviously want to approve a sign in a location that they would come back and say, for example, would be a distraction to the on-ramp or something like that.

Councilmember Welch said the same policies follow that all these signs are actually on private property and not on Caltrans and not on right-of-way. Acting Director Guillot said that was correct.

Councilmember Moyer said he noticed on page three it basically said 2 for 1 but in the presentation you had an example of 3 for 1. He thinks that 2 for 1 is adequate. He asked if any of this would be on City property and if so, do we get any income from it.

Acting Director Guillot said in regards to the question about 2 for 1 or 3 for 1 he did that purposely because he has not concluded a particular formula and wanted to hear from the Council and the Commission regarding that issue. In regards to signs being on City property, in his mind, that would be the best case if we could cooperate with an outdoor advertising company with a sign location because in that case we could generate some revenue for the City.

Councilmember Miller said he didn’t quite understand why the signs would be relocated; what would be the reason.

Acting Director Guillot said in the case of his example in the power-point presentation on Slide 2 this sign intrudes into the area where a new building might be placed. For
example, at one time he received a pre-application for this particular area for an auto parts facility but the building intruded into the sign so the sign would either have to come down or be relocated. So that is the reason why this would benefit both development and the outdoor advertiser and the City ultimately.

Councilmember Miller said he is not certain which of the various billboards we have that you are talking about. Are you proposing that they all be changed to digital, that some of them be changed to digital and then an agreement be reached amongst the different owners that some of them be digital.

Acting Director Guillot said he is not recommending what type of outdoor advertising sign goes in at all. What he is recommending is that we allow relocation agreements. An outdoor advertiser could ask that a sign be relocated without it being a digital sign and that would be up to them to negotiate that. What they have asked for in these relocation agreements is the ability to enhance their site by going digital. He said to him simply having the State law available in our City would allow relocation agreements of any type.

Mayor Franklin said so basically you are saying right now we don’t have that capability because of our current ordinance. Acting Director Guillot said that is correct.

Commissioner Krick asked why the 2 for 1 billboards. Are we trying to get rid of billboards and is that why you have to give up 2. What if an individual owns one billboard and they want to upgrade it and they only have one billboard so they are not able to move it, upgrade it.

Acting Director Guillot said that would depend specifically on what regulations we do adopt. However, yes it is in our advantage to reduce the number of billboards along the interstate. Our General Plan doesn’t go specific on this but scenic vistas and other aesthetic parts of this Pass Area are of value to the citizens. We need to balance that scenic vista with encouraging and facilitating business development so reducing the number of billboards in exchange for digital technology would seem to be an advantage both to ourselves as a community and to the advertiser.

Commissioner Krick said included in the packet is a Sample Relocation Agreement from the City of Corona and an interesting fact in that agreement is the payment to the City for a fixed amount of money per year, per changeable message board for the first three years. He doesn’t know if the City of Banning at this point in time collects a license fee on billboards and if they get any kind of revenue sharing. In their attachment it refers to revenue sharing as stated on page 79, are we looking to that as a source of income or we are just going to give it to everybody for free.

Acting Director Guillot said he wasn’t involved in negotiating the agreement with Corona. He simply presented that to the Commission and Council as an example of what could be negotiated. The agreements would be authorized to be negotiated through City Council. In this particular agreement it looks like maybe the advertiser may have offered this as an incentive. Lamar in their letter offered something different. They wanted to do
a location on a City property where they could share the lease with the City. So whatever mechanism the City Council and those that are negotiating the agreement develop that is what would be used. He doesn't want to limit it to any specific item because then the flexibility that you have in an agreement is lost. Right now the City of Banning collects a business tax from all people who do business but it is small and not significant. How we develop that part of the program depends on the City of Banning and the advertiser in what they are willing to offer so he didn't put forth any specific requirements. The simple part of this is that we need to set guidelines and stick to those and the most important one in reviewing this information is the formula.

Commissioner Krick said on page 10 you are saying this is in the “prohibited section” but it’s everything that is prohibited.

Acting Director Guillot said that is what happens in the Municipal Code something is put in a prohibited section and then it will list the exceptions. He knows that it is confusing but that is how “legal speak” often occurs. So in this particular instance it is in the “prohibited part” of our sign code but it is an exception.

Commissioner Krick asked if the signs had to be on metered electricity or can they run on generators.

Acting Director Guillot said generally we require signs to be on metered electricity and he thinks most advertisers would want that because the cost of installing generators with air quality regulations and other expenses far exceeds just having an electric meter but that could be something in the code that we could prohibit any generators to illuminate these signs.

Commissioner Krick said from his standpoint the San Bernardino sign, shown on Slide 5, if somebody is going to redo the sign the enclosed pylon the way that it is designed is much more aesthetically pleasing than just the plain pole.

Acting Director Guillot said he agrees and that is why he included that sign. That is an architectural treatment for the mount and even the building has architectural elements and a decorative kind of fence around it. He said that those are the kinds of comments that he appreciates and he will bring forward those elements.

Commissioner Krick said on the relocation agreement if the sign is of a smaller nature, can it grow into a full-size sign or does it have to stay at the remaining size that it was originally.

Acting Director Guillot said he believes the agreement would define that. In regards to having an existing small sign go up to a larger sign and a single-sided sign being able to go to a double-sided sign is the kind of input he would like to hear from the Council and Commission.

Commissioner Briant said he gets the impression that we are sort of pushing landowners,
business owners to adopt the electric as opposed to the signs we have now. Is that correct and over time are we aiming at that direction or is that a direction we should be going.

Acting Director Guillot said again, that is a policy question really that he needs to hear from the Council and the Commission. The outdoor advertising companies would like to have the ability to use this digital technology. We would like to reduce the number of billboards in our city and we would like to have obviously the ability to do some City advertising, public service emergency advertising on the billboards so those are all positives but they need to be weighed if this is something we want to do or keep things the status quo.

Commissioner Briant said in looking at the billboards today it is a mishmash of different sizes, types, and so on and asked if we are considering a more standardized billboard policy for the City.

Acting Director Guillot said we don’t allow any new billboards period, so there would be no reason to have a policy for them. The policy that he is asking for comments now is related to relocations. What do we want out of a relocation agreement should the Council and the Commission want to adopt that so those ideas can go into the relocation guidelines. For example, the seven items that he listed were just a sample of those things but if you would want other things include, that is what he would like to hear from this meeting.

Commissioner Ellis said if we all get on the road at Highland Springs and drive east you will find that that there is not much room left for new signs and they are pretty well taxed out on the south side of the freeway traveling east. He thinks most of the signs are owned by Lamar and a few signs direct business into our town and others go to the casino and further down east. From Sunset Street all the way to Hargrave there is not one sign and it is a beautiful and scenic drive. Once you get passed the Hargrave on-ramp again, eastbound on the 10 freeway, it seems that we are filled up again with signs. As you get to Malki Road and head back west there are three or four signs and then you get to the scales and go to Ramsey Street and there are no more signs. Then as you go from the Ramsey off-ramp and you drive it is a hodge-podge of signs. Then there are many pillar signs of different sizes for the many businesses in town between Hargrave and 22nd Street. Then when you go past 22nd Street there are more signs from Sunset to Highland Springs. As far as relocation he thinks it is going to be tough. Personally he wouldn’t want to see any signs from Sunset to Hargrave. He was reading in the material about Caltrans and their greenbelts in some of the areas where they prohibit signs and he doesn’t know who owns the property whether it is the State and railroad property and that is why there are no signs along there between the interstate and the railroad tracks. As far as our moratorium on signs he thinks that we are on the right direction and have plenty of signs. One of the issues that he has and feels is a major issue is the 2 for 1, 3 for 1, 4 for 1 or whatever it is that you have to give up two signs to relocate one sign and his first question is that an individual that owns one sign why should he be treated any different than a large company that owns 50 signs. Lamar enjoys the pleasure of saying they can give up two signs to put this one sign and he completely understands where the Sizzler sign is and
that piece of probably and what is being talked about where they wanted to put the auto parts store in and he can see why would they want to give up an income sign to develop something else and he thinks it is gracious of them to consider relocating to see that property. But he totally disagrees that if someone owns one sign in this town and wanted to digitalize it we shouldn’t say to that billboard owner that only has one billboard you can’t do anything. He doesn’t think it is fair. As far as exchanging two billboards to move one, he doesn’t think it is fair to the guy that has one or the guy that has two, maybe. There are situations where you drive along headed westbound and there are people who have signs, not Lamar owned, that are in pretty bad shape also but doesn’t have anything to do with relocation. He asked if there was any restriction with solar power for these signs because with LED technology you can light with low voltage so are we going to allow them to put solar collectors on their signs if they relocate.

Acting Director Guillot said that solar is allowed in the city and in fact we just adopted solar streamlining ordinance that allows a quick review of those types of things.

Commissioner Ellis said we talk about revenue and revenue sharing, giving up our city-owned property to share with a sign company. He thinks the best thing and the most equitable, in his opinion, would be a billboard tax similar to our bed tax and similar to our mining tax where a certain percentage is paid depending upon, he feels, the income of sign and not generally the location. He thinks that along with relocation if an individual has a sign on a large piece of property and it really doesn’t have the visibility it should have, that that person should be able to relocate on the same property if they upgrade the sign. Also, someone made a comment that the three-legged signs are kind of ugly and the single pillar signs do look a lot better. In regards to 2 for 1 signs is that two physical signs or is that two faces of a sign. In other words, if you are going to give up 2 signs for one, is a two-faced sign considered two signs or one sign.

Acting Director Guillot said that goes to the issue of Commission Krick in that he was concerned with the exchange of the area of each sign face getting that precise. So those are the comments that he needs in regards to the billboards.

Commissioner Ellis said some of the early signs were on steel girders and they were “V” signs and stood about 75 feet high and had about the same surface of as the new ones have but were actually on a “V” and are not as attractive as the single post signs are. In relocation we should make it available if an owner wants to upgrade to make his sign look better and go to electronic because if we go to some type of a standardized tax and he goes to a digital type of sign it then just increases the money for us.

Acting Director Guillot said to address the comment about the one sign owner what might be suggested on his part is to make it just a “minimum” so that if the Council wants something else, that could be proposed or if the advertiser wants to offer something else.

Commissioner Price said pertaining to revenue does the City regulate how much it cost or does the sign company regulate the cost on the sign.
Acting Director Guillot said if it is the “advertising cost”, the outdoor advertising owns the sign so they set the rates for their advertising.

Commissioner Price asked how we get our revenue from a fixed sign as opposed to a digital sign.

Acting Director Guillot said right now there is nothing in place that he is aware of to get revenue in that way. Simply any business in the city or a person carrying on business in the city pays a business tax but that would be nominal in comparison to the revenue that was shown as an example for the City of Corona. So what Lamar offered in their letter was a joint project so that we might share perhaps the rental or the lease of the property as a benefit to the City. But Commissioner Ellis was suggesting a tax on all outdoor advertising signs and he is not sure about the legality of that and would have to get with the City Attorney with more information. Also if you look at the way that the City of Corona did the revenue it was quite unique. They basically said so much advertising belongs to the City and if we don’t use it, we get paid for it because you are going to sell it to somebody else. But there are so many different ways to generate revenue in this field and some of them have resulted in lawsuits so those are the comments we need and those are the answers he can get.

Commission Price said he doesn’t know if we can ever do anything about this but for anything to block the view of the picturesque beauty of the Pass mountains, he is really not for and we have a lot of signs on the south side of the freeway going east and probably cannot control that very much but he would certainly want to see us take a serious look at controlling that because nobody likes blocking that view.

Acting Director Guillot said he wouldn’t give up on that thought because, for example, if we do approve a relocation agreement ordinance in the sign regulations we could negotiate something like that because in his mind we value the view and the advertiser values the number of cars going by so if they can find a spot where we get our view and they get their cars, then we both benefit. So that is the kind of thing we would do in the negotiations for each of the agreements.

Councilmember Peterson said personally he like signs and when you are driving down the road it kind of breaks the monotony. The signs along our picturesque highway as stated by Commission Price, if we could lower those signs to ground level, then it would cover the blight and free up the mountain scenery. He likes signs and guesses it can be overdone but he thinks that the signs do help local business. He is concerned about some of the privately-owned signs like Frank Burgess’ sign or Rays RV sign or some of those people and how this would affect those signs. Lamar, CBS and the other sign companies would be able to fit right in but the local people with the single signs may have some difficulty. He thinks that whatever we do that when we rewrite this we have to take the single-sign owner into consideration and not damage their business with this sign ordinance.

Councilmember Miller said he is really confused as to what the definition of a billboard
is on the local businesses like Travelodge, Arco and all of those. They have these pillars with a little sign above it that specifically refers to that business. Are those considered billboards or is that a different type of sign.

Acting Director Guillot said from a planning perspective they view those sign as on-site advertising. In other words, even today our Code makes provision for freeway-oriented signs for a business that is located near the freeway. They could pull a permit for that today. This discussion separates itself in that the items being advertised are off-site. In other words there is no Sizzler located on the parcel where the Sizzler advertising sign is located so we call that “an off-site or outdoor advertising sign” and right now those are prohibited by our Code and so we have been constrained in that we have some of these signs and Lamar has said we would like to relocate according to State law and he tells them that our City code does not allow that.

Councilmember Miller said is other concern is that when you talk about the signs being helpful to the businesses of our community and that is really what we want if you have a digital sign, is there any evidence whatsoever that you will not have 500 different businesses advertising on their sign and none of them being a local one.

Acting Director Guillot said he is not familiar with the marketing intricacies of outdoor advertising but he would just assume that they would give local businesses the opportunity to buy it and whether they could afford it or not, he wouldn’t know that information. What we would be able to do that interest the City and to him is to advertise things that are related to our operation. For example, promoting different City events we could reserve through the relocation agreement some time on their sign for that and then the other thing that they could do is the “Amber” alerts, bad weather information, etc.

Councilmember Miller suggested that we reserve part of the time for us as you said and also a discount for local businesses should be part of the agreement.

Councilmember Moyer said he sees no reason why for single sign owners that have businesses here in Banning that we can’t put something in to protect them in this matter; he totally agrees with that. Also, in regards to the Sizzler sign he knows that they want to move it and do we have any input into the second sign if we go for a 2 for 1.

Acting Director Guillot said he would think that in a negotiating agreement we could ask for what we want.

Councilmember Welch said he certainly agrees with the single sign owners. In the staff report on page 2, you identified the approximate number of billboards along the interstate and do you have any idea how many of them are individually owned by a business and how many of them are owned by sign corporations.

Acting Director Guillot said he doesn’t have that information at this time. He said he took the actual data from a City study that was done about 10 years ago but nothing has changed in that we have not permitted any new signs. So staff can bring forward another
data sheet.

Mayor Franklin said one of the things that she would like to have considered in updating the ordinance would be something about maintenance because some of the signs whether they are billboards or just outdoor advertising get a little old. She asked if AQMD (Air Quality Management District) had something to do with the placement of signs. Acting Director Guillot said not that he is aware of.

Mayor Franklin said when we talk about where signs are is there anything that says that they can only be within certain area of buildings because it was mentioned like with the Sizzler sign that a building wants to go in that spot. Is there something that says billboards have to be a certain distance from buildings?

Acting Director Guillot said that we don’t have any guidelines right now so if we did want something like that we could include it in the requirements. He does recommend some sort of requirement related to existing residential and that is because we do have legal non-conforming residences in our commercial zones so we would want to be sensitive to relocating a sign next to one of those existing residential properties. In that case if we were negotiating it we would put in guidelines, for example, that at certain hours it wouldn’t function or would have to be so many feet away so that it doesn’t shine into the residence. We would need to address that in our guidelines.

Mayor Franklin said one of the pieces that you talked about on page 50 had to do with signs in residential zones and in particular, in regards to garage signs or even when we have an event and people put up local signs like if there is an “electronic drop off day” you see signs and do we have to have permits for those and how do people know they have to have permits for those kind of signs.

Acting Director Guillot said he doesn’t know if they advertise the requirement that we need permits. He has a brochure that he keeps at the counter for individuals who ask so he gives them a copy of the regulations and explains those to the person. Right now the only digital type signs that we allow would have to be related to an auto mall or theater otherwise digital signs are prohibited for an on-site type sign; what we are discussing here is relocation for off-site.

Commission Krick said we are calling them “relocation agreements”. Are we allowing them to pick up the sign and move it to a different parcel of land or is relocation on to the parcel that the existing lease currently takes place? In other words, are you allowing them to take it to the parcel next door if they can, or does it have to stay on the actual property where it started?

Acting Director Guillot said there is nothing in the guidelines that he recommended that would require anything like that. The relocation would simply be relocation somewhere within the city and then it would have to meet all those Caltrans requirements and City requirements but there are no requirements to relocate it on that parcel and that could be problematic because some of the parcels are not of the same size.
Commissioner Krick said and unless you pick up the sign and want to move it you can’t just come in and upgrade.

Acting Director Guillot said that was correct. It is to allow relocations in accordance with State law. As part of that most outdoor advertising companies will not spend the money to relocate a sign, even a fixed sign, unless they can make it produce more revenue and in exchange for that what we would want is a couple of other billboards or sign faces to come down and then we have control over those guidelines that he is asking for comments on. So we can separate it from business, from residences or however we want to do it but remember when we put something in the guideline it applies to everyone. You have now taken that from a negotiating item to a “must” or a “shall” and he generally tries to leave things open for negotiations. It gives the Council more ability to adjust on a particular project. If we put it into the Code, then they wouldn’t have that leeway.

Commissioner Krick said if he were a person coming into the City and had a sign and wanted to relocate and upgrade it and said he was going to relocate his poles five feet away from the existing location of the existing poles, is that considered a relocation agreement?

Acting Director Guillot said first of all under the present regulations you could not do that because you would have to apply for a building permit so no you couldn’t do anything to the sign other than maintain its integrity. Commissioner Krick said but he is talking with what we are trying to adopt. Acting Director Guillot said yes. If they wanted to move it five feet they would have to enter into a relocation agreement with City Council.

Commissioner Krick said so they could still relocate on the same parcel, move it over a few feet and then build a digital sign. Then we are going to say how high from the freeway grade or whatever and we will have provisions for that. Acting Director Guillot said yes, those are the types of things he is looking for from the Council and Commission.

Commissioner Ellis said on the relocation Councilmember Peterson made a comment about lowering the sign and could that be something we might consider in lieu of 2 for 1, or 1 for 1, or whatever it is. For instance, if the Sizzler sign needs to be relocated and Lamar has a three-legged sign that is not aesthetically nice and it is doing some wrong and if they agree to upgrade that sign to a single pole from a three pole, etc. would that be something we might be able to consider as well and he definitely thinks what the Mayor said as far as maintenance needs to be mandatory on any relocation that they have to keep it in an attractive manner.

Bill Houck, General Manager of Lamar addressed the Council and Commission stating that they have been in the desert and inclusive of this area since 2002. They came to the market by virtue of an acquisition of Martin Communications and in 2003 they acquired another company which actually gave them an opportunity to do business with the
Morongo Band of Mission Indians and they were the first of three different companies over time that were involved in marketing the structures that you see along the freeway close to the factory stores and on to the east. The billboard that Brian Guillot showed which they refer to as the “Sizzler” board is on a parcel that is contiguous to other parcels along the freeway and that became a Lamar property by virtue of another acquisition they did with a billboard company called “Fairway”. So when they bought Fairway Outdoor they had an opportunity to have a billboard which really didn’t have a ground lease and that was a very profitable situation because they owned the property. That billboard it is very scary and they cannot get on the billboard because it is dangerous and have been servicing that billboard since 2005 out of a crane so when they began talking about doing something there it wasn’t with the mindset of having a digital billboard; it was with the mindset of making that billboard safe for their men to get on. They have not been able to move that project forward. So fast-forwarding from 2005 to a few years later again Lamar acquired a company called “Empire” formerly known as “Dezoro” and before that “Heywood Outdoor” and those companies for whatever reason decided that they weren’t going to put a dime into the structures. The maintenance of them was abysmal, not painted, odd sizes in some respect and put together Tinker-Toy style and then they came in and through the opportunity that was provided by the City they upgraded every one of those structures that they acquired from Empire and have taken some down. He said that digital is state-of-the-art and Lamar was actually one of the leading companies to get involved in that technology. The reason for digital was two-fold. He said that Lamar grew up servicing local businesses and if you looked at their annual report or did any study of the percentage of national business, business that is placed by big advertising agencies or national concerns there is a very small percentage; they are focused on local business. The stuff along the south line is all railroad property from almost the 60-Highway split all the way to the other side of the factory stores where you run into the Morongo property. He wanted to make sure that the Council and the Commission understand that they really like to take care of their local clients and they become involved in the communities. At least 90% of the advertising is local advertisers. Even if it might appear to be a national ad, like McDonalds or Carl Jr., those businesses are owned by local franchises; they just happen to fund it through national advertising. Back to digital, it was set up as a way to maximize revenue on locations where over the years they are fewer billboards now than there were ten years ago all over the country and they are not building more billboards and in rare occasions do they have an opportunity to add inventory; it is all relocation and usually they lose billboards because of development. At the end of the day the digital billboard was set up to provide an opportunity for advertisers to change their copy. It was a way that they could change their message based on what they were trying to do at any given time and that was the main purpose of it. They are not going to make a bazillion of their regular billboards into digital; it is cost prohibited. In a community of your size, if we got one or two, that would do it.

Mayor Franklin wanted to make sure that staff received some direction from the Council and the Commission and it sounds like we are interested in staff looking at making to some changes to what our current sign ordinance is and some of the things talked about were the single sign owner, maintenance of the signs, view restriction, City ad sharing, size of the sign, 2 for 1 or more, the location of the signs, the pillar decorations,
electronic or LED's or solar signs, billboard tax and discounts for local businesses.

Mayor Franklin said that there was a consensus that this go back directly to the Planning Commission and then to the City Council.

**ADJOURNMENT**

By common consent the meeting adjourned at 4:07 p.m.

Clerk

Marie A. Calderon, City

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**THE ACTION MINUTES REFLECT ACTIONS TAKEN BY THE CITY COUNCIL. A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK'S OFFICE.**
ATTACHMENT 6
Copy Outdoor Advertising Act
BUSINESS AND PROFESSIONS CODE

SECTION 5200-

5200. This chapter of the Business and Professions Code constitutes the chapter on advertisers. It may be cited as the Outdoor Advertising Act.

5201. Unless the context otherwise requires, the general provisions set forth in this article govern the construction of this chapter.

5202. "Advertising display" refers to advertising structures and to signs.

5203. "Advertising structure" means a structure of any kind or character erected, used, or maintained for outdoor advertising purposes, upon which any poster, bill, printing, painting or other advertisement of any kind whatsoever may be placed, including statuary, for advertising purposes.

"Advertising structure" does not include:
(a) Official notices issued by any court or public body or officer;
(b) Notices posted by any public officer in performance of a public duty or by any person in giving legal notice;
(c) Directional, warning or information structures required by or authorized by law or by federal, state or county authority.
(d) A structure erected near a city or county boundary, which contains the name of such city or county and the names of, or any other information regarding, civic, fraternal or religious organizations located therein.

5204. "Bonus segment" means any segment of an interstate highway which was covered by the Federal Aid Highway Act of 1958 and the Collier-Z'berg Act, namely, any such segment which is constructed upon right-of-way, the entire width of which was acquired subsequent to July 1, 1956.

5205. "Business area" means an area within 1,000 feet, measured in each direction, from the nearest edge of a commercial or industrial building or activity and which is zoned under authority of state law primarily to permit industrial or commercial activities or an unzoned commercial or industrial area.

5206. "Centerline of the highway" means a line equidistant from the edges of the median separating the main traveled way of a divided highway, or the centerline of the main traveled way of a nondivided highway.


5208.6. "Department" means the Department of Transportation.

5209. "Director" refers to the Director of Transportation of the State of California.
5210. "Federal Aid Highway Act of 1956" refers to Section 131 of Title 23 of the United States Code, as in effect before October 22, 1965.

5211. "Flashing" is a light or message that changes more than once every four seconds.

5212. "Freeway," for the purposes of this chapter only, means a divided arterial highway for through traffic with full control of access and with grade separations at intersections.

5213. "Highway" includes roads, streets, boulevards, lanes, courts, places, commons, trails, ways or other rights-of-way or easements used for or laid out and intended for the public passage of vehicles or of vehicles and persons.


5215. "Interstate highway" means any highway at any time officially designated as a part of the national system of interstate and defense highways by the director and approved by appropriate authority of the federal government.

5216. (a) "Lanscaped freeway" means a section or sections of a freeway that is now, or hereafter may be, improved by the planting at least on one side or on the median of the freeway right-of-way of lawns, trees, shrubs, flowers, or other ornamental vegetation requiring reasonable maintenance.

(b) Planting for the purpose of soil erosion control, traffic safety requirements, including light screening, reduction of fire hazards, or traffic noise abatement, shall not change the character of a freeway to a landscaped freeway.

(c) Notwithstanding subdivision (a), if an agreement to relocate advertising displays from within one area of a city or county to an area adjacent to a freeway right-of-way has been entered into between a city or county and the owner of an advertising display, then a "landscaped freeway" shall not include the median of a freeway right-of-way.

5216.1. "Lawfully erected" means, in reference to advertising displays, advertising displays which were erected in compliance with state laws and local ordinances in effect at the time of their erection or which were subsequently brought into full compliance with state laws and local ordinances, except that the term does not apply to any advertising display whose use is modified after erection in a manner which causes it to become illegal. There shall be a rebuttable presumption pursuant to Section 606 of the Evidence Code that an advertising display is lawfully erected if it has been in existence for a period of five years or longer without the owner having received written notice during that period from a governmental entity stating that the display was not lawfully erected.

5216.3. "Main-traveled way" is the traveled way of a highway on which through traffic is carried. In the case of a divided highway,
the traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way. Main-traveled way does not include facilities such as frontage roads, ramps, auxiliary lanes, parking areas, or shoulders.

5216.4. "Message center" is an advertising display where the message is changed more than once every two minutes, but no more than once every four seconds.

5216.5. "Nonconforming advertising display" is an advertising display that was lawfully placed, but that does not conform to the provisions of this chapter, or the administrative regulations adopted pursuant to this chapter, that were enacted subsequent to the date of placing.

5216.6. (a) "Officially designated scenic highway or scenic byway" is any state highway that has been officially designated and maintained as a state scenic highway pursuant to Sections 260, 261, 262, and 262.5 of the Streets and Highways Code or that has been officially designated a scenic byway as referred to in Section 131(s) of Title 23 of the United States Code.

(b) "Officially designated scenic highway or scenic byway" does not include routes listed as part of the State Scenic Highway system, Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code, unless those routes, or segments of those routes, have been designated as officially designated state scenic highways.

5218. "Penalty segment" means any segment of a highway located in this state which was not covered by the Federal Aid Highway Act of 1958 and the Collier-Z'berg Act but which is covered by the Highway Beautification Act of 1965, namely, any segment of an interstate highway which is constructed upon right-of-way, any part of the width of which was acquired prior to July 1, 1956, and any segment of a primary highway.

5219. "Person" includes natural person, firm, cooperative, partnership, association, limited liability company, and corporation.

5220. "Primary highway" means any highway, other than an interstate highway, designated as a part of the federal-aid primary system in existence on June 1, 1991, and any highway that is not in that system but which is in the National Highway System.

5221. "Sign" refers to any card, cloth, paper, metal, painted or wooden sign of any character placed for outdoor advertising purposes on or to the ground or any tree, wall, bush, rock, fence, building, structure or thing, either privately or publicly owned, other than an advertising structure.

"Sign" does not include any of the following:
(a) Official notices issued by any court or public body or officer.
(b) Notices posted by any public officer in performance of a public duty or by any person in giving any legal notice.
(c) Directional warning or information signs or structures required by or authorized by law or by federal, state or county
authority.
(d) A sign erected near a city or county boundary that contains the name of that city or county and the names of, or any other information regarding, civic, fraternal, or religious organizations located within that city or county.

5222. "660 feet from the edge of the right-of-way" means 660 feet measured from the edge of the right-of-way horizontally along a line normal or perpendicular to the centerline of the highway.

5222.1. "State highway system" means the state highway system as described in Section 300 of the Streets and Highways Code.

5223. "Unzoned commercial or industrial area" means an area not zoned under authority of state law in which the land use is characteristic of that generally permitted only in areas which are actually zoned commercial or industrial under authority of state law, embracing all of the land on which one or more commercial or industrial activities are conducted, including all land within 1,000 feet, measured in each direction, from the nearest edge of the commercial or industrial building or activity on such land. As used in this section, "commercial or industrial activities" does not include the outdoor advertising business or the business of wayside fresh product vending.

5224. "Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

5225. The verb, "to place" and any of its variants, as applied to advertising displays, includes the maintaining and the erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving or otherwise fastening, affixing or making visible any advertising display on or to the ground or any tree, bush, rock, fence, post, wall, building, structure or thing. It does not include any of the foregoing activities when performed incident to the change of an advertising message or customary maintenance of the advertising display.

5226. The regulation of advertising displays adjacent to any interstate highway or primary highway as provided in Section 5405 is hereby declared to be necessary to promote the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in such highways, to preserve the scenic beauty of lands bordering on such highways, and to insure that information in the specific interest of the traveling public is presented safely and effectively, recognizing that a reasonable freedom to advertise is necessary to attain such objectives. The Legislature finds:
(a) Outdoor advertising is a legitimate commercial use of property adjacent to roads and highways.
(b) Outdoor advertising is an integral part of the business and marketing function, and an established segment of the national economy, and should be allowed to exist in business areas, subject to reasonable controls in the public interest.

5227. It is the intention of the Legislature to occupy the whole field of regulation by the provisions of this chapter except that
nothing in this chapter prohibits enforcement of any or all of its provisions by persons designated so to act by appropriate ordinances duly adopted by any county of this state nor does anything prohibit the passage by any county of reasonable land use or zoning regulations affecting the placing of advertising displays in accordance with the provisions of the Planning Law, Chapter 1 (commencing with Section 65000) of Title 7 of the Government Code, relating to zoning, or, with reference to signs or structures pertaining to the business conducted or services rendered or goods produced or sold upon the property upon which such advertising signs or structures are placed, ordinances subjecting such signs or structures to building requirements.

5228. It is declared to be the intent of the Legislature in enacting the provisions of this chapter regulating advertising displays adjacent to highways included in the national system of interstate and defense highways or the federal-aid primary highway system to establish minimum standards with respect thereto.

5229. The provisions of this chapter shall not be construed to permit a person to place or maintain in existence on or adjacent to any street, road or highway, including any interstate or state highway, any outdoor advertising prohibited by law or by any ordinance of any city, county or city and county.

5230. The governing body of any city, county, or city and county may enact ordinances, including, but not limited to, land use or zoning ordinances, imposing restrictions on advertising displays adjacent to any street, road, or highway equal to or greater than those imposed by this chapter, if Section 5412 is complied with. No city, county, or city and county may allow an advertising display to be placed or maintained in violation of this chapter.

5231. The governing body of any city or city and county may enact ordinances requiring licenses or permits, or both, in addition to those imposed by this chapter, for the placing of advertising displays in view of any highway, including a highway included in the national system of interstate and defense highways or the federal-aid primary highway system, within its boundaries.

5270. The regulation of the placing of advertising displays by this chapter, insofar as such regulation may affect the placing of advertising displays within view of the public highways of this state in unincorporated areas, shall be exclusive of all other regulations for the placing of advertising displays within view of the public highways of this state in unincorporated areas whether fixed by a law of this state or by a political subdivision thereof.

5271. Except as otherwise provided in this chapter, the provisions of this chapter apply only to the placing of advertising displays within view of highways located in unincorporated areas of this state, except that the placing of advertising displays within 660 feet from the edge of the right-of-way of, and the copy of which is visible from, interstate highways or primary highways, including the portions of such highways located in incorporated areas, shall be governed by this chapter.
5272. With the exception of Article 4 (commencing with Section 5300) and Sections 5400 and 5404, inclusive, nothing contained in this chapter applies to any advertising display that is used exclusively for any of the following purposes:
   (a) To advertise the sale, lease, or exchange of real property upon which the advertising display is placed.
   (b) To advertise directions to, and the sale, lease, or exchange of, real property for which the advertising display is placed; provided, that the exemption of this paragraph does not apply to advertising displays visible from a highway and subject to the Highway Beautification Act of 1965 (23 U.S.C., Sec. 131).
   (c) To designate the name of the owner or occupant of the premises or to identify the premises.
   (d) To advertise the business conducted or services rendered or the goods produced or sold upon the property upon which the advertising display is placed if the display is upon the same side of the highway and within 1,000 feet of the point on the property or within 1,000 feet of the entrance to the site at which the business is conducted or services are rendered or goods are produced or sold.
   (e) (1) To advertise any products, goods, or services sold by persons on the premise of an arena pursuant to all of the following conditions:
      (A) The arena is located on public land.
      (B) The arena provides a venue for professional sports on a permanent basis.
      (C) The arena has a capacity of 5,000 or more seats.
      (D) The arena has an advertising display in existence before January 1, 2009.
      (E) The products, goods, or services advertised are or will be offered for sale by persons on a regular basis during the term of an agreement between the vendor or business whose products, goods, or services are sold and the property owner, facility owner, or facility operator, and the term of the agreement is a minimum of one year.
   (2) An advertising display authorized pursuant to this subdivision shall not advertise products, goods, or services directed at an adult population, including, but not limited to, alcohol, tobacco, gambling, or sexually explicit material.

5273. For the purpose of this chapter, advertising displays advertising those businesses and activities developed within the boundary limits of, and as a part of, an individual redevelopment agency project may, with the consent of the redevelopment agency governing the project, be considered to be on the premises anywhere within the limits of that project when all of the land is contiguous or is separated only by a public highway or public facilities developed or relocated for inclusion within the project as a part of the original redevelopment plan for a period not to exceed 10 years or the completion of the project, whichever first occurs, after which Sections 5272 and 5405 apply, unless an arrangement has been made for extension of the period between the redevelopment agency and the department for good cause. The 10-year period for existing displays shall commence on January 1, 1986.

5273.5. (a) Notwithstanding Section 5273, for the purposes of this chapter, in the City of Buena Park in Orange County, the Cities of
Commerce, Covina, and South Gate in Los Angeles County, and the City of Victorville in San Bernardino County, advertising displays advertising those businesses and activities developed within the boundary limits of, and as a part of, any redevelopment agency project area or areas may, with the consent of the redevelopment agency governing the project area, be considered to be on the premises anywhere within the legal boundaries of the redevelopment agency's project area or areas for a period not to exceed 10 years or the completion of the project, whichever occurs first, after which Sections 5272 and 5405 apply, unless an arrangement has been made for extension of the period between the redevelopment agency and the department for good cause.

(b) The governing body of a redevelopment agency in the cities set forth in subdivision (a), upon approving the purchase, lease, or other authorization for the erection of an advertising display pursuant to this section, shall prepare, adopt, and submit to the department an application for the issuance of a permit that, at a minimum, includes a finding that the advertising display would not result in a concentration of displays that will have a negative impact on the safety or aesthetic quality of the community. The department shall only deny the application if the proposed structure violates Sections 5400 to 5405, inclusive, or subdivision (d) of Section 5408, or if the display would cause a reduction in federal-aid highway funds as provided in Section 131 of Title 23 of the United States Code.

5274. (a) None of the provisions of this chapter, except those in Article 4 (commencing with Section 5300), Sections 5400 to 5404, inclusive, and subdivision (d) of Section 5405, apply to an on-premises advertising display that is visible from an interstate or primary highway and located within a business center, if the display is placed and maintained pursuant to Chapter 2.5 (commencing with Section 5490) and meets all of the following conditions:

(1) The display is placed within the boundaries of an individual development project, as defined in Section 65928 of the Government Code, for commercial, industrial, or mixed commercial and industrial purposes, as shown on a subdivision or site map approved by a city, county, or city and county, and is developed and zoned for those purposes.

(2) The display identifies the name of the business center, if named.

(3) Each business identified on the display is located within the business center and on the same side of an interstate or primary highway where the display is located.

(4) The governing body of the city, county, or city and county has adopted ordinances for the display pursuant to Sections 5230 and 5231 for the area where the display will be placed, and the display meets city, county, or city and county ordinances.

(5) The display results in a consolidation of allowable displays within the business center, so that fewer displays will be erected as a result of the display.

(6) Placement of the display does not cause a reduction of federal aid highway funds as provided in Section 131 of Title 23 of the United States Code.

5275. Notwithstanding any other provision of this chapter, the
director may not regulate noncommercial, protected speech contained within any advertising display authorized by, or exempted from, this chapter.

5300. (a) A person engages in the business of outdoor advertising whenever, personally or through employees, that person places an advertising display, changes the advertising message of an advertising display that does not pertain exclusively to that person's business and is visible to a state highway or freeway.

(b) A manufacturer or distributor of a product for sale to the general public does not engage in the business of outdoor advertising when furnishing a sign pertaining to the product to a retailer of that product for installation on the retailer's place of business or when installing on the retailer's place of business a sign containing advertising pertaining to the product, the name or the business of the retailer.

5301. No person shall engage in or carry on the business or occupation of outdoor advertising without first having paid the license fee provided by this chapter. The fee is payable annually in advance on the first day of July of each year to the director or his authorized agent. Each license shall remain in force for the term of one year from and after the first day of July, and may be renewed annually.

A license shall be obtained whether or not the advertising display requires a permit.

5302. All licenses issued on or after the first day of July shall expire on the 30th day of June following the date of issue. Fees for original licenses issued after the first day of July of each year shall be apportioned and collected on the basis of one-twelfth of the fee for each month or part thereof remaining in the fiscal year.

5303. Every application for a license shall be made on a form to be furnished by the director. It shall state the full name of the applicant and the post office address of his fixed place of business and shall contain a certification that the applicant has obtained a copy of the provisions of this chapter and any regulations adopted thereunder and is aware of their contents.

The issuance of a license entitles the holder to engage in or carry on the outdoor advertising business and to apply for permits during the term of the license.

5350. No person shall place any advertising display within the areas affected by the provisions of this chapter in this state without first having secured a written permit from the director or from his authorized agent.

5351. Every person desiring a permit to place any advertising display shall file an application with the director or with his authorized agent.

5353. The application shall be filed on a blank to be furnished by the director or by his agent. It shall set forth the name and address of the applicant and shall contain a general description of the property upon which it is proposed to place the advertising display for which a permit is sought and a diagram indicating the location of
the proposed advertising display on the property, in such a manner that the property and the location of the proposed advertising display may be readily ascertained and identified.

5354. (a) The applicant for any permit shall offer written evidence that both the owner or other person in control or possession of the property upon which the location is situated and the city or the county with land use jurisdiction over the property upon which the location is situated have consented to the placing of the advertising display.

(b) At the written request of the city or county with land use jurisdiction over the property upon which a location is situated, the department shall reserve the location and shall not issue a permit for that location to any applicant, other than the one specified in the request, in advance of receiving written evidence as provided in subdivision (a) and for a period of time not to exceed 90 days from the date the department received the request.

(c) In addition to the 90-day period set forth in subdivision (b), an additional period of 30 days may be granted at the discretion of the department upon any proof, satisfactory to the department and provided by the city or county making the original request for a 90-day period, of the existence of extenuating circumstances meriting an additional 30 days. There shall be a conclusive presumption in favor of the department that the granting or denial of the request for an additional 30 days was made in compliance with this subdivision.

5355. An application for a permit to place a display shall contain a description of the display, including its material, size, and subject and the proposed manner of placing it.

5357. If the applicant for a permit is engaged in the outdoor advertising business, the application shall contain the number of the license issued by the director.

5358. When the application is in full compliance with this chapter and if the advertising display will not be in violation of any other state law, the director or the director's authorized agent shall, within 10 days after compliance and upon payment by the applicant of the fee provided by this chapter, issue a permit to place the advertising display for the remainder of the calendar year in the year in which the permit is issued and for an additional four calendar years.

5359. (a) The issuance of a permit for the placing of an advertising display includes the right to change the advertising copy without obtaining a new permit and without the payment of any additional permit fee.

(b) The issuance of a permit does not affect the obligation of the owner of the advertising display to comply with a zoning ordinance applicable to the advertising display under the provisions of this chapter nor does the permit prevent the enforcement of the applicable ordinance by the county.

5360. (a) The director shall establish a permit renewal term of five years, which shall be reflected on the face of the permit.
(b) The director shall adopt regulations for permit renewal that include procedures for late renewal within a period not to exceed one year from the date of permit expiration. Any permit that was not renewed after January 1, 1993, is deemed revoked.

5361. Each permit provided in this chapter shall carry an identification number and shall entitle the holder to place the advertising display described in the application.

5362. No person shall place any advertising display unless there is securely fastened upon the front thereof an identification number plate of the character specified in Section 5363. The placing of any advertising display without having affixed thereto an identification number plate is prima facie evidence that the advertising display has been placed and is being maintained in violation of the provisions of this chapter, and any such display shall be subject to removal as provided in Section 5463.

5363. Identification number plates shall be furnished by the director. Identification number plates shall bear the identification number of the advertising display to which they are assigned.

5364. The provisions of this article shall apply to any advertising display which was lawfully placed and which was in existence on November 7, 1967, adjacent to an interstate or primary highway and within the limits of an incorporated area, but for which a permit has not heretofore been required. A permit which is issued pursuant to this section shall be deemed to be a renewal of an original permit for an existing advertising display.

5365. When a highway within an incorporated area is designated as an interstate or a primary highway, each advertising display maintained adjacent to such highway shall thereupon become subject to all of the provisions of this act. For purposes of applying the provisions of this act, each such display shall be considered as though it had been placed along an interstate or a primary highway during all of the time that it had been in existence. Within 30 days of notification by the director of such highway designation, the owner of each advertising display adjacent to such highway shall notify the director of the location of such display on a form prescribed by the director. The director shall issue a permit for each such advertising display on the basis of the notification from the display owner; provided that such permits will be issued and renewed only if the owner pays the fees required by subdivision (b) of Section 5485. Each permit issued pursuant to this section shall be deemed to be a renewal of an original permit for an existing advertising display.

5366. The issuance of a permit pursuant to this chapter does not allow any person to erect an advertising display in violation of any ordinance of any city, county, or city and county.

5400. No advertising structure may be maintained unless the name of the person owning or maintaining it, is plainly displayed thereon.

5401. No advertising structure shall be placed unless it is built
to withstand a wind pressure of 20 pounds per square foot of exposed surface. Any advertising structure not conforming to this section shall be removed as provided in Section 5463.

5402. No person shall display or cause or permit to be displayed upon any advertising structure or sign, any statements or words of an obscene, indecent or immoral character, or any picture or illustration of any human figure in such detail as to offend public morals or decency, or any other matter or thing of an obscene, indecent or immoral character.

5403. No advertising display shall be placed or maintained in any of the following locations or positions or under any of the following conditions or if the advertising structure or sign is of the following nature:
   (a) If within the right-of-way of any highway.
   (b) If visible from any highway and simulating or imitating any directional, warning, danger or information sign permitted under the provisions of this chapter, or if likely to be mistaken for any permitted sign, or if intended or likely to be construed as giving warning to traffic, by, for example, the use of the words "stop" or "slow down."
   (c) If within any stream or drainage channel or below the floodwater level of any stream or drainage channel where the advertising display might be deluged by flood waters and swept under any highway structure crossing the stream or drainage channel or against the supports of the highway structure.
   (d) If not maintained in safe condition.
   (e) If visible from any highway and displaying any red or blinking or intermittent light likely to be mistaken for a warning or danger signal.
   (f) If visible from any highway which is a part of the interstate or primary systems, and which is placed upon trees, or painted or drawn upon rocks or other natural features.
   (g) If any illumination shall impair the vision of travelers on adjacent highways. Illuminations shall be considered vision impairing when its brilliance exceeds the values set forth in Section 21466.5 of the Vehicle Code.
   (h) If visible from a state regulated highway displaying any flashing, intermittent, or moving light or lights.
   (i) If, in order to enhance the display's visibility, the owner of the display or anyone acting on the owner's behalf removes, cuts, cuts down, injures, or destroys any tree, shrub, plant, or flower growing on property owned by the department that is visible from the highway without a permit issued pursuant to Section 670 of the Streets and Highways Code.

5404. No advertising display shall be placed outside of any business district as defined in the Vehicle Code or outside of any unincorporated city, town or village, or outside of any area that is subdivided into parcels of not more than 20,000 square feet each in area in any of the following locations or positions, or under any of the following conditions, or if the advertising display is of the following nature:
   (a) If within a distance of 300 feet from the point of intersection of highway or of highway and railroad right-of-way
lines, except that this does not prevent the placing of advertising display on that side of an intercepted highway that is opposite the point of interception. But in case any permanent building, structure or other object prevents any traveler on any such highway from obtaining a clear view of approaching vehicles for a distance of 300 feet, then advertising displays may be placed on such buildings, structure or other object if such displays will not further obstruct the vision of those approaching the intersection or interception, or if any such display does not project more than one foot therefrom.

(b) If placed in such a manner as to prevent any traveler on any highway from obtaining a clear view of approaching vehicles for a distance of 500 feet along the highway.

5405. Notwithstanding any other provision of this chapter, no advertising display shall be placed or maintained within 660 feet from the edge of the right-of-way of, and the copy of which is visible from, any interstate or primary highway, other than any of the following:

(a) Directional or other official signs or notices that are required or authorized by law, including, but not limited to, signs pertaining to natural wonders and scenic and historical attractions, and which comply with regulations adopted by the director relative to their lighting, size, number, spacing, and any other requirements as may be appropriate to implement this chapter which are consistent with national standards adopted by the United States Secretary of Transportation pursuant to subdivision (c) of Section 131 of Title 23 of the United States Code.

(b) Advertising displays advertising the sale or lease of the property upon which they are located, if all advertising displays within 660 feet of the edge of the right-of-way of a bonus segment comply with the regulations adopted under Sections 5251 and 5415.

(c) Advertising displays which advertise the business conducted, services rendered, or goods produced or sold upon the property upon which the advertising display is placed, if the display is upon the same side of the highway as the advertised activity; and if all advertising displays within 660 feet of the right-of-way of a bonus segment comply with the regulations adopted under Sections 5251, 5403, and 5415; and except that no advertising display shall be placed after January 1, 1971, if it contains flashing, intermittent, or moving lights (other than that part necessary to give public service information, including, but not limited to, the time, date, temperature, weather, or similar information, or a message center display as defined in subdivision (d)).

(d) (1) Message center displays that comply with all requirements of this chapter. The illumination or the appearance of illumination resulting in a message change of a message center display is not the use of flashing, intermittent, or moving light for purposes of subdivision (b) of Section 5408, except that no message center display may include any illumination or message change that is in motion or appears to be in motion or that changes in intensity or exposes its message for less than four seconds. No message center display may be placed within 1,000 feet of another message center display on the same side of the highway. No message center display may be placed in violation of Section 131 of Title 23 of the United States Code.

(2) Any message center display located beyond 660 feet from the
edge of the right-of-way of an interstate or primary highway and permitted by a city, county, or city and county on or before December 31, 1988, is in compliance with Article 6 (commencing with Section 5350) and Article 7 (commencing with Section 5400) for purposes of this section.

(3) Any message center display legally placed on or before December 31, 1996, which does not conform with this section may continue to be maintained under its existing criteria if it advertises only the business conducted, services rendered, or goods produced or sold upon the property upon which the display is placed.

(4) This subdivision does not prohibit the adoption by a city, county, or city and county of restrictions or prohibitions affecting off-premises message center displays which are equal to or greater than those imposed by this subdivision, if that ordinance or regulation does not restrict or prohibit on-premises advertising displays, as defined in Chapter 2.5 (commencing with Section 5490).

(e) Advertising displays erected or maintained pursuant to regulations of the director, not inconsistent with the national policy set forth in subdivision (f) of Section 131 of Title 23 of the United States Code and the standards promulgated thereunder by the Secretary of Transportation, and designed to give information in the specific interest of the traveling public.

5405.3. Nothing in this chapter, including, but not limited to, Section 5405, shall prohibit the placing of temporary political signs, unless a federal agency determines that such placement would violate federal regulations. However, no such sign shall be placed within the right-of-way of any highway or within 660 feet of the edge of and visible from the right-of-way of a landscaped freeway.

A temporary political sign is a sign which:

(a) Encourages a particular vote in a scheduled election.
(b) Is placed not sooner than 90 days prior to the scheduled election and is removed within 10 days after that election.
(c) Is no larger than 32 square feet.
(d) Has had a statement of responsibility filed with the department certifying a person who will be responsible for removing the temporary political sign and who will reimburse the department for any cost incurred to remove it.

5405.5. In addition to those displays permitted pursuant to Section 5405, displays erected and maintained pursuant to regulations of the director, which will not be in violation of Section 131 of Title 23 of the United States Code, and which identify the location of a farm produce outlet where farmers sell directly to the public only those farm or ranch products they have produced themselves, may be placed or maintained within 660 feet from the edge of the right-of-way so that the copy of the display is visible from a highway.

The advertising displays shall indicate the location of the farm products but not the price of any product and shall not be larger than 150 square feet.

5405.6. Notwithstanding any other provision of law, no outdoor advertising display that exceeds 10 feet in either length or width, shall be built on any land or right-of-way owned by the Los Angeles County Metropolitan Transportation Authority, including any of its rights-of-way, unless the authority complies with any applicable
provisions of this chapter, the federal Highway Beautification Act of 1965 (23 U.S.C.A. Sec. 131), and any local regulatory agency’s rules or policies concerning outdoor advertising displays. The authority shall not disregard or preempt any law, ordinance, or regulation of any city, county, or other local agency involving any outdoor advertising display.

5406. The provisions of Sections 5226 and 5405 shall not apply to bonus segments which traverse and abut on commercial or industrial zones within the boundaries of incorporated municipalities, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to and abutting on the national system of interstate and defense highways is subject to municipal regulation or control, or which traverse and abut on other business areas where the land use, as of September 21, 1959, was clearly established by state laws as industrial or commercial, provided that advertising displays within 660 feet of the edge of the right-of-way of such bonus segments shall be subject to the provisions of Section 5408.

5407. The provisions of Sections 5226 and 5405 shall not apply to penalty segments which are located, or which are to be located, in business areas and which comply with Section 5408, except that Sections 5226 and 5405 shall apply to unzoned commercial or industrial areas in which the commercial or industrial activity ceases and is removed or permanently converted to other than a commercial or industrial activity, and displays in such areas shall be removed not later than five years following the cessation, removal, or conversion of the commercial or industrial activity.

5408. In addition to the advertising displays permitted by Section 5405 to be placed within 660 feet of the edge of the right-of-way of interstate or primary highways, advertising displays conforming to the following standards, and not in violation of any other provision of this chapter, may be placed in those locations if placed in business areas:

(a) Advertising displays may not be placed that exceed 1,200 square feet in area with a maximum height of 25 feet and a maximum length of 60 feet, including border and trim, and excluding base or apron supports and other structural members. This subdivision shall apply to each facing of an advertising display. The area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof, which will encompass the entire advertisement. Two advertising displays not exceeding 350 square feet each may be erected in a facing. Any advertising display lawfully in existence on August 1, 1967, that exceeds 1,200 square feet in area, and that is permitted by city or county ordinance, may be maintained in existence.

(b) Advertising displays may not be placed that are so illuminated that they interfere with the effectiveness of, or obscure any official traffic sign, device, or signal; nor shall any advertising display include or be illuminated by flashing, intermittent, or moving lights (except that part necessary to give public service information such as time, date, temperature, weather, or similar information); nor shall any advertising display cause beams or rays of light to be directed at the traveled ways if the light is of an intensity or brilliance as to cause glare or to impair the vision of
any driver, or to interfere with any driver's operation of a motor vehicle.

(c) Advertising displays may not be placed to obstruct, or otherwise physically interfere with, an official traffic sign, signal, or device or to obstruct, or physically interfere with, the vision of drivers in approaching, merging, or intersecting traffic.

(d) No advertising display shall be placed within 500 feet from another advertising display on the same side of any portion of an interstate highway or a primary highway that is a freeway. No advertising display shall be placed within 500 feet of an interchange, or an intersection at grade, or a safety roadside rest area on any portion of an interstate highway or a primary highway that is a freeway and if the interstate or primary highway is located outside the limits of an incorporated city and outside the limits of an urban area. No advertising display shall be placed within 300 feet from another advertising display on the same side of any portion of a primary highway that is not a freeway if that portion of the primary highway is located outside the limits of an incorporated city and outside the limits of an urban area. No advertising display shall be placed within 100 feet from another advertising display on the same side of any portion of a primary highway that is not a freeway if that portion of the primary highway is located inside the limits of an incorporated city or inside the limits of an urban area.

(e) Subdivision (d) does not apply to any of the following:

(1) Advertising displays that are separated by a building or other obstruction in a manner that only one display located within the minimum spacing distances set forth herein is visible from the highway at any one time.

(2) Double-faced, back-to-back, or V-type advertising display, with a maximum of two signs per facing, as permitted in subdivision (a).

(3) Advertising displays permitted by subdivisions (a) to (c), inclusive, of Section 5405. The minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway.

(4) Any advertising display lawfully in existence on August 1, 1967, which does not conform to this subdivision but that is permitted by city or county ordinances.

(f) "Urban area," as used in subdivision (d), shall be determined in accordance with Section 101(a) of Title 23 of the United States Code.

5408.1. (a) No advertising display shall be placed or maintained beyond 600 feet from the edge of the right-of-way of an interstate or primary highway if such advertising display is located outside of an urban area or within that portion of an urban area that is not a business area, is visible from the main traveled way of such highway, and is placed with the purpose of its message being read from such main traveled way, unless such advertising display is included within one of the classes of displays permitted by Section 5405 to be placed within 600 feet from the edge of such highway. Such display may be placed or maintained within the portion of an urban area that is also a business area if such display conforms to the criteria for size, spacing and lighting set forth in Section 5408.

(b) Any advertising display which was lawfully in existence on the effective date of the enactment of this section, but which does not
conform to the provisions of this section, shall not be required to
be removed until January 1, 1980. If federal law requires the state
to pay just compensation for the removal of any such display, it may
remain in place after January 1, 1980, and until just compensation is
paid for its removal pursuant to Section 5412.
(c) For purposes of this section, an urban area means an area so
designated in accordance with the provisions of Section 101 of Title
23 of the United States Code.

5408.2. Notwithstanding any other provision of this chapter, an
advertising display is a lawfully erected advertising display and,
upon application and payment of the application fee, the director
shall issue a permit for the display if it meets all of the following
conditions:
(a) The display was erected on property adjacent to State Highway
Route 10 (Interstate 10) in the unincorporated area of the County of
Los Angeles in order to replace a display which was required to be
removed because the property on which it was located was acquired by
the State of California to facilitate construction of the busway on
Route 10 in the County of Los Angeles.
(b) Upon proper application, the display could have qualified for
a permit at the time it was erected, except for Sections 5351 and
5408 and Article 5 (commencing with Section 5320) as in effect at the
time.
(c) The display conforms to Section 5408 as in effect on January
1, 1984.
(d) The display was in existence on January 1, 1984.

5408.3. Notwithstanding Section 5408, a city or a county with land
use jurisdiction over the property may adopt an ordinance that
establishes standards for the spacing and sizes of advertising
displays that are more restrictive than those imposed by the state.

5408.5. In addition to the advertising displays permitted by
Sections 5405 and 5408, advertising displays located on bus passenger
shelters or benches and conforming to the following standards may be
placed on or adjacent to a highway:
(a) The advertising display may not be within 660 feet of and
visible from any federal-aid interstate or primary rural highway, and
any advertising display within 660 feet of and visible from any
urban highway shall be consistent with federal law and regulations.
(b) The advertising display shall meet traffic safety standards of
the public entity having operational authority over the highway.
These standards may include provisions requiring a finding and
certification by an appropriate official that the proposed
advertising display does not constitute a hazard to traffic.
(c) Bus passenger shelters or benches with advertising displays
may only be placed at approved passenger loading areas.
(d) Bus passenger shelters or benches with advertising displays
may only be placed in accordance with a permit or agreement with the
public entity having operational authority over the highway adjacent
to where, or upon which, the advertising display is to be placed.
(e) Any advertising display on bus passenger shelters or benches
may not extend beyond the exterior limits of the shelter or bench.
(f) There may not be more than two advertising displays on any bus
passenger shelter.
(g) Advertising displays placed on bus passenger shelters or benches pursuant to a permit or agreement with a local public entity shall not be subject to the state permit requirements specified in Article 6 (commencing with Section 5350).

5408.7. (a) It is the intent of the Legislature that this section shall not serve as a precedent for other changes to the law regarding outdoor advertising displays on, or adjacent to, highways. The Legislature recognizes that the streets in the City and County of San Francisco that are designated as state or federal highways are unique in that they are also streets with street lights, sidewalks, and many of the other features of busy urban streets. At the same time, these streets double as a way, and often the only way, for people to move through the city and county from one boundary to another. The Legislature recognizes the particular topography of the City and County of San Francisco, the popularity of the area as a tourist destination, the high level of foot traffic, and the unique design of its highways.

(b) For purposes of this section, "street furniture" is any kiosk, trash receptacle, bench, public toilet, news rack, or public telephone placed on, or adjacent to, a street designated as a state or federal highway.

(c) In addition to the advertising displays permitted by Sections 5405, 5408, and 5408.5, advertising displays located on street furniture may be placed on, or adjacent to, any street designated as a state or federal highway within the jurisdiction of a city and county, subject to all of the following conditions:

1) The advertising display meets the traffic safety standards of the city and county. These standards may include provisions requiring a finding and certification by an appropriate official of the city and county that the proposed advertising display does not constitute a hazard to traffic.

2) Any advertising display that is within 660 feet of, and visible from, any street designated as a state or federal highway shall be consistent with federal law and regulations.

3) Advertising displays on street furniture shall be placed in accordance with a permit or agreement with the city and county.

4) Advertising displays on street furniture shall not extend beyond the exterior limits of the street furniture.

(d) Advertising displays placed on street furniture pursuant to a permit or agreement with the city and county shall not be subject to the state permit requirements of Article 6 (commencing with Section 5350). This subdivision does not affect the authority of the state to enforce compliance with federal law and regulations, as required by paragraph (2) of subdivision (c).

(e) (1) The city and county shall, upon written notice of any suit or claim of liability against the state for any injury arising out of the placement of an advertising display approved by the city and county pursuant to subdivision (c), defend the state against the claim and provide indemnity to the state against any liability on the suit or claim.

2) For the purposes of this subdivision, "indemnity" has the same meaning as defined in Section 2772 of the Civil Code.

(f) (1) This section shall become inoperative not later than 60 days from the date the director receives notice from the United States Secretary of Transportation that future operation of this...
section will result in a reduction of the state's share of federal highway funds pursuant to Section 131 of Title 23 of the United States Code.

(2) Upon receipt of the notice described in paragraph (1), the director shall notify in writing the Secretary of State and the City and County of San Francisco of that receipt.

(3) This section shall be repealed on January 1 immediately following the date the Secretary of State receives the notice required under paragraph (2).

5410. Any advertising display located within 660 feet of the edge of the right-of-way of, and the copy of which is visible from, any penalty segment, or any bonus segment described in Section 5406 which display was lawfully maintained in existence on the effective date of this section but which was not on that date in conformity with the provisions of this article, may be maintained, and shall not be required to be removed until July 1, 1970. Any other sign which is lawful when erected, but which does not on January 1, 1968, or any time thereafter, conform to the provisions of this article, may be maintained, and shall not be required to be removed, until the end of the fifth year after it becomes nonconforming; provided that this section shall not apply to advertising displays adjacent to a landscaped freeway.

5412. Notwithstanding any other provision of this chapter, no advertising display which was lawfully erected anywhere within this state shall be compelled to be removed, nor shall its customary maintenance or use be limited, whether or not the removal or limitation is pursuant to or because of this chapter or any other law, ordinance, or regulation of any governmental entity, without payment of compensation, as defined in the Eminent Domain Law (Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure), except as provided in Sections 5412.1, 5412.2, and 5412.3. The compensation shall be paid to the owner or owners of the advertising display and the owner or owners of the land upon which the display is located.

This section applies to all displays which were lawfully erected in compliance with state laws and local ordinances in effect when the displays were erected if the displays were in existence on November 6, 1978, or lawfully erected after November 6, 1978, regardless of whether the displays have become nonconforming or have been provided an amortization period. This section does not apply to on-premise displays as specified in Section 5272 or to displays which are relocated by mutual agreement between the display owner and the local entity.

"Relocation," as used in this section, includes removal of a display and construction of a new display to substitute for the display removed.

It is a policy of this state to encourage local entities and display owners to enter into relocation agreements which allow local entities to continue development in a planned manner without expenditure of public funds while allowing the continued maintenance of private investment and a medium of public communication. Cities, counties, cities and counties, and all other local entities are specifically empowered to enter into relocation agreements on whatever terms are agreeable to the display owner and the city.
county, city and county, or other local entity, and to adopt ordinances or resolutions providing for relocation of displays.

5412.1. A city, county, or city and county, whose ordinances or regulations are otherwise in full compliance with Section 5412, is not in violation of that section if the entity elects to require the removal without compensation of any display which meets all the following requirements:

(a) The display is located within an area shown as residential on a local general plan as of either the date an ordinance or regulation is enacted or becomes applicable to the area which incorporates the provisions of this section.

(b) The display is located within an area zoned for residential use either on the date on which the removal requirement is adopted or becomes applicable to the area.

(c) The display is not located within 660 feet from the edge of the right-of-way of an interstate or primary highway with its copy visible from the highway, nor is placed or maintained beyond 660 feet from the edge of the right-of-way of an interstate or primary highway with the purpose of its message being read from the main traveled way.

(d) The display is not required to be removed because of an overlay zone, combining zone, or any other special zoning district whose primary purpose is the removal or control of signs.

(e) The display is allowed to remain in existence for the period of time set forth below after the enactment or amendment after January 1, 1983, of any ordinance or regulation necessary to bring the entity requiring removal into compliance with Section 5412, and after giving notice of the removal requirement:

<table>
<thead>
<tr>
<th>Fair Market Value on Date of Notice</th>
<th>Minimum Years of Removal Requirement Allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under $1,999</td>
<td>2</td>
</tr>
<tr>
<td>$2,000 to $3,999</td>
<td>3</td>
</tr>
<tr>
<td>$4,000 to $5,999</td>
<td>4</td>
</tr>
<tr>
<td>$6,000 to $7,999</td>
<td>5</td>
</tr>
<tr>
<td>$8,000 to $9,999</td>
<td>6</td>
</tr>
<tr>
<td>$10,000 and over</td>
<td>7</td>
</tr>
</tbody>
</table>

The amounts provided in this section shall be adjusted each January 1 after January 1, 1983, in accordance with the changes in building costs, as indicated in the United States Department of Commerce Composite Cost Index for Construction Costs.

5412.2. A city or city and county, whose ordinances or regulations are otherwise in full compliance with Section 5412, is not in violation of that section if the entity elects to require the removal without compensation of any display which meets all the following requirements:

(a) The display is located within an incorporated area shown as agricultural on a local general plan as of either the date an ordinance or regulation is enacted or becomes applicable to the area which incorporates the provisions of this section.

(b) The display is located within an area zoned for agricultural use either on the date on which the removal requirement is adopted or
becomes applicable to the area.

(c) The display is not located within 660 feet from the edge of the right-of-way of an interstate or primary highway with its copy visible from the highway, nor is placed or maintained beyond 660 feet from the edge of the right-of-way of an interstate or primary highway with the purpose of its message being read from the main traveled way.

(d) The display is not required to be removed because of an overlay zone, combining zone, or any other special zoning district whose primary purpose is the removal or control of signs.

(e) The display is allowed to remain in existence for the period of time set forth below after the enactment or amendment after January 1, 1983, of any ordinance or regulation necessary to bring the entity requiring removal into compliance with Section 5412, and after giving notice of the removal requirement:

Fair Market Value on Date of Notice Minimum Years of Removal Requirement Allowed
Under $1,999. ...................... 2
$2,000 to $3,999. ................. 3
$4,000 to $5,999. ................. 4
$6,000 to $7,999. ................. 5
$8,000 to $9,999. ................. 6
$10,000 and over.............. 7

The amounts provided in this section shall be adjusted each January 1 after January 1, 1983, in accordance with the changes in building costs as indicated in the United States Department of Commerce Composite Cost Index for Construction Costs.

5412.3. A county whose ordinances or regulations are otherwise in full compliance with Section 5412, is not in violation of that section if the county elects to require the removal without compensation of any display which meets all the following requirements:

(a) The display is located within an unincorporated area shown as agricultural on a local general plan as of either the date an ordinance or regulation is enacted or becomes applicable to the area which incorporates the provisions of this section.

(b) The display is located within an area zoned for agricultural use either on the date on which the removal requirement is adopted or becomes applicable to the area.

(c) The display is not located within 660 feet from the edge of the right-of-way of an interstate or primary highway with its copy visible from the highway, nor is placed or maintained beyond 660 feet from the edge of the right-of-way of an interstate or primary highway with the purpose of its message being read from the main traveled way.

(d) The display is not required to be removed because of an overlay zone, combining zone, or any other special zoning district whose primary purpose is the removal or control of signs.

(e) The display is allowed to remain in existence for the period of time set forth below after the adoption or amendment after January 1, 1983, of any ordinance or regulation necessary to bring the entity requiring removal into compliance with Section 5412, and after
giving notice of the removal requirement:

Fair Market Value on Date of  
Notice Minimum Years  
of Removal Requirement Allowed  
Under $1,999.................. 3.0  
$2,000 to $3,999.............. 4.5  
$4,000 to $5,999.............. 6.0  
$6,000 to $7,999............... 7.5  
$8,000 to $9,999............... 9.0  
$10,000 and over............. 10.5

The amounts provided in this section shall be adjusted each January 1 after January 1, 1983, in accordance with the changes in building costs, as indicated in the United States Department of Commerce Composite Cost Index for Construction Costs.

5412.4. Section 5412 shall not be applied in any judicial proceeding which was filed and served by any city, county, or city and county prior to January 1, 1982, except that Section 5412 shall be applied in litigation to prohibit the removal without compensation of any advertising display located within 660 feet from the edge of the right-of-way of an interstate or primary highway with its copy visible from the highway, or any advertising display placed or maintained beyond 660 feet from the edge of the right-of-way of an interstate or primary highway that is placed with the purpose of its message being read from the main traveled way of the highway.

5412.6. The requirement by a governmental entity that a lawfully erected display be removed as a condition or prerequisite for the issuance or continued effectiveness of a permit, license, or other approval for any use, structure, development, or activity other than a display constitutes a compelled removal requiring compensation under Section 5412, unless the permit, license, or approval is requested for the construction of a building or structure which cannot be built without physically removing the display.

5413. Prior to commencing judicial proceedings to compel the removal of an advertising display, the director may elect to negotiate with the person entitled to compensation in order to arrive at an agreement as to the amount of compensation to be paid. If the negotiations are unsuccessful, or if the director elects not to engage in negotiations, a civil proceeding may be instituted as set forth in Section 5414.

To facilitate the negotiations, the Department of Transportation shall prepare a valuation schedule for each of the various types of advertising displays based on all applicable data. The schedule shall be updated at least once every two years. The schedule shall be made available to any public entity requesting a copy.

5414. Proceedings to compel the removal of displays and to determine the compensation required by this chapter shall be conducted pursuant to Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure.

5415. The director shall prescribe and enforce regulations for the
erection and maintenance of advertising displays permitted by Sections 5226, 5405, and 5408 consistent with Section 131 of Title 23 of the United States Code and the national standards promulgated thereunder by the Secretary of Transportation; provided, that the director shall not prescribe regulations imposing stricter requirements for the size, spacing or lighting of advertising displays than are prescribed by Section 5408 and provided that the director shall not prescribe regulations to conform to changes in federal law or regulations made after November 8, 1967, without prior legislative approval.

Notwithstanding any other provisions of this chapter, no outdoor advertising shall be placed or maintained adjacent to any interstate highway or primary highway in violation of the national standards promulgated pursuant to subsections (c) and (f) of Section 131 of Title 23 of the United States Code, as such standards existed on November 8, 1967.

5416. The director shall seek, and may enter into, agreements with the Secretary of Transportation of the United States and shall take such steps as may be necessary from time to time to obtain, and may accept, any allotment of funds as provided by subdivision (j) of Section 131 of Title 23 of the United States Code, as amended from time to time, and such steps as may be necessary from time to time to obtain funds allotted pursuant to Section 131 for the purpose of paying the 75 percent federal share of the compensation required by subdivision (g) of Section 131 of Title 23 of the United States Code.

5417. From state funds appropriated by the Legislature for such purposes and from federal funds made available for such purposes, the California Transportation Commission may allocate funds to the director for payment of compensation authorized by this chapter.

5418. The California Transportation Commission is authorized to allocate sufficient funds from the State Highway Account in the State Transportation Fund that are available for capital outlay purposes to match federal funds made available for the removal of outdoor advertising displays.

5418.1. When allocating funds pursuant to Section 5418, the commission shall consider, and may designate for expenditure, all or any part of such funds in accordance with the following order of priorities for removal of those outdoor advertising displays for which compensation is provided pursuant to Section 5412:

(a) Hardship situations involving outdoor advertising displays located adjacent to highways which are included within the state scenic highway system, including those nonconforming outdoor advertising displays which are offered for immediate removal by the owners thereof.

(b) Hardship situations involving outdoor advertising displays located adjacent to other highways, including those nonconforming outdoor advertising displays which are offered for removal by the owners thereof.

(c) Nonconforming outdoor advertising displays located adjacent to highways which are included within the state scenic highway system.

(d) Nonconforming outdoor advertising displays which are generally used for product advertising, and which are located in
unincorporated areas.

(e) Nonconforming outdoor advertising displays which are generally used for product advertising located within incorporated areas.

(f) Nonconforming outdoor advertising displays which are generally used for non-motorist-oriented directional advertising.

(g) Nonconforming outdoor advertising displays which are generally used for motorist-related directional advertising.

5419. (a) The director shall seek agreement with the Secretary of Transportation of the United States, or his successor, under provisions of Section 131 of Title 23 of the United States Code, to provide for effective control of outdoor advertising substantially as set forth herein, provided that such agreement can vary and change the definition of "unzoned commercial or industrial area" as set forth in Section 5222 and the definition of "business area" as set forth in Section 5223, or other sections related thereto, and provided further that if such agreement does vary from such sections it shall not be effective until the Legislature by statute amends the sections to conform with the terms of the agreement. If agreement is reached on these terms, the director shall execute the agreement on behalf of the state.

(b) In the event an agreement cannot be achieved under subdivision (a), the director shall promptly institute proceedings of the kind provided for in subdivision (1) of Section 131 of Title 23 of the United States Code, in order to obtain a judicial determination as to whether this chapter and the regulations promulgated thereunder provide effective control of outdoor advertising as set forth therein. In such action the director shall request that the court declare rights, status, and other legal relations and declare whether the standards, criteria, and definitions contained in the agreement proposed by the director are consistent with customary use. If such agreement is held by the court in a final judgment to be invalid in whole or in part as inconsistent with customary use or as otherwise in conflict with Section 131 of Title 23 of the United States Code, the director shall promptly negotiate with the Secretary of Transportation, or his successor, a new agreement or agreements which shall conform to this chapter, as interpreted by the court in such action.

5440. Except as otherwise provided in this article, no advertising display may be placed or maintained on property adjacent to a section of a freeway that has been landscaped if the advertising display is designed to be viewed primarily by persons traveling on the main-traveled way of the landscaped freeway.

5440.1. Except as provided in Section 5442.5, no advertising display may be placed or maintained along any highway or segment of any interstate highway or primary highway that before, on, or after the effective date of Section 131(s) of Title 23 of the United States Code is an officially designated scenic highway or scenic byway.

5441. Any advertising display which is now, or hereafter becomes, in violation of Section 5440 shall be subject to removal three years from the date the freeway has been declared a landscaped freeway by the director or the director's designee and the character of the freeway has been changed from a freeway to a landscaped freeway.
5442. Section 5440 does not apply to any advertising structure or sign if the advertising display is used exclusively for any of the following purposes:
   (a) To advertise the sale or lease of the property upon which the advertising display is placed.
   (b) To designate the name of the owner or occupant of the premises upon which the advertising display is placed, or to identify the premises.
   (c) To advertise goods manufactured or produced, or services rendered, on the property upon which the advertising display is placed.

5442.5. Section 5440.1 does not apply to any advertising display if the advertising display is used exclusively for any of the following purposes:
   (a) Directional and official signs and notices, including, but not be limited to, signs and notices pertaining to natural wonders or scenic and historical attractions that are otherwise required or authorized by law and conform to regulations adopted by the department.
   (b) Signs, displays, and devices advertising the sale or lease of real property upon which they are located.
   (c) Signs, displays, and devices, including, but not limited to, those that may be changed at reasonable intervals by electronic process or by remote control, advertising activities conducted on the property on which they are located.
   (d) Signs lawfully in existence on October 22, 1965, as determined by the department to be landmark signs, including signs on farm structures or natural surfaces, or of historic or artistic significance the preservation of which, in the opinion of the department, would be consistent with the purposes of this section, as determined by regulations adopted by the department.
   (e) Signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the interstate system or the primary system. For the purpose of this subdivision, the term "free coffee" means, coffee for which a donation may be made, but is not required.

5442.7. (a) Section 5440 does not apply to any freestanding identifying structure that is used exclusively to identify development projects, business centers, or associations located within the jurisdiction of, and sponsored by, the City of Richmond to support economic development activities.
   (b) A structure erected pursuant to subdivision (a) shall conform to all of the following conditions:
   (1) Not more than one identifying structure may be used by the City of Richmond and only if approved by that city by ordinance or resolution after a duly noticed public hearing regarding the structure.
   (2) Placement of the structure shall not require the immediate trimming, pruning, topping, or removal of existing trees to provide visibility to the structure, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement of the structure.
   (3) The structure shall be generic only and shall not identify any
specific business.
(4) No public funds may be expended to pay for the costs of the structure.
(5) The structure shall not cause a reduction in federal aid highway funds as provided in Section 131 of Title 23 of the United States Code.

5442.8. Section 5440 does not apply to any advertising structure or sign if the advertising display is used exclusively to identify development projects, business centers, or associations located within the jurisdiction of, or sponsored by, the City of Costa Mesa to support economic development activities, if all of the following conditions are met:
(a) No other display is used by the city pursuant to this section.
(b) The governing body of the city has authorized placement of the display by an ordinance or resolution adopted following a duly noticed public hearing regarding the display.
(c) Placement of the display will not necessitate the immediate trimming, pruning, topping, or removal of existing trees in order to make the display visible or to improve its visibility, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement of the display.
(d) The display does not cause a reduction in federal aid highway funds, as provided in Section 131 of Title 23 of the United States Code.

5442.9. (a) Notwithstanding Section 5440, a city described in subdivision (b) may erect a nonconforming display if all of the following apply:
(1) The display is placed on property that the city has owned since before January 1, 1995.
(2) Not more than one additional display is added to the number of signs within the city that do not conform to this article as of January 1, 2000.
(3) The display is located within the boundaries of the city.
(4) Placement or maintenance of the display does not require the immediate trimming, pruning, topping, or removal of existing trees to provide visibility to the display, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement or maintenance of the display.
(5) No public funds are required to be expended to pay for the costs of the display.
(6) The display does not impose additional liability on the Department of Transportation.
(7) The display does not cause a reduction in federal aid highway funds, as provided in Section 131 of Title 23 of the United States Code.
(8) All proceeds received by a participating city by allowing the erection of the nonconforming display are expended by the city solely for parks and programs for at-risk youth.
(9) The display does not advertise products or services which are directed at an adult population, including, but not limited to, alcohol, tobacco, and gambling activities.
(b) For purposes of this section, city is any city that meets all of the following conditions:
(1) The city's population is 17,000 persons or less.
The city's annual budget is less than eight million dollars ($8,000,000).
(3) The city's geographical area is less than 1.7 square miles.
(4) The city is located in an urbanized county containing a population of 6,000,000 or more persons.

5442.10. (a) Notwithstanding any other provision of this chapter, Section 5440 does not apply to any advertising display if all of the following conditions are met:
(1) Not more than five advertising displays, whose placement or maintenance is otherwise prohibited under this chapter, shall be erected and only if approved by the Oakland-Alameda County Coliseum Authority.
(2) All five advertising displays shall meet the 1,200 square foot size restriction set forth in subdivision (a) of Section 5408. However, subject to subdivision (b), three of the advertising displays may be vertically oriented so long as those displays do not exceed 50 feet in height and 25 feet in length, including border and trim and excluding base or apron supports, and other structural members.
(3) The display area of each advertising display is measured by the smallest square, rectangle, circle, or combination that will encompass the display area. For purposes of this section, embellishments and secondary signs located in the border or trim around a display area advertising the name of the coliseum complex or the identities of athletic teams who are licensees or lessees of all or portions of the Oakland-Alameda County Coliseum Complex shall not cause the border or trim areas to be included in a display face for measurement purposes. In the case of an LED display advertising on-premises activities at the Oakland-Alameda County Coliseum Complex, or off-premises, noncommercial community activities, the LED portion of the display face shall not be included for measurement purposes.
(4) Placement or maintenance of each advertising display does not require the immediate trimming, pruning, topping, or removal of trees located on a state highway right-of-way to provide visibility to the advertising display, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement of the display.
(5) No advertising display shall advertise products or services that are directed at an adult population, including, but not limited to, alcohol, tobacco, gambling, or sexually explicit material.
(6) Each advertising display shall be located on the Oakland-Alameda County Coliseum Complex property and shall comply with the spacing requirements set forth in subdivision (d) of Section 5408, as implemented by department regulation.
(7) If any advertising display erected pursuant to this section is removed for purposes of a transportation project undertaken by the department, the display owner is entitled to relocate that display within the Oakland-Alameda County Coliseum Complex property, and is not entitled to monetary compensation for the removal or relocation even if relocation is not possible.
(8) The display shall not cause a reduction in federal aid highway funds as provided in Section 131 of Title 23 of the United States Code.

(b) For the specific purpose of this section and in accordance
with the Memorandum for Record with the Federal Highway Administration dated January 17, 2001, upon the written request of the Oakland-Alameda County Coliseum Authority on behalf of its licensee or contractor seeking to erect one or more of the three advertising displays allowed by paragraph (2) of subdivision (a) consisting of a size not to exceed 60 feet in height and 25 feet in length, the department shall promptly request Federal Highway Administration approval of that change in orientation to ensure that the advertising displays will not cause a reduction in federal aid highway funds. Upon receipt of the approval from the Federal Highway Administration, the advertising display or displays may be erected.

(c) For the purposes of this section, the Oakland-Alameda County Coliseum Complex is the real property and improvements located at 7000 Coliseum Way, City of Oakland, and more particularly described in Parcel Map 7000, filed August 1, 1996, Map Book 223, Page 84, Alameda County Records, Assessor's Parcel Nos. 041-3901-008 and 041-3901-009.

5442.11. Notwithstanding any other provision of this chapter, Section 5440 does not apply to any advertising display in the Mid-City Recovery Redevelopment Project Area within the City of Los Angeles if all of the following conditions are met:

(a) Not more than four advertising displays, whose placement or maintenance is otherwise prohibited under this chapter, may be erected if approved by the Community Redevelopment Agency of the City of Los Angeles as part of an owner-participation agreement or disposition and development agreement.

(b) All four advertising displays meet the requirements set forth in Section 5405 and 5408.

(c) Placement or maintenance of each advertising display does not require the immediate trimming, pruning, topping, or removal of trees located on a state highway right-of-way to provide visibility to the advertising display, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement of the display.

(d) No advertising display shall advertise products or services that are directed at an adult population, including, but not limited to, alcohol, tobacco, gambling, or sexually explicit material.

(e) If any advertising display erected pursuant to this section is removed for purposes of a transportation project undertaken by the department, the display owner is entitled to relocate that display and is not entitled to monetary compensation for the removal or relocation.

(f) The advertising display shall not cause a reduction in federal aid highway funds as provided in Section 131 of Title 23 of the United States Code.

5442.13. (a) Notwithstanding any other provision of this chapter, Section 5440 shall not prohibit an advertising display in the City of Los Angeles by a not-for-profit educational academy that is exempt from taxation pursuant to Section 501(c)(3) of Title 26 of the United States Code, if all of the following conditions are met:

(1) The exception provided by this section is limited to only one advertising display.

(2) The site of the academy is located immediately adjacent to State Highway Routes 10 and 110 in the City of Los Angeles.
(3) The academy's curriculum focuses on providing arts and entertainment business education.
(4) The advertising display is constructed on the roof of the academy's facility.
(5) The advertising display meets the requirements set forth in Sections 5405 and 5408.
(6) Placement or maintenance of the advertising display does not require the immediate trimming, pruning, topping, or removal of trees located on a state highway right-of-way to provide visibility to the advertising display, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement of the display.
(7) Revenues accruing to the academy from the advertising display are used exclusively for the acquisition, operation, and improvement of the academy.
(b) An advertising display erected pursuant to this section shall not advertise products or services that are directed at an adult population, including, but not limited to, alcohol, tobacco, gambling, or sexually explicit material.
(c) If an advertising display erected pursuant to this section is removed for purposes of a transportation project undertaken by the department, the display owner shall be entitled to relocate that advertising display with no compensation for the removal or relocation, and the relocation shall be limited to a site on the property of the academy specified in subdivision (a).
(d) An advertising display erected pursuant to this section shall not cause a reduction in federal aid highway funds, as provided in Section 131 of Title 23 of the United States Code.
(e) If the academy specified in subdivision (a) closes or otherwise ceases to operate, the advertising display permitted under this section shall no longer be authorized and shall be removed from the property of the academy.
(f) Notwithstanding Section 5412, if the property on which the academy specified in subdivision (a) is sold, the seller shall remove the billboard from the property without compensation before title to the property is transferred to the buyer.
(g) The academy specified in subdivision (a) shall prepare an audit of the revenues generated by the advertising display authorized under this section that includes, but is not limited to, the total revenues generated from the display, the amount of revenues received by the academy, and the expenditures and uses of the revenue. The audit shall be submitted to the Controller and the Legislature on or before January 1, 2007, and every four years thereafter.
(h) The academy specified in subdivision (a) shall comply with the provisions of the City of Los Angeles regulation designated as Section 12.21A 7 (1) of the Los Angeles Municipal Code. The requirements of this subdivision shall be waived if the City of Los Angeles fails to implement, comply with, and make a determination pursuant to the provisions of Section 12.21A7 (1) of the Los Angeles Municipal Code on or before January 1, 2005.

5443. Nothing in this article prohibits either of the following:
(a) Any county from designating the districts or zones in which advertising displays may be placed or prohibited as part of a county land use or zoning ordinance.
(b) Any governmental entity from entering into a relocation
agreement pursuant to Section 5412 or the department from allowing any legally permitted display to be increased in height at its permitted location or to be relocated if a noise attenuation barrier is erected in front of the display or if a building, construction, or structure, including, but not limited to, a barrier, bridge, overpass, or underpass, has been or is then being erected by any government entity that obstructs the display's visibility within 500 feet of the display and that relocated display or that action of the department would not cause a reduction in federal aid highway funds as provided in Section 131 of Title 23 of the United States Code or an increase in the number of displays within the jurisdiction of a governmental entity which does not conform to this article. Any increase in height permitted under this subdivision shall not be more than that necessary to restore the visibility of the display to the main-traveled way. An advertising display relocated pursuant to this subdivision shall comply with all of the provisions of Article 6 (commencing with Section 5350).

5443.5. Nothing in this article prohibits the Department of Transportation from allowing any legally permitted display situated on property being acquired for a public use to be relocated, subject to the approval of the public agency acquiring the property and the approval of the jurisdiction in which the display will be relocated, so long as the action of the department in allowing the relocation of the display would not cause a reduction in federal-aid highway funds, as provided in Section 131 of Title 23 of the United States Code, or an increase in the number of displays which do not conform to this article within the jurisdiction of a governmental entity.

5460. It is unlawful for any person to place or cause to be placed, or to maintain or cause to be maintained any advertising display without the lawful permission of the owner or lessee of the property upon which the advertising display is located.

5461. All advertising displays which are placed or which exist in violation of the provisions of this chapter are public nuisances and may be removed by any public employee as further provided in this chapter.

5462. The director may revoke any license or permit for the failure to comply with this chapter and may remove and destroy any advertising display placed or maintained in violation of this chapter after 30 days' written notice is forwarded by mail to the permitholder at his or her last known address. If no permit has been issued, a copy of the notice shall be forwarded by mail to the display owner, property owner, or advertiser at his or her last known address.

Notwithstanding any other provision of this chapter, the director or any authorized employee may summarily and without notice remove and destroy any advertising display placed in violation of this chapter which is temporary in nature because of the materials of which it is constructed or because of the nature of the copy thereon.

For the purpose of removing or destroying any advertising display placed in violation of this chapter, the director or the director's authorized agent may enter upon private property.
5464. Every person as principal, agent or employee, violating any of the provisions of this chapter is guilty of a misdemeanor.

5465. The remedies provided in this chapter for the removal of illegal advertising displays are cumulative and not exclusive of any other remedies provided by law.

5466. (a) Notwithstanding any other provision of law, as to an advertising display in place as of August 12, 2004, a cause of action for the erection or maintenance of an advertising display that violates this chapter or the laws of a local governmental entity shall not be brought by a private party against an advertising display that has been in continuous existence in its current location for a period of five years. However, if the advertising display has been illegally modified, the cause of action for the illegal modification may be brought by a private party if it is filed within five years of the date the modification was made.

(b) This section shall not apply to a cause of action brought by a governmental entity that is based on the erection or maintenance of an advertising display that violates this chapter or the laws of the governmental entity.
ATTACHMENT 7
Copy Chapter 17.36 Sign Regulations
Chapter 17.36 - SIGN REGULATIONS

Sections:

17.36.010 - Purpose.

The purpose of this chapter is to establish sign regulations that are intended to:

A. Limit and control the location, size, type and number of signs allowed in the City of Banning.
B. To provide for a more orderly display of advertising devices, while implementing community design standards with respect to character, quality of materials, color, illumination and maintenance, which are consistent with the City's General Plan.
C. To bring these advertising devices into harmony with the buildings, with the neighborhood, with the natural environment, and with other signs in the area.
D. To preserve and improve the appearance of the City as a place in which to live and work, and as an attraction to nonresidents who come to visit or trade.
E. To encourage sound signage practices as an aid to business and for the information of the public, while preventing excessive and confusing sign displays.
F. To reduce hazards to motorists, bicyclists and pedestrians.
G. And to promote the public health, safety, viewsheds, aesthetic values, and general welfare of the community by regulating and controlling all matters relating to signs.

(Zoning Ord. dated 1/31/06, § 9109.01.)

17.36.020 - Applicability.

A. This chapter shall apply to all signage proposed within the community. No signs shall be erected or maintained in any land use district established by this Zoning Ordinance, except those signs specifically enumerated in this chapter. The number and area of signs as outlined in this chapter are intended to be maximum standards.
B. In addition to the standards set forth herein, consideration shall be given to a sign's relationship to the need that it serves, and the overall appearance of the subject property as well as the surrounding community. Compatible design, simplicity, and sign effectiveness are to be used in establishing guidelines for sign approval.

(Zoning Ord. dated 1/31/06, § 9109.02.)

17.36.030 - Definitions.

Abandoned Sign. Any display remaining in place or not maintained for a period of 120 days or more which no longer advertises or identifies an on-going business, product, or service available on the business premises where the display is located.

Address Sign. The numeric reference of a structure or use to a street, included as part of a wall or monument sign.

A-Frame Sign. A free standing sign usually hinged at the top, or attached in a similar manner, and widening at the bottom to form a shape similar to the letter "A". Such signs are usually designed to be auxiliary portable commercial signage, hence they are not considered permanent signs.

Anchor Tenant. A shopping center key tenant, usually the largest or one of the largest tenants located within the shopping center, which serves to attract customers to the center through its size, product line, name, and reputation.

Animated Sign. A sign with action or motion, flashing or color changes, requiring electrical energy, electronic or manufactured sources of supply, but not including wind actuated elements such as flags or banners. Said definition shall not include displays such as time and temperature, revolving, changeable copy or public information centers.

Announcement or Bulletin Board Signs. Signs permanent in character designed to accept changeable copy, handbills, posters and matters of a similar nature.

Area of Sign. The area of a sign shall be the entire area including any type of perimeter or border which may enclose the outer limits of any writing, representation, emblem, figure or character excluding architectural features or design. The area of the sign having no such perimeter or border shall be computed by enclosing the entire area within
parallelograms, triangles or circles of the smallest size sufficient to cover the entire area of the sign and computing the area of these parallelograms, triangles or circles. The area computed shall be the maximum portion or portions which may be viewed from any one direction.

**Awning, Canopy, or Marquee Sign.** A nonelectric sign that is printed on, painted on, or attached to an awning, canopy, or marquee and is only permitted on the vertical surface or flap.

**Banner.** A temporary display such as used to announce open houses, grand openings or special announcements. Often made of cloth, bunting, plastic, paper, or similar material.

**Bench Sign.** Copy painted on any portion of a bus stop or other bench.

**Billboard or Off-Site Sign.** A sign structure advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which the sign is located.

**Building Face and/or Frontage.** The length of the single front building elevation in which the primary entrance to the business is located. If more than one business is located in a single building, then such length shall be limited to that portion which is occupied by each individual business.

**Canopy Sign.** Shall mean a sign attached to either the underside of the canopy, or marquee, or directly to the canopy itself.

**Changeable Copy Sign.** A sign designed to allow the changing of copy through manual, mechanical, or electrical means.

**Civic Event Sign.** A temporary sign, other than a commercial sign, posted to advertise a civic event sponsored by a public agency, school, church, civic-fraternal organization, or similar noncommercial organization.

**Commercial Seasonal Sign.** An "open" or "closed" window sign, posted on a seasonal basis.

**Contractor's Sign/Construction Sign.** A temporary sign erected on the parcel on which construction is taking place, limited to the duration of the construction, indicating the names of the architects, engineers, landscape architects, contractors, or similar artisans, and the owner, financial supporters, sponsors, and similar individuals or firms having a major role or interest with respect to the structure or project.

**Directional Sign.** Signs limited to on-premises directional messages, principally for pedestrian or vehicular traffic, such as "one way", "entrance", or "exit".

**Directory Sign.** A sign for listing the tenants or occupants and their suite numbers of a building or center.

**Double-faced Sign.** A single structure designed with the intent of providing copy on both sides.

**Eave Line.** The bottom of the roof eave or parapet.

**Election Sign.** A temporary sign related to or directly associated with a national, state, county or local election or referendum.

**Flags and pennants.** Shall mean devices generally made of flexible materials, usually cloth, paper or plastic, and displayed on strings. They may or may not contain copy. This definition shall not include the flag of the United States or of any state.

**Flags of the State and Nation.** A flag of the United States or the State of California.

**Flashing Sign.** A sign that contains an intermittent or sequential flashing light source.

**Freestanding Sign.** A sign which is supported by one or more uprights, braces, poles, or other similar structural components that is not attached to a building or buildings. Flagpoles are not included in this definition.
Freeway. A highway in respect to which the owners of abutting land have no right or easement of access or in respect to which such owners have only limited or restricted right or easement of access, and which is declared to be such in compliance with the Streets and Highways Code of the State of California.

Future Tenant Identification Sign. A temporary sign which identifies a future use of a site or building.

Grand Opening. A promotional activity not exceeding 30 calendar days used by newly established businesses, within 2 months after occupancy, to inform the public of their location and service available to the community. Grand Opening does not mean an annual or occasional promotion of retail sales or activity by a business.

Ground Sign. A display attached to the ground, within an architecturally planned wall or structure, and not over eight (8) feet in height.

Height of Sign. The greatest vertical distance measured from the existing grade at the mid-point of the sign support(s) that intersect the ground to the highest element of the sign.

Holiday Decoration Sign. Temporary signs, in the nature of decorations, clearly incidental to and customarily associated with holidays.

Identification Sign. A sign attached to the building and displaying only the name, type of business, and/or logo in combination, identifying a particular business establishment.

Illegal Sign. Any of the following: a sign erected without first complying with all ordinances and regulations in effect at the time of its construction and erection or use; a sign that was legally erected, but whose use has ceased, or the structure upon which the display is placed has been abandoned by its owner, not maintained, or not used to identify or advertise an ongoing business for a period of not less than 120 days; a sign that was legally erected which later became nonconforming as a result of the adoption of an ordinance, the amortization period for the display provided by the ordinance rendering the display nonconforming has expired, and conformance has not been accomplished; a sign which is a danger to the public or is unsafe; a sign which is a traffic hazard not created by relocation of streets or highways or by acts of the City or County. Abandoned signs and prohibited signs are also illegal.

Illuminated Sign. A sign with an artificial light source, either internal or external, for the purpose of lighting the sign.

Institutional Sign. A sign identifying the premises of a church, school, hospital rest home, or similar institutional facility.

Kiosk. An off-premise sign of no more than four square feet in size, used for directing people to the sales office or models of a residential subdivision project.

Logo. An established identifying symbol or mark associated with a business or business entity.

Lot or Street frontage. The linear front footage of a parcel of property abutting a dedicated public street.

Logo Sign. An established trademark or symbol identifying the use of a building.

Monument Sign. An independent structure supported from grade to the bottom of the sign with the appearance of having a solid base.

Murals. Painted wall signs which have a majority of the sign area comprised of noncommercial content, which generally have artistic, historic or cultural themes, and which are designed and painted (or supervised) by an artist who possesses demonstrated knowledge and expertise in the design, materials, and execution of murals or other art. Commercial content of murals shall be subject to all applicable sign limitations of the underlying zone district.

Non-Commercial Sign. A sign which does not promote, identify or sell a business or product.
Nonconforming Sign. A legally established sign which fails to conform to the regulations of this chapter. Otherwise conforming signs whose height exceeds the provisions of this chapter only because a special topographical circumstance results in a material impairment of the visibility of the display or the owner's ability to adequately and effectively continue to communicate with the public through the use of the display if the sign were limited to the height allowed in this chapter shall not be considered nonconforming.

Occupancy Frontage. Each individual tenant space within a building or group of buildings which faces upon a dedicated street or public parking area between such space and street.

Off-Site Sign. Any sign which advertises or informs in any manner businesses, services, goods, persons, or events at some location other than that upon which the sign is located. Off-premise sign, billboard, and outdoor advertising structure are equivalent terms.

Open House Sign. A temporary on-site sign posted to indicate a salesperson is available to represent the property subject to sale, lease, or rent.

Painted Sign. Signs painted on the exterior surface of a building or structure; however, if such signs have raised borders, letters, characters, decorations or lighting appliances, they shall be considered wall signs.

Parcel or lot of real property. A parcel or lot of real property under separate ownership from any other parcel or lot and having street or highway frontage.

Political Sign. A sign other than an election sign directly associated with an ideological, political or similar noncommercial message on a sign.

Portable Sign. A sign that is not permanently attached to the ground or a building.

Projecting Sign. Any sign which is suspended from or supported by a building or wall, and which projects eighteen (18) inches or more outward therefrom.

Promotional Sign. A sign erected on a temporary basis to promote the sale of new products, new management, new hours of operation, a new service, or to promote a special sale.

Public Information Center. Any display which is characterized by changeable copy, letters or symbols.

Real Estate Sign. An on-site sign pertaining to the sale or lease of the premises.

Revolving Sign. Any sign that revolves, either by wind actuation or by electrical means.

Roof Sign. A sign erected, constructed, or placed upon or over a roof of a building, including a mansard roof and which is wholly or partly supported by such buildings.

Shopping Center. A group of four (4) or more businesses which function as an integral unit on a single parcel or group of parcels and utilize common off-street parking and access and is identified as a shopping center.

Sign. Any structure, housing, device, figure, statuary, painting, display, message placard, or other contrivance, or any part thereof, which is designed, constructed, created, engineered, intended, or used to advertise, or to provide data or information in the nature of advertising, for any of the following purpose: to designate, identify, or indicate the name of the business of the owner or occupant of the premises upon which the advertising display is located; or, to advertise the business conducted, services available or rendered, or the goods produced, sold, or available for sale, upon the property where the advertising display is erected. This definition shall include all parts, portions, units and materials composing same, together with illumination, frame, background, structure, support and anchorage therefor.

Sign Area. The entire face of a sign, including the surface and any framing, projections, or molding, but not including the support structure. Individual channel-type letters mounted on a building shall be measured by the area enclosed by four straight lines outlining each word or grouping of words.

Sign Program. A coordinated program of one or more signs for an individual building or building complexes with
multiple tenants.

Temporary Sign. A sign intended to be displayed for a limited period of time.

Time and temperature sign. A sign giving the time and or temperature.

Trademark. A word or name which, with a distinctive type or letter style, is associated with a business or business entity in the conduct of business.

Tract development sign. A sign indicating the location of a housing tract.

Tract directional sign. An off-premises sign indicating direction to a tract development.

Vehicle Sign. A sign which is attached to or painted on a vehicle which is parked on or adjacent to any property, the principal purpose of which is to attract attention to a product sold or an activity or business located on such property.

Wall Sign. A sign painted on or fastened to a wall and which does not project more than 12 inches from the building or structure.

Window Sign. Any sign that is applied or attached to a window or located in such a manner that it can be seen from the exterior of the structure, on a permanent or temporary basis.

(Zoning Ord. dated 1/31/06, § 9109.03; Ord. No. 1382, § 3 (part).)

(Ord. No. 1424, § 3.1, 7-13-10)

17.36.040 - Sign permit required.

A. General.

1. No sign, or temporary sign, unless exempted by this chapter, shall be constructed, displayed or altered without a sign permit or sign program approved by the City. The Community Development Department shall review all signs unless otherwise stated.

2. Sign permits shall be reviewed and either approved or denied by the Director within 30 days of submittal of a complete application. The determination of a complete application shall be in conformance with the California Permit Streamlining Act.

3. Determination on sign permit applications are to be guided by the standards and criteria set forth in this article. An application will be approved whenever the proposed sign conforms to all design, size, height and other standards for signs subject to a permit requirement, as such requirements are set forth in this chapter.

4. The Director's determination shall be provided in writing, and shall include an explanation of the reasons for approval or denial. Appeal of the Director's decision shall be in conformance with Chapter 17.68, Hearings and Appeals.

B. Sign Program. A permit for a sign program shall be required for all new commercial, office, and industrial centers consisting of three or more tenant spaces. The program shall be filed with the project application to construct the center, and shall be processed concurrently with the project application. The purpose of the program shall be to integrate signs with building and landscaping design to form a unified architectural statement. This may be achieved by:

1. The use of the same background color, and allowing signs to be of up to 3 different colors per multi-tenant center.

2. The use of the same type of cabinet supports, or method of mounting for signs, and the same type of construction material for components, such as sign copy, cabinets, returns, and supports.

3. The use of the same form of illumination of the signs, with internally lit signs generally being preferred by the City due to the lack of overspill from such lighting.

4. Uniform sign placement specifications, letter height, and logo height for both anchor tenants and minor tenants.

5. Logos may be permitted and are not subject to the color restrictions specified in the program. However, no logo should exceed 25% of the allowable sign area.

(Zoning Ord. dated 1/31/06, § 9109.04.)
17.36.050 - Exempt signs.

The following signs shall be exempt from the provisions of this chapter:

A. Window signs not exceeding two (2) square foot (feet) and limited to business identification, hours of operation, address, and/or emergency information. (Neon signs of any size require a permit, if allowed.)

B. Signs within a structure and not visible from the outside.

C. Memorial signs and plaques installed by a civic organization recognized by the Council, when cut in masonry or bronze tablets.

D. Official and legal notices issued by a court or governmental agency.

E. Official flags of the United States, the State of California, County of Riverside, or the City of Banning.

F. Identification signs on construction sites. Such signs shall be limited to one directory or pictorial display sign identifying all contractors and other parties (including lender, realtor, subcontractors, etc.). Each sign shall not exceed 20 square feet in area and 6 feet in height. Each sign shall be removed prior to issuance of a Certificate of Occupancy.

G. Election Signs. Election signs must comply with the following requirements:
   1. Election signs shall be limited in size to the maximum allowed in the zones where located. Any freeway oriented freestanding sign shall be required to secure all applicable permits and comply with these sign regulations including section 17.36.110.
   2. No election signs shall be permitted on public property or in the public right-of-way.
   3. There are no pre-election restrictions limiting when elections signs may be erected, but the owner of the sign must remove the sign within seven days after the applicable election has ended.
   4. For all election signs, the campaign shall be deemed the owner of the sign unless it can establish that it is not the owner of the sign. In the event the campaign establishes it is not the owner of the sign, the owner of the property on which the sign is placed, shall be deemed the owner of the sign.
   5. In the event that any such sign violates the provisions of this chapter, or if it is not removed within the period provided hereunder, it shall be subject to abatement pursuant to the procedures prescribed in section 17.36.090.
   6. Except as provided in this subsection, no permit shall be required for election signs.

H. Real estate signs for residential sales shall be one sign not exceeding four square feet in area and five feet in height, provided it is unlit and is removed within 7 days after the close of escrow or the rental or lease has been accomplished. Open House signs, for the purpose of selling a single house or condominium and not exceeding four square feet in area and five feet in height, are permitted for directing prospective buyers to property offered for sale.

I. Real estate signs for the initial sale, rental, or lease of commercial and industrial premises: One sign not to exceed 20 square feet in area to advertise the sale, lease, or rent of the premises. No such sign shall exceed eight feet in overall height and shall be removed upon sale, lease or rental of the premises or 12 months, whichever comes first. Thereafter, one sign per premise not to exceed 12 square feet in size and five feet in height is permitted for the sale, lease or rent of the premise.

J. Future tenant identification signs: One wall or freestanding sign may be placed on vacant or developing property to advertise the future use of an approved project on the property and where information may be obtained. Such sign shall be limited to one sign, a maximum of 20 square feet in area and eight feet in overall height. Any such signs shall be single faced and shall be removed prior to the granting of occupancy permit by the City.

K. Incidental signs for automobile repair stores, gasoline service stations, automobile dealers with service repairs, motels and hotels, showing notices of services provided or required by law, trade affiliations, credit cards accepted, and the like, attached to the structure or building; provided that all of the following conditions exist:
   1. The signs number no more than three.
   2. No such sign projects beyond any property line.
   3. No such sign shall exceed an area per face of three square feet.
   4. Signs may be double-faced.

L. Copy applied to fuel pumps or dispensers such as fuel identification, station logo, and other signs required by
law.

M. Agricultural signs, either wall or freestanding types, non-illuminated, and not exceeding four square feet for lots two acres or less and 10 square feet for lots greater than two acres, identifying only the agricultural products grown on the premises. The number of such signs shall be one per street frontage or a maximum of two, with wall signs to be located below the roofline and freestanding signs to be no higher than six feet.

N. Sign programs which have been approved prior to the adoption of this Zoning Ordinance.

O. Municipal and traffic control signs: Directional signs to aid vehicle or pedestrian traffic provided that such signs are located on-site, have a maximum area which does not exceed three square feet, have a maximum overall height of four feet above grade, and are mounted on a monument or decorative pole. Such signs may be located in a required setback provided that a minimum distance of five feet from any property line is maintained. Directional signs to the railway, the airport or the highway are among the types of signs which fall in this category.

P. Temporary window signs may be permitted on the inside of windows facing out which do not cover more than 25% of the individual window surface for a period not to exceed 30 days use during any 60 day period. Temporary painted signs may be on the outside of the window.

Q. Historic site and historic landmark, and neighborhood signs, when designed in conformance with standards of the California Historic Commission or a similar entity.

R. Professionally made restroom, telephone and walkway signs of under one square foot.

S. Emblems or signs of a political, civic, philanthropic, educational or religious organizations, if those signs are on the premises occupied by such organizations, and do not exceed 24 square feet in area, or number more than one emblem or sign in total.

T. Political Signs. Political signs must comply with the following requirements:

1. Political signs shall be limited in size to the maximum allowed in the zones where located. Any freeway oriented freestanding sign shall be required to secure all applicable permits and comply with these sign regulations including section 17.36.110.

2. No political signs shall be permitted on public property or in the public right-of-way.

3. In the event that any such sign violates the provisions of this chapter, it shall be subject to abatement pursuant to the procedures prescribed in section 17.36.090.

4. Except as provided in this subsection, no permit shall be required for political signs.

(Zoning Ord. dated 1/31/06, § 9109.05.)

(Ord. No. 1424, § 3.2, 3.3, 7-13-10; Ord. No. 1487 § 3.2, 4-18-15)

17.36.060 - Prohibited signs.

The following signs are inconsistent with the sign standards set forth in this chapter, and are therefore prohibited:

A. Abandoned signs.
B. Animated, moving, flashing, blinking, reflecting, revolving, or any other similar sign, except electronic message boards.
C. All banners, flags, and pennants in the Downtown Commercial zoning district and located within 50 feet of a residential property.
D. Billboards.
E. [Reserved].
F. Changeable copy signs and electronic message boards, except as allowed by a Conditional Use Permit for movie theaters, arenas, stadiums, or auto malls in the commercial land use districts.
G. Reserved.
H. Off site signs, except as permitted elsewhere in this ordinance.
I. Permanent sale signs.
J. Portable signs or A-frame signs, except in the Downtown Commercial zone and shall not pose a hazard to pedestrians; and, shall be stable under all-weather conditions or shall be removed.
K. Roof signs.
L. Signs on public property or the public rights-of-way, except for traffic regulation and signs permitted by a governmental agency.

M. Signs painted on fences or roofs.

N. Balloons and other inflated devices or signs designed to attract attention, except with Temporary Use Permit.

O. Signs that are affixed to vehicles, excluding permanent signs on commercial vehicles which are driven on a daily or weekly basis.

P. Signs which simulate in color or design a traffic sign or signal, or which make use of words, symbols or characters in such a manner to interfere with, mislead, or confuse pedestrian or vehicular traffic.

Q. Signs which singly or in combination with other signs block more than 5% of the view from any window or door of any structure or dwelling used primarily as a residence.

R. Signs which singly or in combination with other signs, for any portion of the day, block natural sunlight from falling upon any window or door of any structure or dwelling used primarily as a residence.

S. Signs which singly or in combination with other signs block more than 33% for solid lettering (or up to 50% if perforated vinyl window signs) of the view from any window or door of any structure used or occupied by people for more than an hour of a typical day, in all zoning districts of the City.

(Zoning Ord. dated 1/31/06, § 9109.06; Ord. No. 1377, § 1.)

(Ord. No. 1424, § 3.4, 7-13-10; Ord. No. 1447, § 3, 2-14-12; Ord. No. 1487, § 3.2, 4-28-15)

17.36.070 - Temporary signs.

Special event signs and civic event signs may be approved by the Director for a limited period of time as a means of publicizing special events such as grand openings, carnivals, parades, charitable events and holiday sales. Such special event signs shall be limited to the following provisions:

A. No special event sign shall be erected without a temporary use permit.

B. Special event signs shall be limited to 90 days per event from the date of erection or date of permit, whichever occurs first.

C. Special event signs shall not include promotional sales signs, and they must be taken down within a week after the conclusion of the special event.

D. Special event signs may include balloons, inflated devices, search lights, beacons, pennants, and streamers.

E. Such temporary signs may not be granted to the same business or location more than twice during any one year.

(Zoning Ord. dated 1/31/06, § 9109.07; Ord. No. 1448, § 9, 5-8-12)

17.36.080 - Off-site residential subdivision directional signs.

The following shall regulate and establish a standardized program of off-site residential subdivision directional kiosk signs for the City. For the purposes of this subsection, a residential subdivision is defined as a housing project within a recorded tract where five or more structures or dwelling units are concurrently undergoing construction.

A. No kiosk sign structure shall be located less than 300 feet from an existing or previously approved kiosk site, except in the case of signs on different corners of an intersection.

B. The placement of each kiosk sign structure shall be reviewed and approved by the Director.

C. All kiosk signs shall be placed on private property with written consent of the property owner.

D. A kiosk sign location plan shall be prepared, showing the site of each kiosk directional sign, and shall be approved by the Director prior to the issuance of a sign permit.

E. There shall be no additions, tag signs, streamers, devices, display boards, or appurtenances, added to the kiosk signs as originally approved, no other non-permitted directional signs, such as posters or trailer signs, may be used.

F. All non-conforming subdivision kiosk directional signs associated with the subdivision in question must be removed prior to the placement of directional kiosk sign(s).

G. Kiosk signs, or attached project directional signage, shall be removed when the subdivision is sold out. The applicant (or his/her legal successors) will be responsible for removal of panels and structures no longer needed.
17.36.090 - Abatement of abandoned or illegal temporary signs.
A. Every temporary sign not owned by the property owner of the property on which it is erected shall be marked to indicate on the sign the identity of the sign owner, provided that for any commercial sign where not otherwise indicated it shall be presumed that the business being advertised is the owner.
B. Any abandoned or illegal temporary sign is hereby declared to be a danger to the health, safety, and welfare of the citizens of Banning. Any sign which is (i) in deteriorating condition and not maintained in the condition in which it was originally installed, (ii) violates conditions of the sign permit, or (iii) is partially or wholly obscured by the growth of dry vegetation or weeds or by the presence of debris or litter also presents a danger to the health, safety, and welfare of the Banning community. Such signs may be abated as provided in this chapter.
C. Any such signs as set forth above are hereby deemed to be a public nuisance. Any such sign, including any and all structural supports, shall be removed by the property owner within ten days after notice from the director, which notice shall provide an opportunity to be heard before the director on the abandonment and nuisance decision and an appeal may be taken pursuant to chapter 17.68. Any sign not removed within ten days after such notice, may be abated by the director if no appeal has been taken from the director's decision, or, if the appeal has been denied or modified. If after a reasonable effort to determine the owner of the sign, the owner cannot be found, then the city may summarily remove the sign and the same shall be stored for a period of thirty days, during which time they may be recovered by the owner.
D. Costs of an abatement conducted pursuant to this chapter shall be assessed against the owner of the sign, and to the extent permissible under law, against the owner of the property, using the procedures established in the Banning Municipal Code.

17.36.100 - Sign construction and maintenance.
A. Every sign, and all parts, portions, and materials shall be manufactured, assembled, and erected in compliance with all applicable State, Federal, and City regulations and the Uniform Building Code.
B. Every sign, including those specifically exempt from this Zoning Ordinance, in respect to permits and permit fees, and all parts, portions, and materials shall be maintained and kept in good repair. The display surface of all signs shall be kept clean, neatly painted, and free from rust and corrosion. Any cracked, broken surfaces, malfunctioning lights, missing sign copy or other unmaintained or damaged portion of a sign shall be repaired or replaced within 30 calendar days following notification by the City. Noncompliance with such a request shall constitute a nuisance and penalties may be assessed in accordance with the provisions of these zoning ordinances.

17.36.110 - Sign regulations.
Signs permitted in each of the City's land use districts are identified below. In addition to the following regulations, all signs must be in compliance with all other provisions of this chapter pertaining to signs.

Signs may have commercial or non-commercial messages. A non-commercial message may be substituted for the copy of any commercial sign allowed by this chapter.

A. Signs in Residential Zones.
1. Up to one flagpole, displaying the flag of the US or the State of California, up to 35 feet in height, unless a permit is obtained from the City to have a flagpole in a private park or public park for up to 65 feet in height.
2. For single family homes, the following are allowed:
   a. Up to one sign not to exceed one square foot in area, identifying the address;
   b. Up to one unit sign not to exceed four square feet in area, pertaining to the rental, sale or lease of the property on which the sign is located. Such signs must be temporary, and may contain no flashing, blinking or reflective objects.
3. For apartment complexes and multifamily developments, the following are allowed:
a. Sign(s) containing the name and/or address of the development, providing that the combined area of such signs is not exceeded as established below:
   i. Up to one wall sign
   ii. Up to one freestanding sign per street frontage (which shall be in a landscaped area at least 15 feet from the curb face, and not closer than five feet to the property line. Freestanding signs shall have a maximum height of eight feet inclusive of supporting structures.
   iii. The maximum combined area of the signs set forth above shall not exceed 20 square feet, for complexes with 125 feet of frontage or less, and shall not exceed 30 square feet for complexes with over 125 square feet of frontage.

4. For properties in the residential zones where farming takes place, lots may have one sign per street frontage (up to a maximum of two signs) advertising only the agricultural products grown on the premises. These signs may not be illuminated, and may be either free standing or wall signs. For lots of two acres or less, each sign may be a maximum of four square feet. For lots over two acres, each sign may be a maximum of ten square feet.

5. No neon signs are permitted in residential areas.

B. Signs in Commercial and Industrial Zones.

1. No sign attached to a structure shall be placed above the roof line.

2. Wall signs. Each business in Downtown Commercial zoning district shall be permitted wall signs per occupancy footage. The area devoted to such signs shall not exceed one square foot of sign area per one foot of building frontage, and shall not exceed 50 square feet of sign area. An introductory sign of a maximum of 5 square feet shall be allowed for 25 percent of the sign fee to encourage business in the Downtown Commercial zoning district. Each business in all other commercial and industrial zoning districts shall be permitted wall signs per the area of the wall (length times height of the wall). The area devoted to such signs shall not exceed 20 percent of the wall area. The sign area maximum for wall signs shall not apply to a freeways-oriented wall sign proposed to be located and designed in such a manner as to be viewed primarily in a direct line of sight from a main traveled roadway of a freeway or a freeway on-ramp/off-ramp and advertising onsite retail or service-oriented businesses. Freeway-oriented wall signs shall be subject to all requirements of section 17.36.110(B)(6), including requiring the approval of a conditional use permit.

3. Monument signs. Each parcel or property shall be permitted one monument sign subject to all of the following conditions being met:
   a. One square foot of sign area for one foot of building frontage is permitted. Such sign shall not exceed 50 square feet.
   b. The buildings must be set back at least 25 feet from the property line.
   c. The monument sign shall be located in a landscaped planter area not less than 50 square feet, with one dimension being at least four feet.
   d. The monument sign may be no more than 8 feet high.
   e. Shopping centers may have one monument sign not to exceed one square foot of display face per one foot of building frontage, not to exceed 100 square feet, for center identification. Said sign may include reader panels, and or a bulletin or a changeable copy pane.

4. Painted signs. Each business shall be permitted painted signs subject to the following conditions:
   a. Said signs shall be in combination with or in lieu of wall signs.
   b. The area of said painted sign shall be deducted from the total allowable wall sign.

5. Accessory signs. Signs denoting credit cards, hours of operation, etc, shall be allowed but shall not exceed three square feet in total area.

6. Freeway-Oriented Freestanding Sign. Freeway-oriented freestanding signs shall be allowed subject to the following requirements:
   a.
Said sign shall be located and designed in such a manner as to be viewed primarily in a direct line of sight from a main traveled roadway of a freeway or a freeway on-ramp/off-ramp. The phrase "viewed primarily in direct line of sight from" shall mean that the message may be seen with reasonable clarity for a greater distance by a person traveling on the main traveled roadway of a freeway or on-ramp/off-ramp than by a person traveling on the street adjacent to the sign.

b. Said signs shall be limited to on-site retail or services businesses. Shopping centers may have one freeway-oriented sign and shall include city identification or city logo as approved by planning commission. Said city identification or logo shall be excluded from the display face area calculation. When the display area of the sign is used for commercial speech, the copy must qualify as onsite to the business or shopping center.

c. Said sign shall not block another freeway-oriented freestanding sign. The applicant shall be responsible for providing the planning commission with evidence to assure satisfactory compliance with this requirement.

d. Said sign shall be located in a planter area not less than fifty square feet with one dimension being at least six feet, unless from the evidence presented to the planning commission it can be determined that the area is not visible from public street or right-of-way, or the absence of the planter shall not be detrimental to the appearance of the area.

e. Said sign shall not exceed an overall height of fifty-five feet.

f. Said sign shall not exceed one hundred seventy-five square feet per display face.

g. Said sign shall require approval of a conditional use permit. In addition to satisfying requirements set forth above in this section 17.36.110(B)(6) of the Banning Municipal Code, the following findings must be made prior to approval of a conditional use permit for a freeway-oriented freestanding sign, without consideration of message content of the proposed signs:

i. The elevation of the freeway in relation to the elevation of the abutting properties justifies the height requested, and is the minimum necessary.

ii. The number and spacing of freeway signs will not cause unnecessary confusion, clutter or other unsightliness in the general location.

iii. The use identified, as well as its type, size and intensity, justifies the size, design and location of the sign requested.

iv. The needs of the traveling public for identification and directional information justifies the sign requested.

7. One flag pole, displaying one or more flags of the state and nation, not to exceed 35 feet in height.

8. Any existing freestanding sign shall be considered legal and conforming, but shall not be altered or replaced except by approval of a conditional use permit.

(Zoning Ord. dated 1/31/06, § 9109.11; Ord. No. 1377, § 2)

(Ord. No. 1419, § 5, 1-26-10; Ord. No. 1424, § 3.7, 7-13-10; Ord. No. 1447, §§ 3-6, 2-14-12; Ord. No. 1487, § 3.2, 4-28-15)

17.36.120 - Sign design guidelines.

A. General. The following design guidelines shall be consulted prior to developing signs for any project. Unless there is a compelling reason, these design guidelines shall be followed. If a guideline is waived, the Mayor and City Council shall be notified. An appeal, which does not require a fee, may be filed by the Mayor or any Council person within 15 days of the waiver approval.

1. Use a brief message: The fewer the words, the more effective the sign. A sign with a brief, succinct message is simpler and faster to read, looks cleaner and is more attractive.

2. Avoid hard-to-read, overly intricate typefaces: These typefaces are difficult to read and reduce the sign's ability to communicate.

3. Avoid faddish and bizarre typefaces: Such typefaces may look good today, but soon go out of style. The image conveyed may quickly become that of a dated and unfashionable business.

4.
Sign colors and materials: should be selected to contribute to legibility and design integrity. Even the most carefully thought out sign may be unattractive and a poor communicator because of poor color selection. Day-glo colors must be avoided.

5. Use significant contrast between the background and letter or symbol colors: If there is little contrast between the brightness or hue of the message of a sign and its background, it will be difficult to read.

6. Avoid too many different colors on a sign: Too many colors overwhelm the basic function of communication. The colors compete with content for the viewer's attention. Limited use of the accent colors can increase legibility, while large areas of competing colors tend to confuse and disturb.

7. Place signs to indicate the location of access to a business: Signs should be placed at or near the entrance to a building or site to indicate the most direct access to the business.

8. Place signs consistent with the proportions of scale of building elements within the facade: Within a building facade, the sign may be placed in different areas. A particular sign may fit well on a plain wall area, but would overpower the finer scale and proportion of the lower storefront. A sign which is appropriate near the building entry may look tiny and out of place above the ground level.

9. Place wall signs to establish rhythm across the facade, scale and proportion where such elements are weak. In many buildings that have a monolithic or plain facade, signs can establish or continue appropriate design rhythm, scale, and proportion.

10. Avoid signs with strange shapes: Signs that are unnecessarily narrow or oddly shaped can restrict the legibility of the message. If an unusual shape is not symbolic, it is probably confusing.

11. Carefully consider the proportion of letter area to overall sign background area: If letters take up too much sign, they may be harder to read. Large letters are not necessarily more legible than smaller ones. A general rule is that letters should not appear to occupy more than 75% of the sign panel area.

12. Make signs smaller if they are oriented to pedestrians: The pedestrian-oriented sign is usually read from a distance of 15 to 20 feet; the vehicle-oriented sign is viewed from a much greater distance. The closer a sign's viewing distance, the smaller that sign need be.

B. Wall or Fascia Signs.

1. Building wall and fascia signs should be compatible with the predominant visual elements of the building. Commercial centers, offices, and other similar facilities are required to be part of a sign program in accordance with the provisions of this chapter.

2. Where there is more than one sign, all signs should be complementary to each other in the following ways:
   a. Type of construction materials (cabinet, sign copy, supports, etc.)
   b. Letter size and style of copy
   c. Method used for supporting sign (wall or ground base)
   d. Configuration of sign area
   e. Shape to total sign and related components

3. The use of graphics consistent with the nature of the product to be advertised is encouraged, i.e., hammer or saw symbol for a hardware store, mortar and pestle for a drug store.

4. Direct and indirect lighting methods are allowed provided that they are not harsh or unnecessarily bright. The use of can-type box signs with translucent backlit panels are less desirable. Panels should be opaque if a can-type sign is used and only the lettering should appear to be lighted. The overspill of light should be negligible.

5. The use of backlit individually cut letter signs is strongly encouraged.

6. The use of permanent sale or come-on signs is prohibited.

7. The identification of each building or store's address in 6 inch high numbers over the main entry doorway or within 10 feet of the main entry is encouraged.

C. Monument Signs.

1. Monument signs are intended to provide street addresses, and identification for the commercial center development as a whole and for up to three major tenants.

2. All tenant signs should be limited in size to the width of the architectural features of the sign and shall be uniform in size and color.

3. A minimum of 10% of the sign area of monument signs for center developments should be devoted to
identification of the center or building by address or name.

4. Monument signs should be placed perpendicular to approaching vehicular traffic.

5. Each monument sign should be located within a planted landscaped area which is of a shape and design that will provide a compatible setting and ground definition to the sign, incorporating the following ratio of landscape area to total sign area:
   a. Monument: 4 square feet of landscaped area for each square foot of sign area (1 side only).
   b. Directory: 2 square feet of landscaped area for each square foot of sign area.

(Zoning Ord. dated 1/31/06, § 9109.12.)

17.36.130 - Nonconforming signs.
A. A legally established sign which fails to conform to this chapter shall be allowed continued use, except that the sign shall not be:
   1. Structurally altered so as to extend its useful life.
   2. Expanded, moved, or re-located.
   3. Re-established after a change in use.
   4. Re-established after a business has been abandoned for 120 days or more.
   5. Re-established after damage or destruction of more than 50%.
B. Sign copy and sign faces may be changed on nonconforming signs when there is no change in use of the site or when only a portion of a multiple tenant sign is being changed.
C. Any non-conforming sign shall be required to be brought into conformance or abated.

(Zoning Ord. dated 1/31/06, § 9109.13.)

17.36.140 - Removal of illegal and nonconforming signs.
A. The Director shall remove or cause the removal of any fixed, permanent sign constructed, placed or maintained in violation of this chapter, after 30 days following the date of mailing of registered or certified written notice to the owner of the sign, if known, at the last known address or to the owner of the property as shown on the latest assessment roll, or to the occupant of the property at the property address.
B. The notice shall describe the sign and specify the violation involved, and indicate that the sign will be removed if the violation is not corrected within 30 days. If the owner disagrees with the opinion of the Director, the owner may, within the said 30 day period request a hearing before the Planning Commission to determine the existence of a violation.
C. If salvageable in the opinion of the Director, signs removed by the Director pursuant to this chapter shall be stored for a period of 60 days, during which time they may be recovered by the owner upon payment to the City for costs of removal and storage. If not recovered prior to expiration of the 60 day period, the sign and supporting structures shall be declared abandoned and title thereto shall vest to the City, and the cost of removal shall be billed to the owner or lien placed on the property upon which said sign was erected.

(Zoning Ord. dated 1/31/06, § 9109.14.)

17.36.150 - Reserved.

Editor’s note—Sec. 3 of Ord. No. 1447, adopted Feb. 14, 2012, repealed zoning section 9109.15 from which this section 17.36.150 derived. Former § 17.36.150 pertained to establishing compliance and was amended by Ord. 1377.

17.36.160 - Inventory and abatement—Variances—Penalties.
A. Inventory And Abatement. Within 6 months from the date of adoption of this Zoning Ordinance, the City shall commence a program to inventory and identify illegal or abandoned signs within its jurisdiction. Within 60 days after this 6 month period, the City may commence abatement of identified illegal or abandoned signs. If a previously legal sign is merely nonconforming, however, the terms of Section 17.36.150 of this Zoning Ordinance titled “Establishing Compliance,” shall apply.
B. Variances. Variances from these sign ordinances are strongly discouraged. However, where results inconsistent with the general purposes of this ordinance would occur from its strict literal interpretation and enforcement, the Planning Commission may grant a variance therefrom upon such terms and conditions as it deems necessary.
C.
Penalties. Each violation of this ordinance or any regulation, order or ruling promulgated or made hereunder, shall be punishable by a fine of not more than $200 per day, with each calendar day in violation, constituting a separate offense.

(Zoning Ord. dated 1/31/06, § 9109.16.)

17.36.170 - Murals.

Murals shall be allowed by permit reviewed by the beautification and mural council of the Banning Chamber of Commerce and permitted by the city's community development department. Applications shall be on a form devised by the community development department. A permit for a mural will be granted when the following conditions have been satisfied:

A. Completed application;
B. Sign permit fee paid;
C. Approved by the beautification and mural council of the Banning Chamber of Commerce;
D. The mural shall not cause a pedestrian or vehicular safety hazard;
E. The mural shall be applied to the wall of a building; and
F. The mural shall be maintained.

(Ord. No. 1382, § 3 (part).)
ATTACHMENT 8
Photograph existing digital billboard
San Bernardino
San Bernardino Police Department is now hiring!
To apply visit: www.joinSBPD.org
ATTACHMENT 9
Designated landscape freeway list
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**District 8: San Bernardino, Riverside & Desert**

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Page 11 of 18

July 9, 2010

ZTA 15-97505

P104
ATTACHMENT 10
Lamar letter dated May 4, 2015
May 4, 2015

City Council
City of Banning
99 E. Ramsey Street
Banning, CA 92220

RE: Lamar Billboards / Banning City Codes

Dear City Council:

Lamar is proud to be a progressive and socially responsible City business partner and business in the City of Banning, and as such, Lamar is respectfully requesting the City Council’s consideration of changes to its City Codes relative to billboards.

1. Currently under Section 17.36.060 – Prohibited Signs, all billboards are considered non-conforming. We are requesting that the City consider including language relative to billboards that allows the ability to alter, move, relocate and/or rebuild current structures.

The change would allow:

a. Safer access for our installers,
b. Ability to convert selected wood or I-beam support structures to safer single column steel structures,
c. Compliance with current building codes. Engineering and safety requirements do not recommend rebuilding a structure upon the exact same spot. Therefore, a reasonable distance or relocation is essential.
d. New business development. Lamar owns two separate properties (7 parcels) in Banning between 1-10 and Ramsey Street. In order to be able to sell these properties to a developer to build a business in the City we must be able to relocate our structures.

Upgraded structures with a single column are much more aesthetically pleasing.

2. Addition of language to allow Changeable Message Display billboards.

This would allow Lamar and the City to keep up with 21st century technology and the demands of advertisers.

This technology would also allow Lamar to further support the community by allowing the City of Banning to display promotions for City sponsored events, as well as, utilization of our Emergency Alert System (EAS) program for emergency notification information, i.e., earthquake, road hazards, Amber Alerts, Crime Stoppers and Most Wanted in conjunction with law enforcement.
Lamar would consider reasonable reduction of inventory upon approvals of Electric Message Board displays.

3. We are also seeking an opportunity to partner with the City to build a structure with Changeable Message Display capability on City owned property. This opportunity would allow for rental revenue sharing with the City.

A new build Changeable Message Display can be designed with facades that are appealing and supportive of the City’s aesthetic vision.

Please see the enclosed documentation in support of our request as follows:

A. Lamar Digital Display brochure Technically Speaking,

B. Photos of current Lamar Changeable Message Displays.

Riverside County
Hwy 111 @ S/O Frank Sinatra Drive, Rancho Mirage – 1 face
Ramon Road N/L W/O Bob Hope Drive, Rancho Mirage – 1 face
I-15 WL @ Ontario Avenue – 2 faces
I-15 WL .2 mi N/O Ontario Avenue – 2 faces
91 Fwy. SL .4 mi. E/O Green River – 2 faces

C. Copy of the U. S. Department of Transportation Memorandum of September 25, 2007 in support of changeable message displays, and suggested standards relative to duration of message, transition time, brightness, spacing and location.

We wish to thank you for your time in reviewing the enclosures and your consideration. We look forward to the opportunity to work with the City and it staff.

Please do not hesitate to contact me or Betsy Hayes, Real Estate Lease Manager with any questions or for additional information 760-327-4500.

Respectfully,

William B. Houck
Vice President / General Manager

: bh
enc.
Advertising Strengths: WF This location is on the busiest metro local commuter and tourist artery in the Palm Springs Market. This is a premier location that is our most highly requested local Internal artery. This is an awesome location that reaches out to the entire Palm Springs Market.

Market: RIVERSIDE COUNTY
Panel: 91174
TAB Unique ID: 30635206
Location: HWY 111 SL 350 W/O FRANK SINATRA
Lat/Long: 33.77260 / -116.44750
Media/Style: Permanent Bulletin / Digital
*Weekly Impressions: 108129 per spot
Panel Size: 10' 6" x 36' 0" Spec Sheet
Facing/Read: West / Right
# of slots: 6
Dwell Time: 7
Guar. spots per day: 1903

*Impression values based on: 18+ yrs
Advertising Strengths: EF) This location is the gateway between the Mid-Valley and the West Valley and is one of our most popular metro local commuter and tourist arteries in the Palm Springs Market. This is a great location that is a highly requested local internal artery. This location is also a freeway exit for local traffic. Market: PALM SPRINGS Panel: 94811 TAB Unique ID: 30635208 Location: RAMON ROAD NL & MI W/O BOB HOPE Lat/Long: 33.81632/-116.42395 Media/Style: Permanent Bulletin / Digital *Weekly Impressions: 51306 per spot Panel Size: 10' 6" x 36' 0" Spar Sheet Facing/Read: East / Right # of slots: 6 Dwell Time: 7 Guar. spots per day: 1903

*Impression values based on: 18+ yrs
Memorandum

U.S. Department of Transportation
Federal Highway Administration

Subject: **INFORMATION:** Guidance on Off-Premise Changeable Message Signs

Date: September 25, 2007

Original signed by: 

From: Gloria M. Shepherd
Associate Administrator for Planning, Environment, and Realty

In Reply Refer To: HEPR -20

To: Division Administrators
Attn: Division Realty Professionals

**Purpose**
The purpose of this memorandum is to provide guidance to Division offices concerning off-premises changeable message signs adjacent to routes subject to requirements for effective control under the Highway Beautification Act (HBA) codified at 23 U.S.C. 131. It clarifies the application of the Federal Highway Administration (FHWA) July 17, 1996 memorandum on this subject. This office may provide further guidance in the future as a result of additional information received through safety research, stakeholder input, and other sources.

Pursuant to 23 CFR 750.705, a State DOT is required to obtain FHWA Division approval of any changes to its laws, regulations, and procedures to implement the requirements of its outdoor advertising control program. A State DOT should request and Division offices should provide a determination as to whether the State should allow off-premises changeable electronic variable message signs (CEVMS) adjacent to controlled routes, as required by our delegation of responsibilities under 23 CFR 750.705(j). Those Divisions that already have formally approved CEVMS use on HBA controlled routes, as well as those that have not yet issued a decision, should re-evaluate their position in light of the following considerations. The decision of the Division should be based upon a review and approval of a State's affirmation and policy that: (1) is consistent with the existing Federal/State Agreement (FSA) for the particular State, and (2) includes but is not limited to consideration of requirements associated with the duration of message, transition time, brightness, spacing, and location, submitted for FHWA approval, that evidence reasonable and safe standards to regulate such signs are in place for the protection of the motoring public. Proposed laws, regulations, and procedures that would allow permitting CEVMS subject to acceptable criteria (as described below) do not violate a prohibition against "intermittent" or "flashing" or "moving" lights as those terms are used in the various FSAs that have been entered into during the 1960s and 1970s.
This Guidance is applicable to conforming signs, as applying updated technology to nonconforming signs would be considered a substantial change and inconsistent with the requirements of 23 CFR 750.707(d)(5). As noted below, all of the requirements in the HBA and its implementing regulations, and the specific provisions of the FSAs, continue to apply.

**Background**
The HBA requires States to maintain effective control of outdoor advertising adjacent to certain controlled routes. The reasonable, orderly and effective display of outdoor advertising is permitted in zoned or unzoned commercial or industrial areas. Signs displays and devices whose size, lighting and spacing are consistent with customary use determined by agreement between the several States and the Secretary, may be erected and maintained in these areas (23 U.S.C. § 131(d)). Most of these agreements between the States and the Secretary that determined the size, lighting and spacing of conforming signs were signed in the late 1960’s and the early 1970’s.

On July 17, 1996, this Office issued a Memorandum to Regional Administrators to provide guidance on off-premise changeable message signs and confirmed that FHWA has “always applied the Federal law 23 U.S.C. 131 as it is interpreted and implemented under the Federal regulations and individual Federal/State agreements.” It was expressly noted that “in the twenty-odd years since the agreements have been signed, there have been many technological changes in signs, including changes that were unforeseen at the time the agreements were executed. While most of the agreements have not changed, the changes in technology require the State and FHWA to interpret the agreements with those changes in mind”. The 1996 Memorandum primarily addressed tri-vision signs, which were the leading technology at the time, but it specifically noted that changeable message signs “regardless of the type of technology used” are permitted if the interpretation of the FSA allowed them. Further advances in technology and affordability of LED and other complex electronic message signs, unanticipated at the time the FSAs were entered into, require the FHWA to confirm and expand on the principles set forth in the 1996 Memorandum.

The policy espoused in the 1996 Memorandum was premised upon the concept that changeable messages that were fixed for a reasonable time period do not constitute a moving sign. If the State set a reasonable time period, the agreed-upon prohibition against moving signs is not violated. Electronic signs that have stationary messages for a reasonably fixed time merit the same considerations.

**Discussion**
Changeable message signs, including Digital/LED Display CEVMS, are acceptable for conforming off-premise signs, if found to be consistent with the FSA and with acceptable and approved State regulations, policies and procedures.
This Guidance does not prohibit States from adopting more restrictive requirements for permitting CEVMS to the extent those requirements are not inconsistent with the HBA, Federal regulations, and existing FSAs. Similarly, Divisions are not required to concur with State proposed regulations, policies, and procedures if the Division review determines, based upon all relevant information, that the proposed regulations, policies and procedures are not consistent with the FSA or do not include adequate standards to address the safety of the motoring public. If the Division Office has any question that the FSA is being fully complied with, this should be discussed with the State and a process to change the FSA may be considered and completed before such CEVMS may be allowed on HBA controlled routes. The Office of Real Estate Services is available to discuss this process with the Division, if requested.

If the Division accepts the State's assertions that their FSA permits CEVMS, in reviewing State-proposed regulations, policy and procedures for acceptability, Divisions should consider all relevant information, including but not limited to duration of message, transition time, brightness, spacing, and location, to ensure that they are consistent with their FSA and that there are adequate standards to address safety for the motoring public. Divisions should also confirm that the State provided for appropriate public input, consistent with applicable State law and requirements, in its interpretation of the terms of their FSA as allowing CEVMS in accordance with their proposed regulations, policies, and procedures.

Based upon contacts with all Divisions, we have identified certain ranges of acceptability that have been adopted in those States that do allow CEVMS that will be useful in reviewing State proposals on this topic. Available information indicates that State regulations, policy and procedures that have been approved by Divisions to date, contain some or all of the following standards:

- **Duration of Message**
  - Duration of each display is generally between 4 and 10 seconds — 8 seconds is recommended.

- **Transition Time**
  - Transition between messages is generally between 1 and 4 seconds — 1-2 seconds is recommended.

- **Brightness**
  - Adjust brightness in response to changes in light levels so that the signs are not unreasonably bright for the safety of the motoring public.

- **Spacing**
  - Spacing between such signs not less than minimum spacing requirements for signs under the FSA, or greater if determined appropriate to ensure the safety of the motoring public.

- **Locations**
  - Locations where allowed for signs under the FSA except such locations where determined inappropriate to ensure safety of the motoring public.
Other standards that States have found helpful to ensure driver safety include a default designed to freeze a display in one still position if a malfunction occurs; a process for modifying displays and lighting levels where directed by the State DOT to assure safety of the motoring public; and requirements that a display contain static messages without movement such as animation, flashing, scrolling, intermittent or full-motion video.

**Conclusion**
This Memorandum is intended to provide information to assist the Divisions in evaluating proposals and to achieve national consistency given the variations in FSAs, State law, and State regulations, policies and procedures. It is not intended to amend applicable legal requirements. Divisions are strongly encouraged to work with their State in its review of their existing FSAs and, if appropriate, assist in pursuing amendments to address proposed changes relating to CEVMS or other matters. In this regard, our Office is currently reviewing the process for amending FSAs, as established in 1980, to determine appropriate revisions to streamline requirements while continuing to ensure there is adequate opportunity for public involvement.

For further information, please contact your Office of Real Estate Point of Contact or Catherine O'Hara (Catherine.O'Hara@dot.gov).
CITY OF BANNING
Planning Commission Report

DATE: November 4, 2015

TO: Planning Commission

FROM: Brian Guillot, Acting Community Development Director

SUBJECT: DESIGN REVIEW NO. 15-7005 FOR THE REMODEL AND EXPANSION OF AN EXISTING COMMERCIAL BUILDING AND THE CONSTRUCTION OF A 6,950 SQUARE FOOT BUILDING PAD AT 300 S. HIGHLAND SPRINGS AVENUE (APN: 419-140-040) WITHIN THE SUN LAKES VILLAGE SPECIFIC PLAN.

RECOMMENDATION:

Staff recommends that the Planning Commission adopt Resolution No. 2015-13 (Attachment 1):

I. Adopting a Categorical Exemption, pursuant to Section 15301 (Existing Facilities) and Section 15303 (New Construction or Conversion of Small Structures) for Design Review No. 15-7005; and

II. Approving Design Review (DR) No. 15-7005 subject to the Conditions of Approval.

APPLICANT INFORMATION:

Project Location: 300 S. Highland Springs Avenue
APN Information: 419-140-040

Project Applicant: Marinita Development Company
3835 Birch Street
Newport Beach, CA 92660

Property Owner: S & A Global
PO Box 927000
Hoffman Estates II 60192

PROJECT BACKGROUND AND DESCRIPTION:

Design Review No. 15-7005
The Sun Lakes Village Specific Plan was initially approved in 1983 and amended four times; and includes residential, commercial, recreational, and commercial/office land uses. The commercial component is primarily the shopping center located on the northwest portion of the specific plan area. The Sun Lakes Village Shopping Center, located at the northeast corner of Highland Springs Avenue and Sun Lakes Boulevard provides restaurants, a grocery store, a service station and other commercial uses.

Closing its doors in mid-year 2014, K-Mart occupied the largest building within the center for almost twenty-four years. The applicant is requesting approval for the proposed remodel and expansion of the former K-Mart location and a new commercial pad building.

The nature of the surrounding uses, Zoning and General Plan land use designations are indicated in the following table.

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**Design Review**

*Proposed Remodel and Expansion of Building*

The vacant 95,679 square foot building (86,479 s.f. for the building, and 9,200 s.f. for the garden center) is located on the northeast corner of Highland Springs Avenue and Sun Lakes Blvd. Part of the building included a 9,200 square foot garden center which the applicant is proposing to enclose with an additional 1,300 square feet, add a 600 square foot vestibule, and demolish the existing 200 foot square foot vestibule. The end result for the four tenant spaces will include the following:
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<td>Major B</td>
<td>20,020</td>
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<td>Major C</td>
<td>43,859 (includes 600 sf vestibule)</td>
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<tr>
<td>Major D</td>
<td>10,500 (Garden Center area of 9,200 sf + 1,300 sf addition)</td>
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<td><strong>Total</strong></td>
<td><strong>97,379</strong></td>
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**Pad A Commercial Building**

The proposed 6,950 square foot building will include two tenant spaces for quick serve restaurants, one of which will also include a drive through lane. Pursuant to Section 17.12.050 Use Specific standards, (l) Drive-Through Restaurant, specific standards will need to be complied with for the development and operation of the drive-through. Landscaping plans will need to be submitted for approval and demonstrate how the drive-through will be screened from Highland Springs Avenue.

**Parking Requirements**

Per the Sun Lakes Village Specific Plan, commercial uses require four spaces per 1,000 square feet of gross leasable floor area, plus one space per 1,000 square feet of outdoor sales or display area; restaurant uses require ten spaces for each 1,000 square feet of gross floor area where located on site with other retail or commercial facilities.

Pursuant to Section 17.24.020, new projects and project modifications which add twenty-five percent or more to a structure’s building area are required to comply with the general development standards. The proposed expansion of the commercial building of 1,700 square feet and the construction of Pad A at 6,960 square foot, equal approximately four percent in increase, far below the percentage that would require compliance with the development standards. As proposed, the project is deficient by five parking spaces; therefore, the applicant will be required to submit a parking analysis to be reviewed by the department prior to building permit issuance to evaluate the impacts of the proposed additional building area, the need for parking spaces for restaurants with drive-through lanes, and the parking needs of the center at full occupancy.

**Architectural Design**

*Proposed Remodel and Expansion*

The exterior façade changes will include redesigning the roofline, adding pilasters to define the entrance locations of the four tenants, the addition of quarry tiles at the base tenant frontage, and metal lattices on the north and east facing elevations, the construction of a 600 square foot vestibule. The roof line will vary in height between 25 feet 4 inches to 34 feet. The south facing elevation will not be modified.
Pad A is proposed south of the Mobil fueling station and north of the Carl’s Jr. Restaurant. Similar in architectural design to the remodel of the commercial building, at 6,950 square feet, Pad A will have a roof line design with a building height varying between 20 to 25 feet and will incorporate the same elements such as the quarry tile, colors, wood grain fascia and awnings, and lattice. Building Pad A is will be contain two tenants, with one of the tenants providing drive-through quick service.

Please refer to the drawings submitted with the application (see Attachment 2) as they provide greater detail on the architectural design of the building.

Landscaping

Much of the landscaping was established with the earlier construction of the commercial center. The most significant change proposed is the removal of sixteen trees, which according to the applicant will impact sign visibility for tenants located in spaces Major C and Major D. Other proposed changes include the remove of the hedge located in the planter area that divides ingress and egress traffic onto the center, located at the driveway entrance south of the Carl’s Jr. Restaurant; and additional landscaping changes to the future site for building Pad A.

Per the Specific Plan and the Zoning Ordinance, a minimum of fifteen percent of the overall site area is required to be landscaped with trees, shrubs and groundcover and the applicant will be required to submit landscaping plans in compliance with Chapter 17.32 Landscaping Standards, of Title 17.

ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)
In accordance with §15301 (Existing Facilities) a Class 1 Categorical Exemption and §15303 (New Construction or Conversion of Small Structures) a Class 3 Categorical Exemption of the California Environmental Quality Act (CEQA) the project is being exempt from further environmental review. A Class 1 Categorical Exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination. A Class 3 Categorical Exemption of the California Environmental Quality Act (CEQA) consists of construction and location of limited number or small facilities and structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modification are made in the exterior of the structure. The exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use, if not involving the use of significant amounts hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive. The Planning Commission has analyzed proposed Design Review No. 15-7005 and has determined that it is Categorically Exempt from CEQA pursuant to§15301 and §15303 of the CEQA Guidelines due to the fact that the proposed meets the required criteria to qualify as a “existing facilities” as defined by §15301 and “new construction or conversion of small structures” §15303 of the CEQA Guidelines.
Staff has analyzed proposed Design Review No. 15-7005 and has determined that it is
Categorically Exempt from CEQA pursuant to §15301 and §15303 of the CEQA Guidelines due to the fact that the proposed meets the required criteria to qualify as an “existing facilities” as defined by §15301 and “new construction or conversion of small structures” of the CEQA Guidelines. Therefore, Design Review No. 15-7005 is Categorically Exempt from CEQA pursuant to §15301 and §15303 and of the CEQA Guidelines.

Multiple Species Habitat Conservation Plan (MSHCP).

The project is found to be consistent with the MSHCP. The project is located outside of any MSHCP criteria area and mitigation is provided through payment of the MSHCP Mitigation Fee.

REQUIRED FINDINGS:

Section 17.56.050 of the City of Banning Zoning Ordinance requires that Design Review applications meet certain findings prior to the approval by the Planning Commission. The following findings are provided in support of the approval of the Design Review No. 15-7005:

Finding No. 1: Proposed Design Review No. 15-7005 is consistent with the General Plan.

Findings of Fact: Design Review No. 15-7005 is consistent with the General Plan Land Use Element Policy which states: “The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands.” The land-use designation of General Commercial (GC) allows general retail outlets and restaurants uses. The existing commercial building will be remodeled and expanded to allow for four tenant spaces with an overall building area of 97,379 square feet; the additional building Pad A will be building at 6,950 square feet for two quick serve restaurants. Further, Design Review No. 15-7005 is consistent with General Plan Economic Development Policy which states: “The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues.” The project, the remodel and expansion of a commercial building and the construction of a restaurant for the two restaurants, will continue to generate sales tax revenues for the City.

Finding No. 2: Design Review No. 15-7005 is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.

Findings of Fact: Design Review No. 15-7005 is consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the General Commercial (GC) zone, with regards to architecture, off-street parking and vehicular circulation and landscaping. Additionally it complies with the Specific Plan for the Sun
Lakes Village.

**Finding No. 3:** The design and layout of Design Review No. 15-7005 will not unreasonably interfere with the use and enjoyment of neighboring existing or future development, and will not result in vehicular and/or pedestrian hazards.

**Findings of Fact:** Design Review No. 15-7005 provides a site and circulation layout design in such a way that the project will not interfere with the use and enjoyment of existing and future development. Additionally, Design Review No. 15-7005 is consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the General Commercial (GC) zone. The project will be within an existing commercial center and will not create the need for additional driveways from Highland Springs Avenue or Sun Lakes Boulevard.

**Finding No. 4:** Design Review No. 15-7005 is compatible with the character of the surrounding neighborhood.

**Findings of Fact:** Design Review No. 15-7005 will not impair the integrity and character of the General Commercial (GC) land use district or the Sun Lakes Village in which it is to be located because it is surrounded by existing developments and on Highland Springs Avenue which is an established commercial corridor of the City and is within a specific plan area approved in 1982. Additionally, Design Review No. 15-7005 is consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the General Commercial (GC) zone. The project will connect to the existing roadway system and will not create any barriers that will divide the neighborhood. The building architecture and site circulation and landscaping is designed in a way that the project is compatible with the character of the surrounding neighborhood and Zoning Ordinance design guidelines.

**PUBLIC COMMUNICATION**

Proposed Design Review No. 15-7005 was advertised in the Record Gazette newspaper on October 23, 2015 (Attachment 3). As of the date of this report, staff has not received any verbal or written comments for or against the proposal.
Attachments:

1. Resolution No. 2015-13
2. Proposed Architectural Design & Site Plan
3. Public Hearing Notice
ATTACHMENT 1
PC Resolution No. 2015-13
RESOLUTION NO. 2015-13


WHEREAS, the applicant has submitted an application for Design Review approval so that the Planning Commission may consider the proposed improvements to an existing service station and convenience store, which has been duly filed by:

Project Applicant: Marinita Development Company, Inc.
3835 Birch Street
Newport Beach, CA 92660

Parcel Address: 300 S. Highland Springs Avenue
APN: 541-140-040
Lot Area: 8.79 acres

WHEREAS, the Planning Commission has the authority pursuant to Chapter 17.56 of the Banning Municipal Code to take action on Design Review No. 15-7005 to construct proposed expansion of existing commercial building and the construction of a 6,950 square foot building pad within the Sun Lakes Village Specific Plan area located on the northeast corner of Highland Springs Avenue and Sun Lakes Boulevard; and

WHEREAS, the proposed remodel and expansion of the commercial building and construction of a building pad is located within an existing Specific Plan approved in 1983. The applicant is proposing the remodel and expansions of an existing 95,679 square feet to 97,379 square feet, for the creation of four tenant spaces; and the construction of a 6,950 square foot building for restaurant uses; and

WHEREAS, in accordance with the requirements of the California Environmental Quality Act (CEQA), staff analyzed Design Review No. 15-7005 and determined that, pursuant to CEQA Section 15301 (Existing Facilities) and 15303 (New Construction or Conversion or Small Structures), Design Review No. 15-7005 is Categorically Exempt; and

WHEREAS, on October 23, 2015, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the Categorical Exemption and Design Review No. 15-7005. The City also mailed public hearing notices to the owners of properties that are directly affected by the Design Review and to the property owners that are located within a 300’ radius of the project boundaries; and
WHEREAS, on November 4, 2015, the Planning Commission held the noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to, the project and at which the Planning Commission considered the Categorical Exemptions and Design Review No. 15-7005.

NOW THEREFORE, the Planning Commission of the City of Banning does hereby resolve, determine, find, and order as follows:

SECTION 1. ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)

Staff has analyzed proposed Design Review No. 15-7005 and has determined that it is Categorically Exempt from CEQA pursuant to §15301 (Existing Facilities) a Class 1 Categorical Exemption and §15303 (New Construction or Conversion of Small Structures) a Class 3 Categorical Exemption of the California Environmental Quality Act (CEQA) the project is being exempt from further environmental review. A Class 1 Categorical Exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination. A Class 3 Categorical Exemption of the California Environmental Quality Act (CEQA) consists of construction and location of limited number or small facilities and structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modification are made in the exterior of the structure. The exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use, if not involving the use of significant amounts hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive. The Planning Commission has analyzed proposed Design Review No. 15-7005 and has determined that it is Categorically Exempt from CEQA pursuant to §15301 and §15303 of the CEQA Guidelines due to the fact that the proposed meets the required criteria to qualify as a “existing facilities” as defined by §15301 and “new construction or conversion of small structures” §15303 of the CEQA Guidelines.

Multiple Species Habitat Conservation Plan (MSHCP).

The project is found to be consistent with the MSHCP. The project is located outside of any MSHCP criteria area and mitigation is provided through payment of the MSHCP Mitigation Fee.
REQUIRED FINDINGS:

Section 17.56.050 of the City of Banning Zoning Ordinance requires that Design Review applications meet certain findings prior to the approval by the Planning Commission. The following findings are provided in support of the approval of the Design Review No. 15-7005:

Finding No. 1: Proposed Design Review No. 15-7005 is consistent with the General Plan.

Findings of Fact: Design Review No. 15-7005 is consistent with the General Plan Land Use Element Policy which states: "The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands." The land-use designation of General Commercial (GC) allows general retail outlets and restaurants uses. The existing commercial building will be remodeled and expanded to allow for four tenant spaces with an overall building area of 97,379 square feet; the additional building Pad A will be building at 6,950 square feet for two quick serve restaurants. Further, Design Review No. 15-7005 is consistent with General Plan Economic Development Policy which states: "The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues." The project, the remodel and expansion of a commercial building and the construction of a restaurant for the two restaurants, will continue to generate sales tax revenues for the City.

Finding No. 2: Design Review No. 15-7005 is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.

Findings of Fact: Design Review No. 15-7005 is consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the General Commercial (GC) zone, with regards to architecture, off-street parking and vehicular circulation and landscaping. Additionally it complies with the Specific Plan for the Sun Lakes Village.

Finding No. 3: The design and layout of Design Review No. 15-7005 will not unreasonably interfere with the use and enjoyment of neighboring existing or future development, and will not result in vehicular and/or pedestrian hazards.

Findings of Fact: Design Review No. 15-7005 provides a site and circulation layout design in such a way that the project will not interfere with the use and enjoyment of existing and future development. Additionally, Design Review No. 15-
7005 is consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the General Commercial (GC) zone. The project will be within an existing commercial center and will not create the need for additional driveways from Highland Springs Avenue or Sun Lakes Boulevard.

**Finding No. 4:** Design Review No. 15-7005 is compatible with the character of the surrounding neighborhood.

**Findings of Fact:** Design Review No. 15-7005 will not impair the integrity and character of the General Commercial (GC) land use district or the Sun Lakes Village in which it is to be located because it is surrounded by existing developments and on Highland Springs Avenue which is an established commercial corridor of the City and is within a specific plan area approved in 1982. Additionally, Design Review No. 15-7005 is consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the General Commercial (GC) zone. The project will connect to the existing roadway system and will not create any barriers that will divide the neighborhood. The building architecture and site circulation and landscaping is designed in a way that the project is compatible with the character of the surrounding neighborhood and Zoning Ordinance design guidelines.

**SECTION 3. PLANNING COMMISSION ACTION:**

The Planning Commission hereby takes the following action:

1. Adoption of Planning Commission Resolution No. 2015-13:
   
   a. In accordance with CEQA Guidelines Section 15301 and 15303, the Planning Commission hereby adopts the Categorical Exemption (Class 1: Existing Facilities and 3: New Construction or Conversion of Small Structures) and directs the Acting Community Development Director to prepare and file with the Clerk for the County of Riverside a Notice of Exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062; and

   b. Approving Design Review No. 15-7005, subject to Conditions of Approval attached hereto and incorporated herein by reference as Exhibit A.
PASSED, APPROVED AND ADOPTED this 4th day of November, 2015.

Eric Shaw, Vice-Chairman
Banning Planning Commission

APPROVED AS TO FORM
AND LEGAL CONTENT:

__________________________
Robert Khuu
Aleshire & Wynder, LLP
Assistant City Attorney
City of Banning, California

ATTEST:

__________________________
Sandra Calderon, Recording Secretary
City of Banning, California
CERTIFICATION:

I, Sandra Calderon, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2015-13, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 4th day of November, 2015, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Recording Secretary  
City of Banning, California
EXHIBIT A

PROJECT #: Design Review No. 15-7005

SUBJECT: Conditions of Approval (Planning Commission Resolution No. 2015-13)

APPLICANT: Marinita Development Company, Inc.

LOCATION: APN: 419-140-040

* All fair share agreements, covenant agreements and agreements subject to recordation will be subject to review and approval by the City Attorney and will include appropriate enforcement provisions by the City and be properly securitized.

Community Development Department

1. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, lawsuits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively “Actions”), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City’s defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.

2. The issuance of these Conditions of Approval do not negate the requirements of the Engineering/Public Works Department or submittal, review, and approval of: Street
improvement plans, signing and striping plans, grading plans, storm drain improvement plans, street lighting plans, water, sewer, and electrical improvement plans, or other plans as deemed necessary by the City Engineer.

3. Construction shall commence within two (2) years from the date of project approval, or Design Review approval shall become null and void. Additionally, if after commencement of construction work is discontinued for a period of one year the Design Review shall become null and void. Projects may be built in phases if pre-approved by the review authority. The Community Development Director may, upon a written application being filed 30 days prior to expiration and for good cause, grant a onetime extension not to exceed 12 months. Upon granting of an extension, the Community Development Director shall ensure that the Design Review complies with all current Ordinance provisions.

4. A copy of the signed resolution of approval or Community Development Director's letter of approval and all conditions of approval and any applicable mitigation measures shall be reproduced in legible form on the grading plans, building and construction plans, and landscape and irrigation plans submitted for review and approval as required by the reviewing department.

5. The site shall be developed and maintained in accordance with the plans stamped approved by the City, which include site plans, architectural elevations, exterior materials and colors, landscaping, and grading on file in the Planning Division; the conditions contained herein; and, municipal code regulations.

6. Landscaping, berming and/or decorative walls shall screen drive-through or drive-in aisles from the public right-of-way and shall be used to minimize the visual impact of readerboard signs and directional signs. Screening shall be a combined to total six (6) feet in height.

7. The proposed drive-through development and design shall comply with Section 17.12.050 (Use Specific standards, (I) Drive-through Restaurant).

8. There shall be no storage of vehicles, equipment, or any other materials in the parking or landscaping areas of the project.

9. Approval of this entitlement shall not waive compliance with any sections of the Development Code, other applicable City Ordinances, in effect at the time of building permit issuance.

10. Prior to building permit issuance, a Parking Analysis shall be prepared and submitted to the Community Development Department.

11. All graffiti shall be removed immediately or within 24 hours of notice from the City.
12. The entire site shall be kept free from trash and debris at all times and in no event shall trash and debris remain for more than 24 hours.

13. The property owner shall permanently maintain all parking lot signs and markings in a clear and visible manner.

14. Exterior wall mounted lighting shall be decorative fixtures in a prefinished color to match the building. Wall fixtures shall be consistent with any pole mounted fixtures required to maintain minimum lighting levels.

15. There shall be no light spillover onto the adjacent properties from the parking lot lighting and/or exterior building lighting, including outdoor security lighting. All lighting fixtures shall not have a visible light source, must be shielded and directed downward and away from adjoining properties and public rights-of-way.

16. All trash enclosures shall be provided with three, decorative walls with enhanced wall cap and a gate, in a style compatible with the structure’s architecture. The gate shall be maintained in working order and shall remain closed except when in use.

17. A total of two trash enclosures shall be provided for Major A, B, C, and D; one at each end of the building.

18. All roof-mounted equipment or utility equipment on the side of the structure, or on the ground, shall not be visible from adjacent properties, the public rights-of-way or the parking lot. Any architectural screening that is proposed to shield the roof-mounted equipment shall be compatible in terms of colors and materials of the building. Landscape screening for ground mounted equipment shall be of sufficient size and quantity to fully screen the equipment.

19. There shall be no visible storage of any items including garbage, building, or manufacturing materials or junk, in any portion of the project.

20. The project shall at all times comply with all Federal, State, County and City laws, codes, regulations and standards including those that relate to hazardous materials.

21. A complete landscape/irrigation package prepared by a landscape architect licensed by the State of California shall be reviewed and approved by the Planning Division prior to issuance of building permit. The plans shall include the following elements:

   a. Water conservation concept statement.
   b. Calculation of maximum applied water allowance.
   c. Calculation of estimated total water use.
   d. Landscape design plan.
e. Irrigation design plan.

f. Certificate of substantial completion.

22. Building and Safety plans shall be submitted for plan check and approval. All plans shall be marked with the project number (DR #15-7005). The applicant shall comply with 2013 California Building Codes, and all other applicable codes, ordinances, and regulations in effect at the time of permit application including but not limited to those regulations that relate to ground movement.

23. Prior to any use of the project site, or business activity being commenced thereon, all Conditions of Approval shall be completed to the satisfaction of the Community Development Director.

24. All ground-mounted utility appurtenances such as transformers and AC condensers shall be located out of public view and adequately screened through the use of a combination of concrete or masonry walls, berming, and/or landscaping to the satisfaction of the Community Development Director.

25. All building numbers shall be identified in a clear and concise manner, including proper illumination.

26. All parking spaces shall be 9 feet wide by 19 feet long minimum. When a side of any parking space abuts a building, wall, support column, or other obstruction, the space shall be a minimum of 11 feet wide.

27. All parking lot landscape islands shall have a minimum interior dimension of 6 feet in width and shall contain a 12-inch walk adjacent to any parking stall (including curb width).

28. All parking spaces shall be striped per City standards and all loading zones, driveway aisles, entrances, and exits shall be striped per City standards. Each exit from a parking area shall be clearly marked with a “Stop” sign.

29. Signs shall not be installed or placed on the south facing wall of the commercial building facing Sun Lakes Drive.

30. The Site shall be developed in compliance with all current model codes. All plans shall be designed in compliance with the latest editions of the California Building Codes as adopted by the City of Banning.

31. Site development and grading shall be designed to provide access to all entrances and exterior ground floor exits and access to normal paths of travel, and where necessary to provide access. Paths of travel shall incorporate (but not limited to) exterior stairs, landings, walks and sidewalks, pedestrian ramps, curb ramps, warning curbs, detectable
warnings, signage, gates, lifts and walking surface material. The accessible route(s) of travel shall be the most practical direct route between accessible building entrances, site facilities, accessible parking, public sidewalks, and the accessible entrance(s) to the site. California Building Code (CBC) 11A and 11B.

32. City of Banning enforces the State of California provisions of the California Building Code disabled access requirements. The Federal ADA standards differ in some cases from the California State requirements. It is the building owner’s responsibility to be aware of those differences and comply accordingly.

33. Disabled access parking shall be located on the shortest accessible route. Relocate parking spaces accordingly.

34. Commercial buildings on the site shall be accessible per California Building Code (CBC) 11B.

35. Site Facilities such as parking (open and covered), recreation facilities, and trash dumpsters, shall be accessible per California Building Code (CBC) 11A, 11B and 31B.

36. Separate submittals and permits are required for all accessory structures such as but not limited to, trash enclosures, patios, block walls and storage buildings.

37. Pursuant to California Business and Professions Code Section 6737, this project is required to be designed by a California licensed architect or engineer. Based on change of use and potential exiting and fire life safety improvements.

Community Services Department

38. Should the existing bus stop and shelter need to be relocated it shall be done so with approval of the City and at the expense of the developer; and that if relocation is necessary that the bus shelter be moved to an area compliant with the American with Disabilities Act (ADA) so it is accessible to all users.

Public Works Department

General Requirements

39. A Public Works Permit shall be required prior to commencement of any work within the public right-of-way. The contractor working within the public right-of-way shall submit proof of a Class “A” State Contractor’s License, City of Banning Business License, and Liability Insurance. Any existing public improvements, or public improvements not accepted by the City that are damaged during construction shall be removed and replaced as determined by the City Engineer or his/her representative.
40. Prior to the issuance of any grading, construction, or public works permit by the City, the applicant shall obtain any necessary clearances and/or permits from the following agencies:

- Fire Marshal
- Public Works Department (Grading Permit, Improvement Permit)
- Riverside County Flood Control & Water Conservation District (RCFC&WCD)
- California Regional Water Quality Control Board Colorado River Basin (RWQCB)
- South Coast Air Quality Management District (SCAQMD)

The applicant is responsible for meeting all requirements of permits and/or clearances from the above listed agencies. When the requirements include approval of improvement plans, the applicant shall furnish proof of such approvals when submitting improvements plans to the City.

41. The following improvement plans shall be prepared by a Civil Engineer licensed by the State of California and submitted to the Engineering Division for review and approval. A separate set of plans shall be prepared for each line item listed below. Unless otherwise authorized in writing by the City Engineer, the plans shall utilize the minimum scale specified and shall be drawn on 24" x 36" Mylar film. Plans may be prepared at a larger scale if additional detail or plan clarity is desired (Note: the applicant may be required to prepare other improvement plans not listed here pursuant to improvements required by other agencies and utility purveyors):

- Precise Grading Plans 1" = 40' Horizontal
- Signing & Striping Plans 1" = 40' Horizontal
- Water & Sewer Improvement Plans 1" = 40' Horizontal
  1" = 4' Vertical

Other engineered improvement plans prepared for City approval that are not listed herein shall be prepared in formats approved by the City Engineer prior to commencing plan preparation.

All on-site signing and striping plans shall show the following at a minimum: stop signs, limit lines and legends, no parking signs, raised pavement markers (including blue raised pavement markers at fire hydrants) and street name signs per Public Works standard plans and/or as approved by the City Engineer.

A small index map shall be included on the title sheet of each set of plans, showing the overall view of the entire work area.

42. Upon completion of construction, the Developer shall furnish the City with reproducible record drawings on Mylar film of all improvement plans that were approved by the City
Engineer. Each sheet shall be clearly marked "As-Built" or "As-Constructed" and shall be stamped and signed by the engineer or surveyor certifying the accuracy and completeness of the drawings. The applicant shall have all AutoCAD files submitted to the City, revised to reflect the "As-Built" conditions.

43. All utility systems including gas, electric, telephone, water, sewer, and cable TV shall be provided for underground, with easements provided as required, and designed and constructed in accordance with City codes and the utility provider. Telephone, cable TV, and/or security systems shall be pre-wired.

Rights of Way

44. Prior to issuance of any permit(s), the applicant shall acquire or confer property rights necessary for the construction or proper functioning of the proposed project/development. Conferred rights shall include right-of-way dedications, irrevocable offers to dedicate or grant of easements to the City for emergency services, maintenance, utilities, storm drain facilities, or temporary construction purposes including the reconstruction of essential improvements.

45. Prior to the issuance of any certificates of occupancy, the applicant shall not grant any easements over any property subject to a requirement of dedication or irrevocable offer of dedication to the City of Banning unless such easements are expressly made subordinate to the easements to be offered for dedication to the City. Prior to granting any of said easements, the applicant shall furnish a copy of the proposed easement to the City Engineer for review and approval. Further, a copy of the approved easement shall be furnished to the City Engineer prior to the issuance of any certificate of use and/or occupancy.

46. Any public improvements damaged during the course of construction shall be replaced to the satisfaction of the City Engineer, or his/her designee.

Grading and Drainage

47. The project grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage areas, outlet points and outlet conditions. Otherwise, a drainage easement shall be obtained for the release of concentrated or diverted storm flows. The project shall accept and convey storm flows from the adjacent property to the west.

49. For construction activities including clearing, grading or excavation of land that disturbs one (1) acre or more of land, or that disturbs less than one (1) acre of land, but which is a part of a construction project that encompasses more than one (1) acre of land, the applicant shall be required to submit a Storm Water Pollution Protection Plan (SWPPP) and file a Notice of Intent (NOI) with the Regional Water Quality Control Board.

50. The applicant’s SWPPP shall be reviewed and approved by the City Engineer prior to any permit issuance. The approved SWPPP and BMPs shall remain in effect for the entire duration of project construction until all improvements are completed and accepted by the City.

51. Note: The SWPPP may be supplemented with an Erosivity Waiver, if approved by the State Water Resource Control Board.

52. All erosion and sediment control BMPs proposed by the applicant shall be designed using the CASQA BMP handbook and approved by the City Engineer prior to any onsite or offsite grading, pursuant to this project.

53. Grading and excavations in the public right-of-way shall be supplemented with a soils and geology report prepared by a professional engineer or geologist licensed by the State of California.

54. Prior to the issuance of any building permit(s), a precise grading plan shall be submitted to the City Engineer for review and approval. A grading permit shall be obtained prior to commencement of any grading activity.

55. Prior to issuance of any grading or building permit, a Project-Specific Water Quality Management Plan (WQMP) shall be reviewed and approved in accordance with California Regional Water Quality Control Board Colorado River Basin Region Order No. R7-2013-0011 (“Order”).

   a. At a minimum, all development will make provisions to store runoff from rainfall events up and including the one-hundred year, three hour duration.

   b. A priority redevelopment project replaces less than 50% of the impervious surfaces on an existing developed site, and the site was not previously subject to priority development project requirements, the WQMP design standards specified in the Order apply only to the addition or replacement, and not to the entire developed site.

56. Prior to the issuance of a grading permit, the applicant shall execute a Stormwater Management Facilities Agreement guaranteeing the maintenance of stormwater pollution controls. Said agreement shall be recorded with the Riverside County Recorder and run with the land.
57. Prior to the issuance of a building permit for any building lot, the applicant shall provide a lot pad certification stamped and signed by a qualified civil engineer or land surveyor. Each pad certification shall list the pad elevation as shown on the approved grading plan, the actual pad elevation and the difference between the two, if any. Such pad certification shall also list the relative compaction of the pad soil.

Traffic

58. Access drives to the public right-of-way shall be restricted to those approved by the City Engineer as shown on the approved plans.

59. Provide a plan showing circulation patterns for all vehicles including delivery trucks.

60. Prior to the issuance of any certificate of occupancy, all fire hydrants shall have a blue reflective pavement marker indicating the hydrant location on the street as approved by the Fire Marshall, and must be maintained in good condition by the property owner until the street is accepted for maintenance.

Trash/Recycling

61. The developer shall participate in the City’s recycling program by providing two trash receptacles, one for regular trash and one for recycling, within the trash enclosure. The trash enclosure shall be designed and constructed in such a manner to accommodate a recycling bin as well as the necessary solid waste containers.

62. Construction debris shall be disposed of at a certified recycling site. It is recommended that the developer contact the City’s franchised solid waste hauler, Waste Management of the Inland Valley at 1-800-423-9986, for disposal of construction debris.

Water

63. A backflow device must be installed on all commercial/industrial buildings and at each irrigation water connection. The backflow device must be in compliance with the State Department of Health Regulations.

64. All irrigation services shall be independent of potable water meters.

65. Fire Services will require a Double Detector Check or RPP Device.

66. Pay all applicable water connection and frontage fees per Chapter 13.08 “Water, Sewer and Electricity Rates” of the Banning Municipal Code prior to the issuance of a building permit.
Sewer

67. All sewer lines to be constructed within the Public right-of-way shall be Extra Strength Vitrified Clay Pipe (VCP). All sewer laterals shall be a minimum of 6" and all sewer mains shall be a minimum of 8". Final sizes shall be approved by the City Engineer.

68. A sewer check valve shall be provided for each building with a finish pad elevation lower than the rim elevation of the immediate up-stream sewer manhole.

69. All restaurant facilities shall install a properly sized grease interceptor prior to the connection to the sewer main.

70. Pay all applicable sewer connection and frontage fees per Chapter 13.08 “Water, Sewer and Electricity Rates” of the Banning Municipal Code prior to the issuance of a building permit.

Fees

71. Plan check fees for professional report review (geotechnical, drainage, etc.), and all improvement plans review, shall be paid prior to submittal of said documents for review and approval in accordance with the fee schedule in effect at the time of submittal.

72. Public Works Inspection fees shall be paid prior to issuance of any permits in accordance with the fee schedule in effect at time of scheduling.

73. Water and sewer connection fees including frontage fees and water meter installation charges shall be paid on a per lot basis at the time of building permit issuance in accordance with the fee schedule in effect at that time.

74. A plan storage fee shall be paid for any engineering plans that may be required prior to issuance of certificate of occupancy in accordance with the fee schedule in effect at the time the fee is paid.

75. Submit a copy of the Title Report to the City Engineer.

76. Construction debris shall be disposed of at a certified recycling site. It is recommended that the developer contact the City’s franchised solid waste hauler, Waste Management (1-800-858-8884) for disposal of construction debris.

77. The developer shall participate in the City’s recycling program by providing two trash receptacles, one for regular trash and one for recycling, within a trash enclosure. The trash enclosure shall be designed and constructed in such a manner to accommodate a recycling bin as well as the necessary solid waste containers.
78. Plan check fees for professional report review (geotechnical, drainage, etc.), and all improvement plans review, shall be paid prior to submittal of said documents for review and approval in accordance with the Fee Schedule in effect at the time of submittal.

**Electric Utility Department**

79. For each of the locations, a Commercial New Service Questionnaire/Agreement shall be filled out.

For the proposed building remodel comply with the following Panel Upgrade Requirements below:

80. Panel location must be approved by the Electric Utility.

81. Construction permit must be acquired from the Building & Safety Department. If additional meters are being requested, Building & Safety will issue a unique address for each one which will need to be clearly displayed at each meter socket.

82. Pay any associated fees with the Electric Utility. If the service size is being increased, a New Service Questionnaire and panel submittals may be required for approval.

83. If the new panel is being installed in the existing panel’s location, a service outage will need to be coordinated with the Electric Utility before construction begins. Note: if the new service panel installation is not completed and inspected by both the Electric Utility and Building & Safety by 3:30 when the new service panel will not be energized until the next working day.

84. Panel must be inspected and approved by the Electric Utility.

85. Panel must be inspected and approved by the Building & Safety Department.

86. Sign up for your new electric service with Customer Service located at City Hall.

87. Customer’s representative must coordinate with the Electric Utility for service cut-over scheduling.

88. If contractor and/or customer tampers with the Electric Utility facilities (this includes the meter and utility side the service panel) they may be assessed a $250 diversion/tampering fee.

For the proposed free standing pad please comply with Maps & Records Requirements below:

89. Plans shall be in AutoCAD 2015 or an earlier version.
90. Plans shall include proposed building(s) foot print, existing utilities, address, vicinity map, center lines, contact person, property/right of way lines, set back lines, station numbers, address, and assessor’s parcel number. Plans shall be prepared at a 1” = 20’ scale.

91. For private property, plans shall show an easement covering the facilities located on their property.

92. Plans shall include any notes pertaining to design/planning of electrical system.

93. Customer/Developer shall contact Electric Utility Planning Department for any design/planning information. Please contact Mike Steen at msteen@ci.banning.ca.us

94. Approved plans shall be e-mailed to the Electric Utility Engineering Department at brobinson@ci.banning.ca.us

**Police Department**

95. The developer shall install a video surveillance system to view the public areas of the development that may be viewed by police dispatchers. The developer shall submit specifications for review and approval of the Police Department prior to installation.

**Fire Department**

All questions regarding the meaning of these conditions should be referred to the Fire Department Planning & Engineering staff at (951) 922-3167.

96. Fire Department approval is based upon the 2013 CBC requirements for Group M occupancies. It is prohibited to use, process or store any materials in the occupancy that would classify it as a Group H occupancy.

97. Repair work and/or maintenance using open flame equipment, welding or the use of Class I, II, or III-A liquids are prohibited.

98. The Fire Department is required to set a minimum fire flow for the remodel or construction of all commercial buildings using the procedure established in the 2013 CFC. If construction is classified as a type V-B, a fire flow of 8000 gpm for a 4 hour duration at 20 psi residual operating pressure must be available before any combustible material is placed on the job site. 4000 gpm will be required if building is equipped with fire sprinklers.

99. The required fire flow shall be available from 2 Super hydrant(s) (6" x 4" x 2½" x 2½") spaced not more than 350 feet apart. All Fire Department Appliances such as hydrants, FDCs and PIVs shall be located on the front access side of the building. PIV and FDC
appliances shall not be less than 40' from the building or more than 200' from an approved hydrant.

100. Applicant and/or developer shall separately submit 2 sets of water system plans to the Fire Department office for review. Plans must be signed by a registered Civil Engineer and/or water purveyor prior to Fire Marshal review and approval. Mylar will be signed by the Fire Marshal after review and approval.

101. Prior to building plan approval and construction, applicant/developer shall furnish two copies of the water system fire hydrant plans to Fire Department for review and approval. Plans shall be signed by a registered civil engineer, and shall confirm hydrant type, location, spacing, and minimum fire flow. Once plans are signed and approved by the local water authority, the originals shall be presented to the Fire Department for review and approval.

The following conditions must be met prior to occupancy:

102. Whenever sprinkler overhead mains of 4” size or larger are provided, the Riverside County Fire Department requires documentation from a structural engineer that the roof structural members will be capable of supporting the weight of the water filled mains and attached lines. Provide appropriate detailed documentation, with a wet stamp and signature, by the project structural engineer.

103. Install a complete fire sprinkler system per NFPA 13. System plans must be submitted to the Fire Department for review, along with current plan/inspection fee.

104. Install a manual and/or automatic fire alarm system as per NFPA 72 required by the California Building Code, California Fire Code and designed in accordance with adopted standards. A C-10 licensed contractor must submit plans to the Fire Department office for review and approval prior to installation. (Prior to building final inspection).

105. A UL 300 hood/duct fire extinguishing system must be installed over the cooking equipment as required by the California Fire Code, California Mechanical Code and adopted standards. System plans must be submitted to the Fire Department for review, along with current plan check/inspection fee.

Buildings/facilities
106. Install Knox Key Lock box, mounted per recommended standard of the Knox Company. If the building/facility is protected with a fire alarm system or burglar alarm system, the lock boxes will require "tamper" monitoring. Special forms are available from this office for the ordering of the Key Switch. This form must be authorized and signed by this office for the correctly coded system to be purchased.
107. Provide keys to the tenant space for inclusion in the main building Knox Box. Key(s) shall have durable and legible tags affixed for identification of the correlating tenant space.

**Other requirements:**

108. Install panic hardware and exit signs as per the 2013 CBC.

109. Exit signs, exit marker and exit path markings shall be installed per the California Building Code. (Prior to building final inspection).

110. Submit flame-retardant certification(s) by applicator or manufacturer, along with CSFM Listing, for all decorative materials used in this facility. Samples of flame-retardant material(s) may be required for flame spread testing. All required treated materials must have a current CSFM approval tag affixed to each item or panel. (Prior to building final inspection)

111. Prior to final inspection of any building, the applicant shall prepare and submit to the Fire Department for approval, a site plan designating required fire lanes with appropriate lane painting and/or signs.

112. Certain designed areas will be required to be maintained as fire lanes and will require approved signs and/or stenciling in red with CVC 22500.1 conspicuously posted.

113. Install portable fire extinguishers per Title 19, but not less than 2A10BC in rating. Contact a certified extinguisher company for proper placement and spacing of equipment.

114. This building has not been reviewed or approved for high pile/rack storage. Prior to such use, building(s) shall be approved for high-piled storage (materials in closely packed piles or on pallets, or in racks where the top of storage exceeds 12 feet in height, 6 feet for Group A plastics and certain other hazardous commodities) or aerosols products. High-piled and aerosol stock shall be approved by the Fire Department prior to materials being stored on site. A licensed Fire Protection Engineer or a Fire Department approved consultant must prepare plans for high-piled storage or aerosol storage in accordance with the 2013 CFC and NFPA 13.

115. Applicant/developer shall be responsible for obtaining aboveground tank permits from both the County Health and Fire Departments (if applicable).

116. Approved building address shall be placed in such a position as to be plainly visible and legible from the street and rear access if applicable. Building address numbers shall be a minimum of 12”. All addressing must be legible and of a contrasting color with the background and adequately illuminated to be visible from the street at all hours.
117. Applicable room door(s) shall be posted “ELECTRICAL”, “FACP”, “FIRE RISER” and “ROOF ACCESS” on the outside of the door so it is visible and in a contracting color.

118. Room occupancy load, as approved by the Building Official, shall be posted in a conspicuous place near the main exit from the room(s). The location shall be approved by the Fire Department office. Posting shall be by means of an approved durable sign having a contrasting color from the background to which it is attached. The owner shall maintain signs in a legible manner. No person shall deface, remove or change the occupant load on the sign except as authorized by the Building Official and/or Fire Department office. (Prior to building final inspection).

119. A durable sign stating “This door to remain unlocked during business hours” shall be placed on or adjacent to the front exit doors. The sign shall be in letters not less than one inch high on a contrasting background.

120. Nothing in our review shall be construed as encompassing structural integrity. Review of this plan does not authorize or approve any omission or deviation from all applicable regulations. Final approval is subject to field inspection.

121. Please contact the Fire Department Planning & Engineering staff for final inspection prior to occupancy.

122. Applicant/installer shall be responsible to contact the Fire Department to schedule inspections.

123. Requests for inspections are to be made at least 72 hours in advance and may be arranged by calling (951) 922-3167.
ATTACHMENT 2
Proposed Architectural Design & Site Plan
ATTACHMENT 3
Public Hearing Notice
Record Gazette
218 N. Murray St.
Proof of Publication (2015.5 C.C.P.)
124043 - DESIGN REVIEW # 15-7005

State of California
County of Riverside

I am a citizen of the United States and a resident of the State of California; I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer and publisher of Record Gazette, a newspaper published in the English language in the City of Banning, County of Riverside, and adjudicated a newspaper of general circulation as defined by the laws of the State of California by the Superior Court of the County of Riverside, under the date October 14, 1965, Case No. 54737. That the notice, of which the annexed is a copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

October 23, 2015

EXECUTED ON: 10/23/2015

At Banning, CA

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

[Signature]
CITY OF BANNING
Planning Commission Report

DATE: November 4, 2015
TO: Planning Commission
FROM: Brian Guillot, Acting Community Development Director
SUBJECT: REVIEW OF ORDINANCES CONCERNING DEAD TREES AND SHRUBS

RECOMMENDATION:

Staff recommends that the Planning Commission:

I. Review Chapter 8.48 of the Banning Municipal Code, consider its provisions regulating maintenance of dead trees and shrubs on private property, and provide further direction to staff.

II. Review Chapter 12.48 of the Banning Municipal Code, consider its provisions regulating maintenance of dead trees and shrubs on public property, and provide further direction to staff.

No action is recommended at this time.

APPLICANT INFORMATION:

Not applicable.

BACKGROUND:

During the Planning Commission meeting of October 7, 2015, a request was made that this item be placed on the agenda for a future Planning Commission meeting.

1) Current Municipal Code
The manner in which the Banning Municipal Code regulates dead trees and shrubs based upon where a dead tree or shrub is located. If it is on private property, Chapter 8.48 of the Municipal Code generally governs while, if it is on public property, then Chapter 12.48 governs.

a) Public Property

Chapter 12.48 of the Banning Municipal Code ("Code") governs trees and shrubs in public places. Section 12.48.080 of the Code authorizes the superintendent of public works to remove or permit the removal of trees which: are diseased; constitute a fire hazard; have roots that damage sidewalks, curbs and gutters; are not in conformity with adopted specifications; must be removed to permit street widening; interfere with or damage sewers or water lines; or are in proposed driveways or entrances to private property.

b) Private Property

The following provisions are highlighted by this staff report:

i) Administrative Citation and Criminal Prosecution

Chapter 1.20 provides that any violation of the Banning Municipal Code can be cited with an "administrative citation" in which the offender is required to pay a fine to the City and to correct the code violation. On the other hand, Chapter 1.28 provides that any violation of the Banning Municipal Code can be charged with a misdemeanor or an infraction.

ii) State Law Restrictions on Citations and Criminal Prosecution

The State Legislature recently adopted, and the Governor recently signed into law, Assembly Bill No. 1. Assembly Bill No. 1 prohibits the City from imposing a fine for a "failure to water a lawn or for having a brown lawn" when the Governor has issued a proclamation of a state of emergency based on drought conditions. However, this law is silent on the issue of nuisance and non-lawn type of vegetation. That is, if a brown lawn were to create a nuisance that would endanger the lives or property of others, then the City likely could engage in taking steps to abate the potential nuisance. Additionally, the City could engage in abatement of dead trees since trees are not lawns.

iii) Nuisance Abatement

In order for the City to remove a tree from private property, the City would have to first make a finding that the tree, or the conditions created by the tree on the property, are a public nuisance.

Section 8.48.210 lists the conditions related to Property Maintenance that are public nuisances. Note that Section 8.48.210(M) discusses any vegetation overgrowth that encroaches on any public right-of-way in a way that endangers public safety or is an impediment to public travel while Section 8.48.210(N) lists any overgrown, dead, decayed, or hazardous vegetation that may harbor vermin, create hazardous traffic conditions, constitute a fire hazard, constitute an unsightly appearance, or create a danger or attractive nuisance.
Furthermore, Section 8.48.300 makes dead, decayed, diseased or hazardous trees, hedges, weeds, shrubs and overgrown vegetation that are detrimental to neighboring properties or property values, or which have grown into the public right of way, as public nuisances.

In order to declare something a public nuisance, the City must provide a property owner with notice and hearing on the question of whether a public nuisance exists. Once the City has found the tree, or the conditions created by the tree, to be a public nuisance, the City can begin the process of abating the nuisance as it would any other public nuisance in the City. The processes, procedures, and standards for inspection and abatement of public nuisances may be found in Article II and Article III, respectively, of chapter 8.48 of the Code.

Furthermore, Article IV of chapter 8.48 of the Code provides that the City may recover the costs of abatement from an violating property owner. Generally, if the City abated a nuisance due to a failure of the property owner to do so, it can recover the cost of the abatement and any administrative costs such as inspection costs; investigation costs; attorneys’ fees and costs; and costs to repair and eliminate all substandard conditions pursuant to Section 8.48.560. These costs can be liened against a property, pursuant to Section 8.48.570, or recovered through a special assessment, pursuant to Section 8.48.580.

iv) Summary Abatement

Section 8.48.360 provides that when any condition poses “an immediate hazard to public health or safety,” then the city manager, police chief, fire chief, or building official may declare the condition as such and take immediate action to abate the hazard, without notice to the property owner. In order to take advantage of this, the property owner must be given notice and an opportunity to appeal.

2) Code Enforcement

The City engages in complaint-based code enforcement. Whenever a complaint is filed, code enforcement officers will respond to and investigate the alleged violation.

Prepared By:

[Signature]
Robert Khuu
Assistant City Attorney

Reviewed By:

[Signature]
Brian Guillot
Acting Community Development Director

Attachments:
2. Chapter 8.48 of the Banning Municipal Code
3. Chapters 1.20 and 1.28 of the Banning Municipal Code
ATTACHMENT 1
Chapter 12.48 of the Banning Municipal Code
Chapter 12.48 - TREES AND SHRUBS

Sections:

12.48.010 - Specifications for planting, pruning, removal and general tree care—Adoption—Approval—Public use.

It shall be the duty of the park and recreation commission to adopt "Specifications for Planting, Pruning, Removal and General Tree Care", applicable to all trees, shrubs and bushes planted in all streets, lanes, alleys and parkways in the city now open or dedicated, or which may hereafter be opened or dedicated to public use. Such specifications when adopted by the park and recreation commission shall be submitted to the city council for its approval. When so approved, the same or a copy thereof shall be filed with the city clerk and shall be subject to inspection by the general public.

(Code 1965, § 25-1.)

12.48.020 - Specifications—Amendment or repeal.

A. Upon the verified petition of seventy-five percent of the property owners affected thereby, or upon their own motion, the park and recreation commission may amend or repeal the specifications adopted pursuant to the preceding section designating the trees shrubs and bushes to be planted upon or removed from all streets lanes alleys and parkways in the city.

B. Before the amendment or repeal of such specifications, the city clerk shall publish for one day, at least five days prior thereto, a notice of the time and place of such hearing and the purpose thereof.

C. At the time of such hearing by the park and recreation commission any person interested may appear in person or by petition, and thereupon the park and recreation commission shall proceed to approve, confirm, modify or reject the proposed amendment or repeal of such specifications. Any such proposed amendment or repeal shall only become effective after approval by the city council.

(Code 1965, § 25-2.)

12.48.030 - Trees, shrubs, etc., to be planted and removed in accordance with the specification and in compliance with chapter.

No person shall plant or remove trees, shrubs or bushes upon the streets, lanes, alleys or parkways to which the specifications adopted pursuant to this chapter are applicable, except in conformity with this chapter and such specifications.

(Code 1965, § 25-3.)

12.48.040 - Planting of trees upon petition of property owners.

In the event that a petition for the planting of certain trees, duly verified and bearing the signatures of not less than seventy-five per cent of the property owners owning property fronting upon any city street of one block long, or any particular street as referred to in such petition. Such petition so presented may be granted by the park commission if such tree variety requested for replacement or
new planting is known and established as a street tree and is not of a variety that may or will tend to
break sidewalks or curbs or such trees are objectionable as street trees for other reasons. If such trees
are not diseased or dangerous from old age, cost of removal shall be at the property owners’ expense.

(Code 1965, § 25-4.)

12.48.050 - Permit to remove, etc., trees—Required.

No person shall cut down, take up, remove or mutilate any trees planted or grown on any of the
public streets, lanes, alleys or parkways of the city, except after procuring a permit from the office of
the superintendent of public works to do so.

(Code 1965, § 25-5.)

12.48.060 - Permit—Application.

Any person desiring to procure a permit required by Section 12.48.050 shall make written
application therefore to the superintendent of public works. Such application shall state the number,
kind and location of trees to be cut down, taken up or removed and such other information as the
superintendent of streets shall find reasonably necessary to a fair determination of whether a permit
should be issued.

(Code 1965, § 25-6.)

12.48.070 - Permit—Issuance.

A permit required by Section 12.48.050 shall be issued when it is found that the desired action or
treatment is necessary and the proposed method and workmanship are satisfactory.

(Code 1965, § 25-7.)

12.48.080 - Trees which may be removed.

The superintendent of public works is hereby authorized to remove or permit the removal of the
following trees:

A. Diseased.
B. Constituting a fire hazard.
C. Roots that damage sidewalks, curbs and gutters.
D. Not in conformity with adopted specifications.
E. In order to permit street widening.
F. That interfere or damage sewers or water lines.
G. In proposed driveways or entrances to private property.

(Code 1965, § 25-8.)
ATTACHMENT 2
Chapter 8.48 of the Banning Municipal Code
Chapter 8.48 - NUISANCES

Sections:

Article I. - Nuisance
8.48.010 - Definitions.

For purposes of this chapter, words and phrases designated herein shall have the following meanings:

"Building official" means the building official of the city, and, for all provisions of this chapter except Section 8.48.480, his authorized agents, assistants, deputies or representatives.

"Chief" means the chief of the fire department of the city, and, for all provisions of this chapter except Section 8.48.480, his or her authorized agents, assistants, deputies or representatives.

"City" means the City of Banning, California.

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

"City manager" means the city manager of the city, and, for all provisions of this chapter except Section 8.48.480, his or her authorized agents, assistants, deputies or representatives.

"Code enforcement manager" means the code enforcement manager of the city, and, for all provisions of this chapter except Section 8.48.480, his or her authorized agents, assistants, deputies or representatives.

"Health officer" means the official of the city or the county of Riverside responsible for the enforcement of laws, ordinances, rules and regulations of the state, county and city relating to the public health, sanitation, food handling and environmental health including his or her authorized agents, assistants, deputies or representatives.

"Hearing officer" means the abatement hearing officer created by this chapter.

"Official" means any officer or official authorized to take action with respect to the abatement of a nuisance on behalf of the city, including the building official, chief, city manager, health officer, code enforcement manager and their designees.

"Public nuisance" means an act or condition, as specifically set forth herein or otherwise, which poses a danger to the health, welfare or safety of the community or neighborhood, or is indecent or offensive to the senses or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use in a customary manner of any public park, street, stream or highway. A "public nuisance" affects at the same time the entire community or neighborhood or any considerable number of persons although the extent of the annoyance or damage inflicted upon individuals may be unequal.

(Code 1965, § 11C-1.)

8.48.020 - Violations deemed public nuisances.
A. The provisions of this section are applicable to all property throughout the city, wherein any conditions, uses or activities hereinafter specified are found to exist. This section shall not be applicable to any condition which would constitute a violation of this chapter but which is duly authorized under the Municipal Code or any applicable state or federal law.

B. The list of activities, uses of property and conditions of property declared to be a public nuisance pursuant to this section is not intended to be exclusive. The city council expressly reserves to itself the right to declare other and additional activities, uses of property, and conditions of property to be nuisances subject to abatement pursuant to this title or by any other means authorized by law.

C. Every owner, tenant, occupant, agent, person having charge or possession of any premises or property, lessee or holder of any possessory interest of real property within the city is required to maintain such property as not to violate the provisions of this section. The owner of the property shall remain liable for violations hereof, regardless of any contract or agreement with any third party regarding such property or the occupation of the property by any third party. Every successive owner of property who neglect to abate a continuing nuisance upon, or in the use of, such property, created by the former owner, is liable therefor in the same manner as the one who first created it.

(Code 1965, § 11C-2.)

8.48.030 - Penalty.

The owner, lessee, occupant, tenant or other person having charge or control over any premises, property, land or structure constituting a public nuisance as defined in this Code, shall be guilty of a misdemeanor, conviction of which shall be punished by a fine not exceeding one thousand dollars or imprisonment for a term not exceeding six months, or by both such fine and imprisonment. However, the city attorney or city prosecutor is authorized to file or charge any such violation as either a misdemeanor or infraction or reduce any charge filed as a misdemeanor to an infraction. Every day of such violation shall constitute a separate offense.

(Ord. No. 1381, § 11.)

8.48.040 - Refuse and waste defined.

"Refuse and waste matter" is defined for the purpose of this chapter as unused or discarded matter or material, and which consists of such matter and material as rubbish, refuse, debris, and matter of any kind, including but not limited to rubble, asphalt, concrete, plaster, tile, rocks, bricks, soil, building materials, crates, cartons, containers, boxes, machinery or parts thereof, scrap metal and other pieces of metal, ferrous or nonferrous, furniture or parts thereof, trimmings from plants or trees, cans, bottles and barrels. Refuse and waste matter as defined, which by reason of its location and character is unsightly, or poses a threat of fire or vermin infestation and interferes with the reasonable enjoyment of property by neighbors, detrimentally affects property values in the surrounding neighborhood or community, or which would materially hamper or interfere with the prevention or suppression of fire upon the premises is declared a public nuisance.

(Code 1965, § 11C-3.)

8.48.050 - Fire hazard.
All weeds, grasses, trees, rubbish, or any material growing upon private property within the city which by reason of their size, manner of growth and location constitute a fire hazard to any building, improvements, crops or other property, and weeds and grasses which when dry, will in reasonable probability constitute a fire hazard are declared a public nuisance.

(Code 1965, § 11C-4.)

8.48.060 - Unsanitary animals.

Any animals, fowl, or birds which, with concurrence of the city's animal control officer are kept or permitted to be kept in foul, offensive, obnoxious, filthy or unsightly conditions on any premises are declared a public nuisance.

(Code 1965, § 11C-5.)

8.48.070 - Sewage on ground.

It is declared a nuisance to permit any part of the contents of any privy vault, cesspool, septic tank, water closet, urinal, pipe, sewer line, or any sewage, slop water or any other filthy water, matter or substance, to flow or discharge upon the ground or upon the surface of any lot or premises, or in any public street or other public place.

(Code 1965, § 11C-6.)

8.48.080 - Building code violations.

All buildings, structures, or appendages, both permanent and temporary, maintained in violation of the uniform building codes adopted by the city, or subject to any of the following conditions are declared a public nuisance:

A. Buildings or structures, or parts thereof, not completed within a reasonable time as per the determination of the city's building official and for which the permit for such construction has expired;
B. Unoccupied buildings which are open to or unsecured from intrusion by persons, animals or the elements or which are boarded up by a method or by use of materials not approved by the city. Such methods and materials shall be as set forth in the policies of the code enforcement department;
C. Fences or walls in a hazardous condition, or which are in disrepair, or which hinder free access to public sidewalks;
D. Broken windows constituting hazardous conditions or inviting trespassers;
E. Any violation listed in the State Housing Law at Section 17920.3 of the California Health and Safety Code, or any amendment thereto.

(Code 1965, § 11C-7.)

8.48.090 - Zoning ordinance violations.

Any buildings, sign or other structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of the city's zoning ordinance, as amended, and any use of land, building, or premises established, conducted or operated or maintained contrary to the provisions of the city's zoning ordinance, as amended, is declared a public nuisance.
(Code 1965, § 11C-8.)

8.48.100 - Parking or placement on private property for purpose of sale.
A. Parking, setting down, or placing of any item(s), upon or within the limits of a parcel of land, that is vacant or upon which are present only vacant structure(s), by any person other than the owner of such parcel, under such circumstances as to present an offer of the item(s) for sale, when the offer of sale of the item(s) is to open to observation by persons who are within the public right-of-way, and when such offer of sale is contrary to the provisions of this Code including the city's Zoning Code, is declared a nuisance.
B. The owner or person in possession and control of such item(s) constituting a nuisance under this section who fails to comply with any written or other order to abate any such public nuisance shall, on the first such violation be guilty of an infraction and shall be subject to a fine not to exceed one hundred dollars; a fine not to exceed two hundred dollars shall be imposed upon conviction for a second violation of the same offense within one year shall constitute a misdemeanor punishable by a fine not to exceed one thousand dollars, six months in jail or both such fine and imprisonment. Every day of such violation shall constitute a separate offense.
C. For purposes of this section, "item" shall include, but is not limited to, any automobile, automotive part or accessory, trailer, any and all food items, decorative plant, toy, furniture, equipment, housewares, textile, clothing, jewelry, firewood, or art.

(Code 1965, § 11C-8.1.)

8.48.110 - Graffiti.
Graffiti which is visible from adjacent properties or from a public street or right-of-way is declared a public nuisance.

(Code 1965, § 11C-9.)

8.48.120 - Polluted water.
"Polluted water" is defined for the purpose of this chapter as water contained in a swimming pool, pond or other body of water, which contains any of the following: organic matter conducive to bacterial growth including algae, remains of insects, remains of deceased animals, reptiles, rubbish, refuse and waste matter, debris, papers, or any other foreign matter or material which, because of its nature or location, constitutes an unhealthy, unsafe or unsightly condition. Any swimming pool, pond or other body of water which is abandoned, unattended, unfiltered, or not otherwise maintained, resulting in the water becoming polluted as defined, is declared a public nuisance.

(Code 1965, § 11C-10.)

8.48.130 - Stagnant water.
Any premises maintained so as to cause the accumulation of stagnant or still water, or any other condition which harbors and breeds mosquitoes or any other poisonous or objectionable insect is declared a public nuisance.

(Code 1965, § 11C-11.)

8.48.140 - Insects—Vermin.
Any building, vacant lot, premises, vehicle, or place maintained in such a manner as to permit the breeding or harboring therein or thereon of flies, bedbugs, cockroaches, black widow spiders, lice, fleas or any other vermin is declared a public nuisance.

(Code 1965, § 11C-12.)

8.48.150 - Noisy animals.

Any animal or fowl kept, maintained or permitted to remain on any lot or parcel of land which by any sound or cry disturbs the peace and comfort of any neighborhood, or interferes with one or more persons in the reasonable and comfortable enjoyment of life and property is declared a public nuisance.

(Code 1965, § 11C-13.)

8.48.160 - Tree trimming.

Accumulations of limbs, branches, prunings, trimmings, stumps and parts of domestic or cultivated fruit trees, cut, removed, fallen or severed from such trees are declared a public nuisance.

(Code 1965, § 11C-14.)

8.48.170 - Infested trees.

Any fruit tree or ornamental tree or shrub infested with red, yellow, or black scale, mistletoe, mealy bug or other insect pests or diseases detrimental to agricultural crops, as determined by the Riverside agricultural commissioner, is declared a public nuisance.

(Code 1965, § 11C-15.)

8.48.180 - Privies.

Any privy vault maintained in violation of this Code is declared a public nuisance.

(Code 1965, § 11C-16.)

8.48.190 - Signs.

Every sign or advertising structure subject to any of the following conditions is declared a public nuisance:

A. The sign or advertising structure was unlawfully erected on public or private property, or declared to be hazardous or unsafe by the building official;

B. The sign or advertising structure advertises or is related to events which have already taken place;

C. The sign was legally erected, but its use has ceased, or the structure upon which the display is placed has been abandoned by its owner, not maintained, or not used to identify or advertise an ongoing business for a period of ninety days or more;

D. Signs legally erected which later become nonconforming as a result of the adoption of an ordinance on which the amortization period provided by the ordinance or other law has expired, and for which conformance has not been accomplished.

(Code 1965, § 11C-17.)
8.48.200 - Obstruction to water.

Any structure, fence, conduit, wall, tree, masonry, pipe, lumber, or other material which obstructs or constitutes a hazard to the free flow of water through a stream, drainage channel, or watercourse is declared a public nuisance.

(Code 1965, § 11C-18.)

8.48.210 - Property maintenance.

It is unlawful and it is declared to be a public nuisance for any person owning, leasing, occupying, or having charge or possession of any premises or property within the city to maintain such property in such a manner that any of the following conditions are found to exist thereon:

A. The failure to secure and maintain against public access all doorways, windows, and other openings into vacant or abandoned buildings or structures;
B. Buildings or structures which are partially destroyed, damaged, abandoned, or permitted to remain in a state of partial construction for more than six months after the issuance of a building permit, or any extension thereof;
C. Building exterior, roofs, landscaping, grounds, walls, retaining and crib walls, fences, driveways, parking lots, sidewalks, or walkways which are maintained in such condition as to become defective, unsightly, cracked or no longer viable;
D. Painted buildings and walls, retaining walls, fences or structures that require repainting, or buildings, walls, fences, or structures upon which the condition of the paint has become deteriorated as to permit decay, excessive checking, cracking, peeling, chalking, dry rot, warping, or termite infestation;
E. Any building or structure, wall, fence, pavement, or walkway upon which any graffiti, including paint, ink, chalk, dye, or other similar marking substances, is allowed to remain for more than twenty-four hours;
F. Broken windows;
G. The accumulation of dirt, litter, feces, or debris in doorways, adjoining sidewalks, walkways, courtyards, patios, parking lots, landscaped or other areas;
H. Except where construction is occurring under a valid permit, lumber, junk, trash, garbage, salvage materials, rubbish, hazardous waste, refuse, rubble, broken asphalt or concrete, containers, broken or neglected machinery, furniture, appliances, sinks, fixtures or equipment, scrap metals, machinery parts, or other such material stored or deposited on property such that they are visible from a public street, alley, or neighboring property;
I. Temporary service bins or construction debris storage bins stored in excess of fifteen days on a public street or any front or side yard setback area without the express approval of the community development director;
J. Refuse or trash placed as to be visible from neighboring properties or streets, except for those times scheduled for collection, in accordance with this Code;
K. Any property with accumulations of grease, oil, or other hazardous material on paved or unpaved surfaces, driveways, buildings, walls, or fences, or from which any such material flows or seeps on to any public street or other public or private property, or which is likely to seep or migrate into the underground water table;
L. Any front yard, parkway, or landscaped setback area which lacks turf, other planted material, decorative rock, bark, or planted ground cover or covering as to cause excessive dust or allow the accumulation of debris;

M. Any condition of vegetation overgrowth which encroaches into, over, or upon any public right-of-way, including but not limited to streets, alleys, or sidewalks, as to constitute either a danger to the public safety or property or any impediment to public travel;

N. Overgrown, dead, decayed, or hazardous vegetation which:
   1. May harbor rats, vermin, or other disease carriers,
   2. Is maintained as to cause an obstruction to the vision of motorists or a hazardous condition to pedestrians or vehicle traffic,
   3. Constitutes a fire hazard to any building, improvement, crop, or other property,
   4. Constitutes an unsightly appearance, or
   5. Creates a danger or attractive nuisance to the public;

O. Land, which the topography or configuration of which, in any man-made state, whether as a result of grading operations, excavations, fill, or other alteration, interferes with the established drainage pattern over the property or from adjoining or other properties which does or may result in erosion, subsidence, or surface water drainage problems of such magnitude as to be injurious to public health, safety and welfare or to neighboring properties;

P. Any other condition declared by any state, county, or city statute, Code, or regulation to be a public nuisance;

Q. Any building, use or structure wherein one or more persons engage, or have engaged, in two or more acts which are prohibited pursuant to the laws of the State of California, the provisions of this Code or any other penal ordinance of this city, including but not limited to the following acts:
   1. Unlawful possession or use of controlled substances;
   2. Prostitution;
   3. Gambling; or
   4. Solicitation for any unlawful conduct.

(Code 1965, § 11C-19.)

8.48.220 - Smoke and soot.

Any excessive smoke, soot or cinders permitted to be emitted from any engine, firebox, stove, furnace, chimney or smokestack in a manner so as to annoy any resident of the neighborhood and which in the opinion of the city's fire marshal constitutes a fire hazard, or to operate any engine or machinery using fuel oil, emitting offensive odors, or smoke or soot which extends to dwelling houses in the neighborhood to such an extent as to render their occupancy materially uncomfortable, or to interfere with the use and comfortable enjoyment of property is declared a public nuisance.

(Code 1965, § 11C-20.)

8.48.230 - Internal combustion engines.

Any stationary internal combustion engine used, run, or otherwise operated within three hundred feet of any private residence, roominghouse or lodginghouse without first obtaining the consent of all persons residing within such distance is declared a public nuisance; provided, that such consent shall
be unnecessary if the exhaust and noise therefrom is muffled so as to prevent the emission of any excessive soot, smoke or noise. This section shall not apply to the use of generators during public emergencies.

(Code 1965, § 11C-21.)

8.48.240 - Salvage materials.

Any lumber, junk, trash, debris, refuse, matter, waste matter or other salvage materials, visible from a public right-of-way or adjoining property is declared a public nuisance.

(Code 1965, § 11C-22.)

8.48.250 - Attractive nuisances.

It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the city to maintain on any such premises or property any condition that constitutes an attractive nuisance, including but not limited to abandoned, broken, or neglected equipment and machinery, pools, ponds, excavations, abandoned wells, shafts, basements, or other holes, abandoned refrigerators or other appliances, abandoned motor vehicles, any unsound structure, or accumulated lumber, trash, garbage, debris, or vegetation which may reasonably attract children to such abandoned or neglected conditions.

(Code 1965, § 11C-23.)

8.48.260 - Household fixtures.

Abandoned or discarded furniture, appliances, play equipment or other household fixtures or other equipment, stored so as to be visible from public right-of-way or from adjoining property is declared a public nuisance.

(Code 1965, § 11C-24.)

8.48.270 - Clotheslines.

Clotheslines in front or side yard areas of corner lots or clothes hung to dry on walls, fences, trees, bushes or carport areas where such is viewable from the public right-of-way are declared a public nuisance.

(Code 1965, § 11C-25.)

8.48.280 - Materials stored on roofs.

Materials or items of any type stored on roofs and visible from the public right-of-way are declared a public nuisance.

(Code 1965, § 11C-26.)

8.48.290 - Discarded materials.

Garbage or trash cans, containers or plastic bags stored in front or side yards, visible from the public right-of-way, or which cause offensive odors are declared a public nuisance.

(Code 1965, § 11C-27.)

8.48.300 - Overgrown plants.
Any dead, decayed, diseased or hazardous trees, hedges, weeds, shrubs and overgrown vegetation, cultivated or uncultivated, which are likely to harbor rats or vermin, which constitutes an unsightly appearance, which are detrimental to neighboring properties or property values, or which are grown over the public right-of-way and impair vehicular or pedestrian traffic are declared a public nuisance.

(Code 1965, § 11C-28.)

8.48.310 - Lack of water and electricity to occupied residential unit.

Any structure occupied as a residence to which a regular and lawful flow of water, or to which a lawful flow of electricity has not been provided for seventy-two hours is declared a public nuisance.

(Code 1965, § 11C-28.1.)

8.48.320 - Operation of private water well.

In order to safeguard the quantity and quality of the water supply, it is declared that any private water well, whether for injection, extraction or observation, established in the city after date of this chapter is a nuisance unless otherwise agreed by the city and the owner of the well prior to commencement of the drilling of such well. This section shall supercede any inconsistent provisions of Chapter 32A of the Banning Ordinance Code.

(Code 1965, § 11C-28.2.)

8.48.330 - Cultivation, manufacture, or sales of drugs.

Any real or personal property utilized in the manufacture, cultivation, sales, or storage of any drug which is illegal under any state or federal law, including marijuana, is declared a nuisance.

(Code 1965, § 11C-28.3.)

(Ord. No. 1455, § 2(b), 10-9-12)

8.48.340 - Abandoned, wrecked, dismantled, or inoperative vehicles.

It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the city to permit, accumulate or store on such premises or property (not including highways) any abandoned, wrecked, dismantled, or inoperative vehicle, except as expressly provided in the Municipal Code or any applicable state or federal law.

(Code 1965, § 11C-28.4.)

Article II. - Inspection
8.48.350 - Right of entry.

Except as set forth at Section 8.48.520 of this chapter:

A. When it is necessary to make inspections to enforce the provisions of this Code, or when the building official, chief, health officer or city manager has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this Code and which is a public nuisance as defined by this Code, the building official, chief, health officer or city manager may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this Code. If such building or premises be
occupied, or it is reasonably apparent that the building or premises are occupied, credentials
shall be presented to the occupant and entry requested. If it reasonably appears that such
building or premises are abandoned, the building official, chief, health officer or city manager
shall first make a reasonable effort to locate the owner or other person having charge or
control of the building or premises and request entry.
B. If entry is refused, the building official, chief, health officer or city manager shall obtain an
administrative warrant from the court to secure entry.

(Code 1965, § 11C-29.)

8.48.360 - Immediate hazard.
A. Any condition which poses an immediate hazard to public health or safety shall be determined and
declared by the city manager, police chief, fire chief or building official to be an immediate hazard.
In such event, the city manager, police chief, fire chief, health officer or building official may take
immediate action to abate the hazard, without notice to the owner of the premises involved, or
any other interested person, and without the necessity of a hearing thereon by the hearing officer
or the city council prior to such action. However, such immediate action shall be limited to such
action as the city manager, police chief, fire chief, health officer or building official deems
reasonably necessary in his or her discretion to eliminate the immediate hazard or to protect
persons and property from immediate injury or damage. Any further action to abate a nuisance
which does not pose an immediate hazard to public health and safety shall be taken only in
accordance with the procedures set forth in this chapter.
B. Following such immediate abatement, notice shall be given and an opportunity for appeal shall be
given as for any other abatement action hereunder.

(Code 1965, § 11C-29.1.)

8.48.370 - Report of findings.
The building official, chief, health officer, or city manager, acting either in concert or
independently, may examine, or cause to be examined, every building, structure, yard or other
premises reported to the official or to or by a city department head or his or her designee as
dangerous or damaged or which may constitute a public nuisance, and upon examination shall
prepare a report of findings setting forth the condition of the premises, and, if necessary, their
recommendation for abatement thereof. The report shall remain available for review and inspection by
the legal or equitable owners of the property to which it relates.

(Code 1965, § 11C-30.)

8.48.380 - Notice to abate public nuisance—Notice of pendency.
A. If the building official, chief, health officer or city manager finds that any premises, constitutes a
nuisance and determines that city abatement thereof is necessary to protect the public health,
safety, or welfare, the city manager shall cause to be prepared a notice to abate public nuisance
stating in detail the conditions which render the premises a public nuisance. The city manager’s
authority is designated to the other officials as needed. The notice shall set forth the street
address, assessor's parcel number or other appropriate method of determining the location of the
nuisance. Such notice shall be in substantially the following form:

NOTICE TO ABATE PUBLIC NUISANCE
To all persons having any interest in the premises having assessor's parcel number __________-________-________ and known and described as __________ in the City of Banning:

Your attention is hereby called to the provisions of Sections 5.52.010 through 5.52.030 and 8.48.010 through 8.48.650 of the Code of the City of Banning, California, on file in the office of the City Clerk in City Hall located at 99 E. Ramsey Street, Banning, California.

Pursuant to the provisions of said Sections, you are hereby notified that certain unsafe, dangerous, hazardous or obnoxious conditions have been declared a public nuisance by the Building Official, Fire Chief, Health Officer or City Manager. A report of findings is attached hereto.

Said nuisance must be abated by the removal or repair of said unsafe, dangerous, hazardous or obnoxious conditions as follows:

____
____
____

Such actions of abatement must be completed within thirty days from the date of this notice to avoid further abatement proceedings against the owner, lessee, or occupant of the abovementioned property or structure. The owner, lessee, or occupant shall notify the Code Enforcement Manager when such abatement is complete.

Right To Hearing

YOU HAVE THE RIGHT TO A HEARING REGARDING THE REQUIREMENTS OF THIS NOTICE BY FILING A WRITTEN REQUEST FOR HEARING WITH THE CITY CLERK IN ACCORDANCE WITH SECTION 8.48.430 OF THE CITY CODE WITHIN 10 DAYS AFTER THE DATE OF SERVING, MAILING, PUBLISHING OR POSTING OF THIS NOTICE TO ABATE PUBLIC NUISANCE, WHICHEVER IS LATER.

Date: __________

City of Banning

B. The city manager shall also cause to be filed a notice of pendency of administrative action in the records of the county recorder respecting the property. Such notice shall be in a form as acceptable to the county recorder.

(Code 1965, § 11C-31.)

8.48.385 - Service of notice—Time frames.

A notice of violation/notice to abate shall be provided with a minimum of ten-calendar day notice to the person(s) responsible for the violations of the Municipal Code and Zoning Code. Service of the notice shall be made to persons and shall be served in a manner consistent with sections 8.48.390 and 8.48.400, respectively.

(Ord. No. 1455, § 2(a), 10-9-12)

8.48.390 - Service of notice—Persons to be served.

Copies of such notice shall be served upon each of the following:

A. The person, or persons, if any, occupying or in real or apparent charge and control of the
premises involved; and

B. The owner of the premises as shown on the most recent equalized assessment roll or supplemental roll; and

C. Any other person or persons known by the code enforcement manager to have an ownership or leasehold interest in the premises.

(Code 1965, § 11C-32.)

8.48.400 - Service of notice—Manner of service.

The notice shall be served as follows:

A. The person, or persons, if any, at least eighteen years of age and occupying or in real or apparent charge and control of the premises involved shall be personally served if reasonably possible. If personal service cannot with reasonable diligence be accomplished, then the notice shall be mailed, certified, return receipt requested, to such persons at the address of the premises.

B. The owner of the premises as shown on the most recent equalized assessment roll or supplemental roll and any other person or persons actually known by the code enforcement manager to have ownership or leasehold interest in the premises shall be personally served if reasonably possible. If personal service cannot with reasonable diligence be accomplished, then the notice shall be mailed, certified, return receipt requested, to such persons at their last known address.

C. If no address is reasonably attainable, then the notice shall be mailed to such persons at the address of the premises involved and the notice shall be published in a daily newspaper circulated within the city and one certified copy of the notice shall also be conspicuously posted on the premises at least ten days before the end of the time period fixed for abatement by the notice.

(Code 1965, § 11C-33.)

8.48.410 - Service of notice—Proof.

Proof of service of the notice and/or publishing and posting thereof shall be documented at the time of service by a declaration under penalty of perjury executed by the person effecting service, declaring the time and manner in which such notice was given and/or published and posted. He or she shall file such declaration in the code enforcement manager's office and therewith any proof of mailing, publishing, or posting.

(Code 1965, § 11C-34.)

Article III. - Abatement—Hearing on Abatement

8.48.420 - Voluntary abatement by property owner.

Any person may abate the nuisance by rehabilitation, repair, removal, or demolition at any time within the abatement period provided in the notice to the property owner. Once advised of such abatement, the city shall inspect the premises to verify that the condition has been abated. This section does not grant right of entry and control of premises to any person not otherwise having such right.

(Code 1965, § 11C-35.)
8.48.430 - Request for hearing before nuisance abatement hearing officer.

Within ten days of the service, mailing, publishing, or posting of the notice to abate public nuisance, whichever is later, the owner, lessee, or occupant in control of the premises described in the notice to abate may request a hearing before the nuisance abatement hearing officer regarding the requirements of the notice to abate. Such request shall be made in writing, shall state the objections of the person filing the request, shall state the interest in the property of the person filing the request, the name and address of all persons and businesses known to such applicant to have an interest in the real property and shall be filed with the city clerk. The matter shall be assigned to the nuisance abatement hearing officer and set for hearing. The person filing the request shall be entitled to one continuance of up to fourteen additional days. The person filing the request, and all others having interest in the premises, shall be notified of the time and place of the hearing before the nuisance abatement hearing officer by a notice of hearing to abate public nuisance as set forth below.

(Code 1965, § 11C-36.)

8.48.440 - Nuisance abatement hearing officer.

Any and all requests pursuant to Section 8.48.430 shall be heard by the nuisance abatement hearing officer who shall be the city manager or his designee. The decision of the nuisance abatement hearing officer shall be final unless an appeal to the city planning commission is filed pursuant to Section 8.48.540.

(Code 1965, § 11C-37.)

8.48.450 - Notice of hearing to abate public nuisance.

If a request for hearing is filed pursuant to section 8.48.430, a notice of hearing to abate public nuisance shall be prepared in substantially the following form:

NOTICE OF HEARING TO ABATE PUBLIC NUISANCE

To all persons having any interest in the premises having assessor's parcel number __________- __________- __________ and known and described as __________ in the City of Banning:

Notice is hereby given that you may appear before the Nuisance Abatement Hearing Officer at the hearing being held on the _________ day of __________/ __________/ _________, 20_________, at City Hall located at 99 E. Ramsey Street, Banning, California, at __________ A.M./P.M., or as soon thereafter as the matter may be heard, on the appeal of __________

from a finding by the City of Banning that certain unsafe, dangerous, hazardous or obnoxious conditions exist on said premises, should be declared a public nuisance and said nuisance should be abated by removal or repair of said unsafe, dangerous, hazardous or obnoxious conditions.

Upon the Nuisance Abatement Hearing Officer's finding that the same constitutes a public nuisance, the nuisance shall be abated by the City of Banning, in which case the cost of such removal or repair and abatement shall be assessed upon the premises on which said conditions exist, and such costs will constitute a lien upon such premises unless and until paid in full and shall alternatively be placed on the equalized assessment roll as a special assessment against the property.

The conditions upon said premises which are alleged to cause them to be a public nuisance are
as follows:


Date:_________

________________________

Code Enforcement Manager

City of Banning

(Code 1965, § 11C-38.)

8.48.460 - Hearing on abatement—Content of testimony.

The nuisance abatement hearing officer shall, at the scheduled time as specified in the notice of hearing to abate public nuisance, proceed to hear and consider any relevant testimony or evidence offered by the building official, chief, health officer, other officials or employees of the city or other qualified witnesses, as well as the owner, a responsible person in charge and control of the premises, his representatives, a mortgagee or beneficiary under any trust deed, lessee, any other person having any estate or interest in such premises, and any other competent person who may be present and desire to testify, respecting:

A. The condition of the affected premises;
B. The estimated cost of abating the alleged nuisance by repair or removal; and
C. Any other pertinent matters.

The nuisance abatement hearing officer may continue the hearing from time to time as he shall deem advisable.

(Code 1965, § 11C-39.)

8.48.470 - Hearing on abatement—Procedure.

The hearing shall be conducted informally, and the technical rules of evidence shall not apply, except that irrelevant and unduly repetitious evidence shall be excluded. During the course of the hearing, the hearing officer may visit and inspect any premises involved in the proceeding and may receive oral testimony of any sworn or unsworn witness.

(Code 1965, § 11C-40.)

8.48.480 - Hearing on abatement—Decision.

Upon conclusion of the hearing, the nuisance abatement hearing officer shall consider the evidence presented and shall, make written findings of fact, based upon the evidence, to support his or her decision and shall make his or her determination and conclusion with respect to the alleged public nuisance. The ruling shall be made by the nuisance abatement hearing officer within thirty days of the close of such hearing, and copies thereof shall be served upon all interested parties in the same manner as set forth in Sections 8.48.390 through 8.48.410. Failure of the owner or other persons
having interest in the affected premises to appear at or be represented at the hearing shall in no way
affect the validity thereof. The ruling shall contain a notice that appeal to the city planning commission,
if desired, must be sought by filing a notice of appeal with the city clerk within fifteen days from the
date of the decision in accordance with this chapter.

(Code 1965, § 11C-41.)

8.48.490 - Order to abate public nuisance.

If, from evidence received at the hearing, the nuisance abatement hearing officer determines that
the premises or any portions thereof are unsafe or dangerous and a public nuisance, then he shall, by
written ruling, order the nuisance abated. The order to abate public nuisance shall set forth the
following:

A. A statement of the particulars which render the premises obnoxious or unsafe and a public
nuisance;
B. A statement of the things required to be done to abate the nuisance;
C. The time within which the work required to abate must be commenced;
D. A reasonable time within which the required abatement shall be completed;
E. That the occupant, lessee, or other person in possession or charge, or any mortgagee,
beneficiary under any deed of trust, or other person having interest or estate in such
premises, may at his own risk, abate the nuisance;
F. That appeal to the city planning commission, if desired, must be sought by filing a notice of
appeal with the city clerk within fifteen days from the date of the decision in accordance with
Section 8.48.540.

(Code 1965, § 11C-42.)

8.48.500 - Conditional use permits.

Any commercial use which is permitted, grandfathered, or not otherwise currently required to
have a conditional use permit to conduct its current operations as of the effective date hereof, may be
made subject to the requirements to obtain a conditional use permit for its continued operation by the
nuisance abatement hearing officer upon finding by that hearing officer that such use has been
conducted in a manner which is detrimental to the health, safety, or welfare of the community. Such
findings are not required to be limited to violations of any specific provisions of this Code. By way of
this example, commercial uses include but are not limited to: motels, mini-marts, rentals of facilities in
multifamily dwellings. The requirements for a conditional use permit may be imposed only after
written notice to the owner of the subject parcel and a public hearing before the hearing officer in the
manner set forth in this chapter for notice and hearing.

(Code 1965, § 11C-42.1.)

8.48.510 - Order to abate—Service.

The city manager shall cause copies of the order to abate to be posted upon the premises involved
and served in the manner and upon the persons prescribed in Sections 8.48.390 through 8.48.410.

(Code 1965, § 11C-43.)

8.48.520 - Abatement by property owner.
The property owner, lessee, occupant, or person having charge or control of the property, may, at his own expense, abate the nuisance as prescribed by the order to abate prior to expiration of the abatement period set forth in the order. If the nuisance has been inspected by the representative of the city and has been abated in accordance with the order, proceedings shall be terminated.

(Code 1965, § 11C-44.)

8.48.530 - Abatement by the city.

Whenever no appeal has been taken for a notice to abate public nuisance or such notice or an order to abate public nuisance upon a premises, or any portion thereof, has not been complied with within the time set, the city manager shall have the power, in addition to any other remedy provided for in this chapter, to:

A. Cause the premises to be vacated until such time as the nuisance has been abated;
B. Cause the nuisance upon the premises, or any portion thereof, to be abated and the premises restored to a safe condition. Immediately upon completion of such abatement, the city manager shall cause a notice of such completion to be recorded in the office of the county recorder, Riverside County, state of California. Nothing herein shall prevent the city from contracting with an independent contractor to perform such work as may be necessary to abate the nuisance.

(Code 1965, § 11C-45.)

8.48.540 - Appeal.

A. Whenever any person is aggrieved by any final order of the hearing officer issued pursuant to this chapter, such person may appeal to the planning commission the issuance of said order by filing a written notice of appeal therefrom no later than fifteen days from the date of decision. A written notice of appeal shall be filed with the city clerk and shall state the objections of the person filing the notice and shall state the interest in the property of the person filing the notice.

B. The city clerk shall set the matter for hearing at the next regular city planning commission meeting at least twenty-one days after the date of the mailing of the notice of hearing on the appeal. The person filing the appeal shall be entitled to one continuance of up to fourteen additional days. The city clerk shall give notice of the time and place of the hearing before the planning commission to all interested parties in the same manner as set forth in Sections 8.48.390 through 8.48.410. The hearing shall be conducted de novo. The planning commission may assign an ad hoc committee to take evidence in the matter. The decision of any such ad hoc committee shall be final.

C. The hearing before the planning commission, or its assigned ad hoc committee shall be conducted in a manner consistent with the provisions of Sections 8.48.460 and 8.48.470. After the hearing, the planning commission may, by written resolution, affirm, reverse or modify, in whole or in part, any final decision or order of the hearing officer which is appealed from. The written resolution shall be issued within thirty days of the close of the hearing. Failure of the owner or other persons having interest in the affected premises to appear at or be represented at the hearing shall in no way affect the validity thereof.

D.
The city clerk shall serve the written resolution representing the decision of the planning commission on the appeal on all interested parties in the same manner as set forth in Sections 8.48.390 through 8.48.410.

(Code 1965, § 11C-46.)

Article IV. - Cost Recovery
8.48.550 - Nuisances—General.

In addition to other penalties provided by law, any condition caused or permitted to exist in violation of any provision of this Code shall be deemed a public nuisance and may be summarily abated as such by the city, and each day such condition continues shall constitute a new and separate offense.

(Code 1965, § 11C-47.)

8.48.560 - Nuisance abatement.

A. The abatement of any public nuisance by the city as prescribed in this Code shall be at the sole expense of the persons creating, causing, committing or maintaining such nuisance. The cost of abatement of any public nuisance and related administrative costs shall include, but not be limited to: inspection costs; investigation costs; attorneys' fees and costs; and costs to repair and eliminate all substandard conditions. All such fees and costs shall be a personal obligation against any person held responsible for creating, causing, committing or maintaining a public nuisance.

B. The prevailing party in any action, administrative proceeding or special procedure to abate a public nuisance pursuant to this section may recover its reasonable attorneys' fees in those individual actions or proceedings wherein the city elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to any prevailing party exceed the amount of reasonable attorneys' fees incurred by the city in the action or proceeding.

C. The city may collect the cost of abatement of any nuisance and related administrative costs, including but not limited to, inspection costs, investigation costs, attorneys' fees and costs, and costs to repair and eliminate all substandard conditions by either: (i) obtaining a court order stating that this reimbursement requirement is a personal obligation of any person held responsible for creating, causing, committing or maintaining a public nuisance, recoverable by the city in the same manner as any civil judgment; (ii) recording a nuisance abatement lien pursuant to this Code against the parcel of land on which the nuisance is maintained; or (iii) imposing a special assessment pursuant to this Code against the parcel of land on which the nuisance is maintained.

(Code 1965, § 11C-48.)

8.48.570 - Nuisance abatement lien.

A. Prior to the recordation of the lien against the parcel of land on which the nuisance is maintained, the owner of record of the parcel of land shall receive notice. The notice of the recordation of the lien against the parcel of land on which the nuisance is maintained shall be served on the owner of record of the parcel of land on which the nuisance is maintained, based on the last equalized assessment roll, or the supplemental roll, whichever is more current. Such notice shall be served in the same manner as a summons in a civil action in accordance with Sections 415.10 et seq., of the
Code of Civil Procedure. The date upon which service is made shall be entered on or affixed to the face of the copy of the notice at the time of service. However, service of such notice without such date shall be valid and effective.

B. A nuisance abatement lien shall be recorded in the Riverside County recorder’s office and from the date of recording shall have the force, effect, and priority of a judgment lien.

C. A nuisance abatement lien authorized by this section shall specify the amount of the lien, the name of the agency on whose behalf the lien is imposed, the date of the abatement order, the street address, legal description and assessor’s parcel number of the parcel on which the lien is imposed, and the name and address of the recorded owner of the parcel.

D. In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in subsection B of this section shall be recorded by the city. A nuisance abatement lien and the release of the lien shall be indexed in the grantor-grantee index.

E. A nuisance abatement lien may be foreclosed by the city as a money judgment. The city may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien or as a condition of removing the lien upon payment.

(Code 1965, § 11C-49.)

8.48.580 - Special assessment.

A. As an alternative to the recordation of a nuisance abatement lien, the city may make the cost of abatement a special assessment against the parcel of land on which the nuisance is maintained.

B. Notice shall be given by certified mail, to the property owner, if the property owner’s identity can be determined from the county assessor’s or county recorder’s records. Notice pursuant to this section shall be given at the time of imposing the assessment and shall specify that the property may be sold after three years by the tax collector for unpaid delinquent assessments. The tax collector’s power of sale shall not be affected by the failure of the property owner to receive notice pursuant to this section.

C. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for with ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attached thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.

D. The city shall duly execute a report detailing the amount of the special assessment and shall send same to the tax division of the county auditor-controller’s office, whereupon it shall be the duty of the auditor-controller to add the amounts of the respective assessments to the next regular tax bills levied against the respective lots and parcels of land for municipal purposes; and, thereafter, the amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes.
E. City may conduct a sale of vacant residential developed property for which the payment of that assessment is delinquent, subject to the requirements applicable to the sale of property pursuant to Section 3691 of the Revenue and Taxation Code.

F. Notices or instruments relating to the abatement proceeding or special assessment shall be entitled to recordation.

(Code 1965, § 11C-49.1.)

8.48.590 - Graffiti abatement—General provisions.

A. The abatement of any nuisance resulting from the defacement of the property of another by graffiti or any other inscribed material as prescribed in this Code shall be at the sole expense of the person, minor or other person creating, causing or committing the nuisance.

B. If the person creating, causing or committing the nuisance is a minor, the parent or guardian having custody and control of the minor shall be jointly and severally liable with the minor. The city shall make the expense of abatement of any nuisance, resulting from the defacement by a minor of the property of another by graffiti or any other inscribed material, a lien against the property of a parent or guardian having custody and control of the minor and/or a personal obligation against the parent or guardian having custody and control of the minor.

C. The prevailing party in any action, administrative proceeding or special procedure to abate a nuisance pursuant to this section may recover its reasonable attorneys' fees in those individual actions or proceedings wherein the city elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to any prevailing party to exceed the amount of reasonable attorneys' fees incurred by the city in the action or proceeding.

D. The city may collect the cost of abatement of any nuisance, resulting from the defacement of the property of another by graffiti or any other inscribed material, and related administrative costs by either: (1) obtaining a court order stating that this reimbursement requirement is a personal obligation of the minor or other person or parent or guardian having custody and control over the minor who committed the defacement, recoverable by the city in the same manner as any civil judgment; (2) recording a nuisance abatement lien against a parcel of land owned by the minor or other person or parent or guardian having custody and control over the minor who committed the defacement; or (3) making the cost of abatement of a nuisance resulting from the defacement of the property of another, a special assessment against a parcel of land owned by the minor or other person or parent or guardian having custody and control over the minor who committed the defacement.

E. Alternatively, the property owner of the property maintaining the graffiti nuisance may be liable for the expense of abatement. In such case, the expense of abatement of the graffiti nuisance may be a lien against the property on which it is maintained and a personal obligation against the property owner.

F. If the property owner maintaining the graffiti nuisance is liable for the expense of abatement, the property owner may request the city for a release from any lien and/or personal obligation for such expense upon showing proof that another person has been convicted of causing the graffiti nuisance on the property. For the purposes of this section, diversion of the offending violator to a community service program or a plea bargain to a lesser offense shall constitute a conviction.

G.
The city manager or his designee shall keep an accounting of the cost, including incidental expenses, of abatement of such nuisance for each separate lot, or parcel of land where the work has been done and shall render an itemized report in writing to the city council showing the cost of abatement, including salvage value, if applicable, for each separate lot or parcel of land; provided, that before the report is submitted to the city council for approval, a copy of the same shall be posted for at least five days upon the premises or property upon which such building(s) or structure(s) were situated, together with a notice of the time when the report shall be submitted to the city council for confirmation; a copy of the report and notice shall be served upon minor or other person or parent or guardian having custody and control over the minor who committed the defacement, and the owner of the property, in accordance with Section 415.10 et seq. of the Code of Civil Procedure, at least five days prior to submitting the same to the council; proof of the posting and service shall be made by affidavit and filed with the city clerk of the city. The term "incidental expenses" includes, but is not limited to, the actual expenses and costs of the city in the preparation of notices, specifications and contracts, and in inspecting the work, and the costs of printing and mailings required under this chapter.

H. At the time and place fixed for receiving and considering the report, the city council shall hear and pass upon the report of the city manager or his designee, together with any objections or protests, which must be in writing, raised by any of the persons liable to be assessed for the cost of abating such nuisance. Thereupon the city council may make such revision, correction or modification to the report as it may deem just, after which, by resolution, the report as submitted, or as revised, corrected or modified, shall be confirmed; provided, that the hearing or consideration may be continued from time to time. The decision of the city council on all protests and objections which may be made shall be final and conclusive.

(Code 1965, § 11C-49.2; Ord. No. 1436, § 2, 3-8-11)

8.48.600 - Graffiti—Nuisance abatement lien.

A. Prior to the recordation of a graffiti nuisance abatement lien, notice shall be given to the person or parent or guardian having custody and control over the minor who committed the defacement by graffiti or any other inscribed material, and/or the owner of the abated property on which the graffiti was maintained as shown on the last equalized assessment roll or supplemental roll, whichever is more current. Such notice shall be served in the same manner as a summons in a civil action in accordance with Sections 415.10 et seq., of the Code of Civil Procedure. The date upon which service is made shall be entered on or affixed to the face of the copy of the notice at the time of service. However, service of such notice without such date shall be valid and effective.

B. A graffiti nuisance abatement lien shall be recorded in the Riverside County recorder's office and from the date of recording shall have the force, effect, and priority of a judgment lien.

C. A graffiti nuisance abatement lien authorized by this section shall specify the amount of the lien, the name of the agency on whose behalf the lien is imposed, the date of the abatement order, the street address, legal description and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the recorded owner of the parcel.

D. If the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in subsection B of this section shall be recorded by the city. A graffiti nuisance abatement lien and the release of the lien shall be indexed in the grantor-grantee index.

E.
A graffiti nuisance abatement lien may be satisfied through foreclosure in an action brought by the city. The city may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien or as a condition of releasing the lien upon payment.

(Code 1965, § 11C-49.3; Ord. No. 1436, § 2, 3-8-11)

8.48.610 - Graffiti—Special assessment.
A. As an alternative to the recordation of a graffiti nuisance abatement lien, the city may make the cost of the abatement of any nuisance resulting from the defacement by a minor or other person of property of another by graffiti or other inscribed material, and related administrative costs, a special assessment against a parcel of land owned by the minor or other person or by the parent or guardian having custody and control of the minor, or the owner of the abated property on which the graffiti was maintained.

B. The assessment may be collected at the same time and in the same manner as ordinary municipal 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 municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrance for value has been created and attached thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.

C. Notices or instruments relating to the abatement proceeding or special assessment may be recorded.

D. Upon entry of a second or subsequent civil or criminal judgment within a two-year period finding a minor or other person or parent or guardian having custody and control of a minor responsible for a condition that may be abated as a nuisance pursuant to subsection A of this section, the court may order such minor or other person or parent or guardian having custody and control of such minor to pay treble the costs of the abatement.

(Code 1965, § 11C-49.4; Ord. No. 1436, § 2, 3-8-11)

8.48.620 - General penalty.
A. In addition to any other remedy provided by law, the city may recover any fee, cost or charge, including any attorneys' fees incurred in the enforcement of any provision of the Zoning Code, the Housing Code, Building Code, Electrical Code, Plumbing Code, Mechanical Code or the Uniform Code for the Abatement of Dangerous Buildings as provided in this Code. The amount of any such fee, cost, or charge, including any attorneys' fees shall not exceed the actual cost incurred performing the inspections and enforcement activity, including but not limited to, permit fees, fines, late charges and interest.

B. Subsection A of this section, shall not apply to any enforcement, abatement, correction or inspection activity regarding a violation of any provision of sections of the Zoning Code, the Housing Code, Building Code, Electrical Code, Plumbing Code, Mechanical Code or the Uniform Code for the Abatement of Dangerous Buildings as provided in this Code in which the violation was evident on the plans that received the building permit.

C. Subsection A of this section shall not apply to owner-occupied residential dwelling units.
(Code 1965, § 11C-49.5.)

Article V. - General Provisions
8.48.630 - Unlawful interference.
     It is unlawful and a misdemeanor for any person to obstruct, impede or interfere with any officer, agent or employee of the city or with any person who owns or holds any estate or interest in any premises or structure, or any portion thereof, upon which there is a nuisance which has been ordered to be abated, or with any person to whom such premises have been lawfully sold pursuant to the provisions of this chapter, when any such officer, agent, employee, purchaser or person is engaged in abating a nuisance or immediate hazard thereon, or in performing any necessary act preliminary to or incidental to such work, or authorized or directed pursuant thereto.

(Code 1965, § 11C-50.)

8.48.640 - Nonliability of city.
     The provisions of this chapter shall not be construed to hold the city or any official, officer, employee or agent thereof responsible for any damages to persons or property by reason of the inspections authorized herein, by reason of the determination that a nuisance or immediate hazard exists on any premises in accordance with the provisions herein, or by reason of any of the procedures or processes related to the actual abatement thereof.

(Code 1965, § 11C-51.)

8.48.650 - Annual review of abated residential rental units.
     If a residential rental unit has been found during a hearing before the nuisance abatement hearing officer to be in violation of any provision of this chapter and, if occupancy of such residential unit is allowed to continue, the nuisance abatement hearing officer shall require the following:

     A. That upon seventy-two hours' prior written notice delivered to the owner, or manager, or tenant-in-possession of the residential unit, the city building inspectors shall thereafter be permitted to enter and examine such premises for any violation of this Code.

     B. Such inspections shall occur at least twice during the first year following the date of the hearing before the hearing officer and at least once in the subsequent year.

     C. The cost of such inspection shall be assessed against the owner as a personal expense. Said cost shall be as set by resolution of the city council.

     For the purpose of this section, residential units shall include, but not be limited to apartment buildings, duplexes, auto courts, motels, single-family homes, or any portion thereof, and any premises for which compensation is received by one party from another in consideration of being allowed to reside in such premises.

(Code 1965, § 11C-54.)
ATTACHMENT 3
Chapters 1.20 and 1.28 of the Banning Municipal Code
Chapter 1.20 - ADMINISTRATIVE CITATIONS

Sections:

1.20.010 - Applicability.
A. This division provides for administrative citations which are in addition to all other legal remedies, criminal or civil, which may be pursued by the city to address any violation of this Code.
B. Prior to institution of any charge or the making of any claim for a violation of a provision of this Banning Ordinance Code or any general law enforceable by the city, and administrative citation or citations may be issued for such violation. Such citation may also be issued in conjunction with any other enforcement action.

(Code 1965, § 1-29.01.)

1.20.020 - Enforcement officer—Defined.
For purposes of this chapter, "enforcement officer" shall mean any city employee or agent of the city with the authority to enforce any provision of this Code.

(Code 1965, § 1-29.02.)

1.20.030 - Administrative citation.
A. Whenever an enforcement officer charged with the enforcement of any provision of this Code determines that a violation of that provision has occurred, the enforcement officer shall have the authority to issue an administrative citation to any person responsible for the violation.
B. Each administrative citation shall contain the following information:
   1. The date of the violation;
   2. The address or a definite description of the location where the violation occurred;
   3. The section of this Code violated and a description of the violation;
   4. The amount of the fine for the code violation;
   5. A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;
   6. An order prohibiting the continuation or repeated occurrence of the code violation described in the administrative citation;
   7. A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request for hearing form to contest the administrative citation may be obtained; and
   8. The name and signature of the citing enforcement officer.

(Code 1965, § 1-29.03.)

1.20.040 - Amount of fines.
A. The amounts of the fines for code violations imposed pursuant to this division shall be set forth in the schedule of fines established by resolution of the city council.
B. The schedule of fines shall specify any increased fines for repeat violations of the same code provision by the same person within thirty-six months from the date of an administrative citation.
C. The schedule of fines shall specify the amount of any late payment charges imposed for the
payment of a fine after its due date.

(Code 1965, § 1-29.04.)

1.20.050 - Payment of the fine.
A. The fine shall be paid to the city within thirty days from the date of the administrative citation.
B. Any administrative citation fine paid pursuant to subsection A shall be refunded in accordance with Section 1.20.100 if it is determined, after hearing, that the person charged in the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.
C. Payment of a fine under this chapter shall not excuse or discharge any continuance or repeated occurrence of the code violation that is the subject of the administrative citation.

(Code 1965, § 1-29.05.)

1.20.060 - Late payment charges.
Any person who fails to pay to the city any fine imposed pursuant to the provisions of this chapter on or before the date that fine is due shall also be liable for the payment of any applicable late payment charges as set forth in the schedule of fines.

(Code 1965, § 1-29.06.)

1.20.070 - Hearing request.
A. Any recipient of an administrative citation may contest that there was a violation of the code or that he or she is the responsible party by completing a request for hearing form and returning it to the city within fifteen calendar days from the date of the administrative citation, together with an advance deposit of the fine, or notice that a request for an advance hardship waiver has been filed pursuant to Section 1.20.080.
B. A request for hearing form may be obtained from the department specified on the administrative citation.
C. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten days prior to the date of the hearing.
D. If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, a copy of this additional report shall be served on the person requesting the hearing at least five days prior to the date of the hearing.

(Code 1965, § 1-29.07.)

1.20.080 - Advance deposit hardship waiver.
A. Any person who intends to request a hearing to contest that there was a violation of the code or that he or she is the responsible party and who is financially unable to make the advance deposit of the fine as required in Section 1.20.070(A) may file a request for an advance deposit hardship waiver.
B. The request shall be filed with the building and safety department on an advance deposit hardship waiver application form, available from the department of finance, within ten days of the date of the administrative citation.
C. The requirement of depositing the full amount of the fine as described in Section 1.20.070(A) shall be stayed unless or until the director of finance makes a determination not to issue the advance deposit hardship waiver.
D. The director may waive the requirement of an advance deposit set forth in Section 1.20.070(A) and issue the advance deposit hardship waiver only if the cited party submits to the director a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the director the person's actual financial inability to deposit with the city the full amount of the fine in advance of the hearing.

E. The administrative citation and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the facts contained in those respective documents.

F. The determination of the finance director shall be final and not subject to appeal except as an appeal of the final action.

(Code 1965, § 1-29.08.)

1.20.090 - Hearing officer.

The city manager shall designate the hearing officer for the administrative citation hearing. The foregoing notwithstanding, the city shall grant the appellant's request for a hearing officer selected by both parties upon receipt of such request in writing and deposit with the city by the appellant of fees in an amount sufficient to cover the cost of such hearing officer. A hardship waiver may be granted for such costs under the procedures set forth herein for advance deposit of fees.

(Code 1965, § 1-29.09.)

1.20.100 - Hearing procedure.

A. No hearing to contest an administrative citation before a hearing officer shall be held unless the fine has been deposited in advance in accordance with Section 1.20.070 or an advance deposit hardship waiver has been issued in accordance with Section 1.20.080.

B. A hearing before the hearing officer shall be set for a date that is not less than fifteen days and not more than sixty days from the date that the request for hearing is filed in accordance with the provisions of this chapter.

C. At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation.

D. The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.

E. The administrative citation and any additional report submitted by the code enforcement officer shall constitute prima facie evidence of the facts contained in those respective documents.

F. The hearing officer may continue the hearing and request additional information from the enforcement officer or the recipient of the administrative citation prior to issuing a written decision.

(Code 1965, § 1-29.10.)

1.20.110 - Hearing officer's decision.

A. After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to either uphold or cancel the administrative citation and shall list in the decision the reasons for that decision. The decision of the hearing officer shall be final.

B.
If the hearing officer determines that the administrative citation should be upheld, the fine amount on deposit with the city shall be retained by the city. When the violation pertains to building, plumbing, electrical, or other similar structural or zoning issues, and there is no immediate danger to health or safety, the decision shall allow the appellant ten calendar days within which to correct or otherwise remedy the violation before forfeiture of the deposit shall be deemed to have occurred.

C. If the hearing officer determines that the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the hearing officer shall set forth in the decision a payment schedule for the fine imposed.

D. If the hearing officer determines that the administrative citation should be canceled and the fine was deposited with the city, the city shall promptly refund the amount of the deposited fine, together with interest at the average rate earned on the city's portfolio for the period of time the fine amount was held by the city.

E. The recipient of the administrative citation shall be served with a copy of the hearing officer's written decision.

F. The employment, performance evaluation, compensation and benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount of administrative citation fines upheld by the hearing officer.

(Code 1965, § 1-29.11.)

1.20.120 - Recovery of administrative citation fines and costs.

The city may collect any past due administrative citation fine or late payment charge by use of all available legal means. The city also may recover its collection costs.

(Code 1965, § 1-29.12.)

1.20.130 - Right to judicial review.

Any person aggrieved by an administrative decision of a hearing officer or an administrative citation may obtain review of the administrative decision by filing a petition for review with the municipal court of Riverside County in accordance with the time lines and provisions set forth in California Government Code Section 53069.4.

(Code 1965, § 1-29.13.)

1.20.140 - Notices.

The administrative citation and all notices required to be given by this chapter shall be given either by personal delivery thereof to the person to be notified or by deposit in the United States mail, in a sealed envelope, postage prepaid, addressed to such person at his or her last known business or residence address as the same appears in the records of the county recorder, or other records pertaining to the matter to which such notice is directed. Failure to receive any notice specified in this chapter does not affect the validity of proceedings conducted hereunder.

(Code 1965, § 1-29.14.)

1.20.150 - Procedures.

The city manager is hereby authorized to promulgate such policies and procedures as are necessary for the successful implementation of this division.
Chapter 1.28 - GENERAL PENALTY

Sections:

1.28.010 - General penalty—Continuing violations.
A. It is unlawful for any person to violate any provision or to fail to comply with any requirement of this Code.
B. Whenever in this Code any act or omission is made unlawful, it includes causing, permitting, aiding, abetting, maintaining, suffering or concealing the fact of such act or omission.
C. Any person violating any of the provisions of this Code is guilty of a misdemeanor, unless the offense is specifically classified in this Code or by state law as an infraction. However, the city attorney or city prosecutor is authorized to file or charge any violation of this Code as either a misdemeanor or infraction or reduce any charge filed as a misdemeanor to an infraction.
D. Each day that any condition caused or permitted to exist in violation of this Code constitutes a new and separate violation.
E. The owner of any property, building or structure within the city is responsible for keeping such property, building or structure free of violations related to its use or condition. The owner of such property, building or structure is separately liable for violations committed by tenants or occupants relative to the use or condition of the property.
F. The penalty provided in this section is in addition to other provisions of this Code or other law.
(Ord. No. 1381, § 3.)

1.28.020 - Misdemeanor penalties.
Where no specific penalty is provided, any conviction of a misdemeanor under the provisions of this Code or any other ordinance of the city shall be punished by a fine not exceeding one thousand dollars or imprisonment for a term not exceeding six months, or by both such fine and imprisonment.
(Ord. No. 1381, § 4.)

1.28.030 - Infraction penalties.
Whenever in this Code or in any other ordinance of the city, any act is prohibited or is made or declared to be unlawful or an offense or the doing of any act is required or the failure to do any act is declared to be unlawful and the violation of any such provision of this Code or any other ordinance of the city is expressly made an infraction, such infraction shall be punishable by:
A. A fine not exceeding one hundred dollars for a first violation;
B. A fine not exceeding two hundred dollars for a second violation of the same section of this Code or ordinance within one year;
C. A fine not exceeding five hundred dollars for each additional violation of the same section of this Code or ordinance within one year.
(Ord. No. 1381, § 5.)

1.28.040 - Enforcement of similar clauses or sections.
In all cases where the same offense is made punishable or is created by different clauses or sections of this Code, the city attorney or city prosecutor may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense.

(Ord. No. 1381, § 6.)

1.28.050 - Entitlement permit, other permit or license violations.
   A. Each person or the successor of each person who holds an entitlement permit, a variance permit, or any other permit or license issued by the city shall comply with each provision of the permit or license and with each term that is imposed as a condition to the exercise of the permit or license.
   B. Each person or the successor of each person who receives a rezoning or subdivision approval shall comply with each provision of the approval and with each term that is imposed as a condition to the approval of the rezoning or subdivision.

(Ord. No. 1381, § 7.)

1.28.060 - Criminal prosecution.
   Pursuant to California Government Code Section 36900, the city attorney or city prosecutor may prosecute any violation of this Code in the name of the people of the State of California.

(Ord. No. 1381, § 8.)

1.28.070 - Violations deemed public nuisances.
   In addition to other penalties provided by law, any condition caused or permitted to exist in violation of any provision of this Code or any other ordinance of the city, or any such threatened violation, shall be deemed a public nuisance and may be abated as such by the city, and each day that such condition continues shall be regarded as a new and separate offense.

(Ord. No. 1381, § 9.)
DATE: November 4, 2015

TO: Planning Commission

FROM: Brian Guillot, Acting Community Development Director

SUBJECT: REVIEW OF ORDINANCES CONCERNING PARKING AND LOT CONSTRUCTION STANDARDS

RECOMMENDATION:

Staff recommends that the Planning Commission:

I. Review Chapters 17.28 and 17.88 of the Banning Municipal Code, consider its provisions regulating parking and loading standards, and provide further direction to staff.

No action is recommended at this time.

APPLICANT INFORMATION:

Not applicable.

BACKGROUND:

During the Planning Commission meeting of October 7, 2015, a request was made that this item be placed on the agenda for a future Planning Commission meeting.

1) Current Municipal Code

a) Construction Standards

Section 17.28.060(L)(2) requires that all off-street driveway and parking areas be surfaced with at
least three inches of concrete, asphaltic concrete, or a material approved by the City Engineer with bituminous surfacing or at least four inches of an aggregate base material. Section 17.28.060(L)(3) allows for the use of “a porous surface...such as gravel” in areas which are close to trees and shrubs, if this “will aid in bringing rainwater to the roots of the trees, and this is approved by the City Engineer.” However, it is possible certain properties within the City have gravel parking areas as legal non-conforming structures. Section 17.88.020 allows for legal non-conforming structures to be maintained under a certain set of circumstances, and also lists certain conditions that require the legal non-conforming structure to come into compliance with the current zoning ordinance. For example, Section 17.88.020(G) requires any structure that is non-conforming only because of the off-street parking standards to come into compliance if there is any expansion to that structure. Various sections of the Code allow for necessary repairs to legal non-conforming residential structures, as well as nonstructural improvements and repairs for commercial and industrial structures. Finally, a legal non-conforming structure may have to come into compliance if its use is discontinued for six calendar months.

Therefore, any existing gravel parking areas in the City would have to be examined to determine whether they, or the other structure they serve, are legal non-conforming uses, or if the City can require them to come into compliance with the Code. A full list of the conditions regarding legal non-conforming structures can be found at Section 17.88.120. It is also possible that any property owner who has an existing gravel parking lot, or wishes to construct one, may apply for a variance.¹

b) Residential Driveway Parking Requirements

Section 17.28.030(G) requires that all parking “occur on paved surfaces of asphalt, concrete or similar materials...” unless a parking area (such as a driveway or parking lot) is a legal nonconforming use pursuant to Section 17.88.020. Furthermore, the front yard that is visible from the public right-of-way (i.e., sidewalk and street) for residential properties are required to be landscaped with trees, shrubs and groundcover pursuant to Section 17.32.030(I). Thus, parking on a front yard would be prohibited as it is not paved and is not .

2) Code Enforcement

The City engages in complaint-based code enforcement. Whenever a complaint is filed, code enforcement officers will respond to and investigate the alleged violation.

3) Consequences of Violation

Violations of the building standards for the construction of parking areas, and other violations of the provisions of the Municipal Code, are citable under Chapters 1.20 and 1.28 of the Municipal Code as an administrative citation or as a misdemeanor/infraction, respectively.

¹ Generally, the standard for granting a variance is “because of special circumstances applicable to the property, including size, shape, topography, unusual geological or geographical feature, the strict application of this Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical land use districts.”
Attachments:

1. Chapter 17.28 of the Banning Municipal Code
2. Chapter 17.88 of the Banning Municipal Code
3. Chapters 1.20 and 1.28 of the Banning Municipal Code
ATTACHMENT 1
Chapter 17.28 of the Banning Municipal Code
Chapter 17.28 - PARKING AND LOADING STANDARDS

Sections:

17.28.010 - Purpose.

These standards are intended to achieve the following:

A. To provide attractive, accessible, secure, properly lit, and well maintained and screened off-street parking facilities.
B. To reduce traffic congestion and hazards.
C. To protect residential neighborhoods from the effects of vehicular noise and traffic generated by adjacent non-residential land use districts.
D. To eliminate the need for vehicles to stand idle with engines running, while they wait for parking spaces to become free.
E. To assure the easy and rapid maneuverability of emergency vehicles.
F. To provide appropriately designed parking facilities in proportion to the needs generated by various types of land uses.

(Zoning Ord. dated 1/31/06, § 9107.01.)

17.28.020 - Applicability.

Every use shall have permanently maintained off-street parking areas pursuant to the provisions of this chapter.

(Zoning Ord. dated 1/31/06, § 9107.02.)

17.28.030 - General regulations.

A. Except in the downtown commercial district, no structure or use shall be permitted or constructed unless off-street parking spaces are provided in accordance with this chapter.
B. The word "use" shall mean both the type and the intensity of the use, and that a change in use shall be subject to all the requirements of this chapter.
C. Fractional space requirements shall be rounded up to the next whole space.
D. Requirements for uses not specifically listed herein, shall be determined by the community development director, based upon the requirements for comparable uses and upon the particular characteristics of the use.
E. In any residential use, when a garage is required, a garage door shall be provided and permanently maintained.
F. Required guest parking in multi-family residential districts shall be designated as such and restricted to the use of guests.
G. All parking shall occur on paved surfaces of asphalt, concrete or similar materials, and non-conforming properties shall be made conforming when new permitted improvements are constructed on the property.
H. Recreational vehicles, trailers, boats, campers and like vehicles, except vehicles utilized for agricultural purposes, that are required to be licensed but that are not currently registered with the DMV shall not be parked or stored on any property other than in a completely enclosed building.
I. Currently licensed recreational vehicles that are parked on property that is residentially zoned or is in current use as a residential property and are parked on such property in a location that is visible from the public right-of-way or any adjacent property shall meet the following requirements:
   1. Be demonstrably operational.
   2.
Be visibly maintained in good condition. Maintained in good condition includes, but is not limited to, the vehicle shall not be under major or commercial repair, there shall be no parts of the vehicle stored in view of the public right-of-way or any adjacent property, visible surfaces of the vehicle shall not be rusted or have peeling paint, broken windows, tires shall not be flat, any covering shall not be torn and shall be properly attached.

3. Parked on an all-weather surface. For the purpose of this section “all-weather surface” is defined as a parking surface made of a material that is impervious to water and, as installed, has sufficient strength to support the weight of the vehicle. Such surface shall be of a size at least equivalent to the footprint of the vehicle parked thereon and shall, at all times, be maintained in such a condition that it does not lose its strength or imperviousness to water.

4. There shall be no more than two recreational vehicles parked on any parcel of one-fourth acre or less in area. There shall be no more than four recreational vehicles parked on any parcel greater than one-fourth acre in area.

5. When a recreational vehicle is parked on a property other than a trailer park or authorized storage facility, water and power shall not be provided to the vehicle from any structure except as necessary for the maintenance of the vehicle and not for a period not to exceed twenty-four hours in a three-day period. Such recreational vehicles shall not be used for residential purposes.

6. No recreational vehicles shall be parked on residentially zoned property if parked closer than ten feet to any curb or edge of pavement that constitutes or parallels the front property line of the parcel upon which it is parked. A recreational vehicle shall not be parked in a side yard in such a manner so as to substantially eliminate access to the rear yard.

7. No recreational vehicle shall be parked upon any residentially zoned property for compensation except as otherwise provided by this code.

8. No recreational vehicle may be parked or stored on any public street or right-of-way for a period of time exceeding seventy-two consecutive hours in violation of Section 10.12.045 of this code. No utilities may be connected to such temporarily parked recreational vehicle.

J. The number of required off-street parking spaces for affordable housing may be reduced in accordance with California Government Code Section 65915 et seq., as it may be amended from time to time.

(Zoning Ord. dated 1/31/06, § 9107.03.)

(Ord. No. 1405, § 3, 3-10-09; Ord. No. 1467, § 7, 8-13-13)

17.28.040 - Number of required parking spaces.

Table 17.28.040A

<table>
<thead>
<tr>
<th>Residential Parking Requirements</th>
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<tbody>
<tr>
<td><strong>Use</strong></td>
</tr>
<tr>
<td>Single family dwellings</td>
</tr>
<tr>
<td>Multi-family residential:</td>
</tr>
<tr>
<td>Studio and one bedroom</td>
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<tr>
<td>Two bedrooms</td>
</tr>
<tr>
<td>Residential day care</td>
</tr>
<tr>
<td>---------------------</td>
</tr>
<tr>
<td>Senior citizen apartments</td>
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<tr>
<td>Senior congregate care</td>
</tr>
<tr>
<td>Mobile Home Parks</td>
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Table 17.28.040B

Commercial and Industrial Parking Requirements

<table>
<thead>
<tr>
<th>Use</th>
<th>Number of Required Parking Spaces</th>
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</thead>
<tbody>
<tr>
<td>Adult businesses</td>
<td>One space for each 200 square feet of gross floor area, plus one space for each employee</td>
</tr>
<tr>
<td>Bowling Alley</td>
<td>Three spaces per lane, plus any spaces required for incidental uses such as pro shops, coffee shops, arcades, bars, etc.</td>
</tr>
<tr>
<td>Driving range</td>
<td>Four spaces, plus one space per tee.</td>
</tr>
<tr>
<td>Golf course</td>
<td>Six spaces per hole, plus any spaces required for incidental uses such as pro shops, bars, banquet rooms, etc.</td>
</tr>
<tr>
<td>Miniature golf</td>
<td>Three spaces per hole, plus any spaces required for incidental uses such as game rooms, food services, etc.</td>
</tr>
<tr>
<td>Tennis/ racquetball courts</td>
<td>Three spaces per court, plus any spaces required for incidental uses.</td>
</tr>
<tr>
<td>RV parks</td>
<td>One space for each recreational vehicle space, unless more are required by the Director as a result of the development review process.</td>
</tr>
<tr>
<td>Commercial Recreation Facilities: Amusement parks/ recreation parks/theme parks/ drag strips and skating rinks</td>
<td>One space per three persons at maximum capacity</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Video arcades/ go carts</td>
<td>One space per 200 square feet of enclosed space, plus one space per three persons at maximum capacity.</td>
</tr>
<tr>
<td>Art/ dance studio</td>
<td>One space per employee, plus one space per two students at maximum capacity, unless revised by the Director as a result of the development review process.</td>
</tr>
<tr>
<td>Banks and financial offices</td>
<td>One space for each 200 square feet of gross floor area, plus one free, unimpeded lane able to accommodate six vehicles for each drive up window.</td>
</tr>
<tr>
<td>Barber shop</td>
<td>Two spaces for each barber chair</td>
</tr>
<tr>
<td>Beauty parlor</td>
<td>Three spaces for each beautician station</td>
</tr>
<tr>
<td>Business/ professional/ trade schools</td>
<td>Two spaces for each three students.</td>
</tr>
<tr>
<td>Carwash, self-service</td>
<td>Two spaces per stall, plus queuing lanes in front of each stall which are able to accommodate two vehicles</td>
</tr>
<tr>
<td>Carwash, full service</td>
<td>One space per every two employees on the maximum shift, plus one space for every 200 square feet of commercial or office area, plus queuing lanes in front of each stall which are able to accommodate two vehicles</td>
</tr>
<tr>
<td>Commercial stables</td>
<td>One space for each four horses boarded on-site</td>
</tr>
<tr>
<td>Furniture/ appliance stores</td>
<td>One space for each 500 square feet of gross floor area of sale floor display area, plus one space for each 2500 square feet of gross floor area of warehouse storage</td>
</tr>
<tr>
<td>Health clubs</td>
<td>One space for each 200 square feet of gross floor area</td>
</tr>
<tr>
<td>Hotel/motels</td>
<td>1 space for each bedroom, plus requirements for related commercial uses, plus two spaces for manager's unit if any. For facilities visible from any freeway, on-site parking for &quot;big rigs&quot; shall be generous, and shall be determined by the Director as a result of the development review process.</td>
</tr>
<tr>
<td>Indoor retail concession mall</td>
<td>One space for each 200 square feet of gross floor area, plus one space for each vendor.</td>
</tr>
<tr>
<td>Oil change and tune up facilities</td>
<td>One space per bay, plus one space for each employee on the maximum shift, plus two queuing lanes in front of each bay which are able to accommodate two vehicles</td>
</tr>
<tr>
<td>Multi tenant automotive related facilities</td>
<td>One space for each 200 square feet of gross floor area, plus one space for each employee on the maximum shift.</td>
</tr>
<tr>
<td>General Offices</td>
<td>For up to 2000 square feet of gross floor area, one space for each 200 sq. ft. For 2001 to 7500 square feet of gross floor area, one space for each 250 sq. ft. For over 7500 square feet of gross floor area, one space for each 300 sq. ft.</td>
</tr>
<tr>
<td>Medical/dental offices</td>
<td>Ten spaces for the first 2000 sq ft, plus one space for each additional 175 sq. ft. (or fraction thereof) above 2000</td>
</tr>
<tr>
<td>Restaurants, cafes, bars and other eating and drinking facilities (gross floor area includes any outdoor seating, drinking and eating areas)</td>
<td>One space for each 35 sq feet of public seating area, plus one space for each 200 sq. ft. of all other gross floor area, with a minimum of ten spaces.</td>
</tr>
<tr>
<td>Drive up or drive thru restaurants</td>
<td>One space for each 100 sq. ft. of gross floor area, plus one lane for each drive up window with stacking space for six vehicles before the menu board.</td>
</tr>
<tr>
<td>Deli/doughnut shop</td>
<td>One space for each 100 square feet of gross floor area.</td>
</tr>
<tr>
<td>Retail commercial</td>
<td>One space for each 250 square feet of gross floor area.</td>
</tr>
<tr>
<td>Retail plant nursery/garden shop</td>
<td>One space for each 500 sq. ft. of indoor display area, plus one space for each 2000 sq. ft. of outdoor display area.</td>
</tr>
<tr>
<td>Service Stations</td>
<td>One space for each service bay, plus one for each employee, plus requirements for related commercial uses.</td>
</tr>
<tr>
<td>Use</td>
<td>Number of Required Parking Spaces</td>
</tr>
<tr>
<td>------------------------------</td>
<td>-----------------------------------</td>
</tr>
<tr>
<td>Shopping centers</td>
<td>One space for each 250 sq. ft. of gross floor area for tenants within the main structure and in stand alone buildings. One space for each 225 sq. ft. of gross floor area for single tenants with over 15,000 square feet.</td>
</tr>
<tr>
<td>Swap meet</td>
<td>One space for each 200 square feet of gross floor area, plus one space for each vendor space</td>
</tr>
<tr>
<td>Vehicle repair/ garage</td>
<td>Five spaces plus one space for each 200 square feet of gross floor area</td>
</tr>
<tr>
<td>Vehicle sales</td>
<td>One space for each 400 sq. ft. of gross floor area for the showroom and office, plus one space for each 2000 sq. ft. of outdoor display area, plus one space for each 500 sq. ft. of gross floor area for vehicle repair, plus one space for each 300 square feet of gross floor area for the parts department, plus one space for each employee on the largest shift.</td>
</tr>
<tr>
<td>All other commercial uses not listed</td>
<td>One space for each 200 sq. ft. of gross floor area.</td>
</tr>
<tr>
<td>Junk yards/auto dismantling/recycling center</td>
<td>One space for each 300 sq. ft. of gross building area plus one space for every 5,000 sq. ft. of gross yard area.</td>
</tr>
<tr>
<td>Mini-storage</td>
<td>Eight spaces. For each structure:</td>
</tr>
<tr>
<td>Industrial warehousing</td>
<td>Minimum of two spaces plus one space for each 1,000 sq. ft. of gross floor area</td>
</tr>
<tr>
<td>1—20,000 sq ft</td>
<td>22 spaces plus one space per 2,000 sq. ft. for portion over 20,000 sq ft</td>
</tr>
<tr>
<td>Over 20,000 sq ft</td>
<td>One tractor trailer space per 4 high dock doors</td>
</tr>
<tr>
<td>Trucks</td>
<td>Minimum of two spaces plus one space per 600 sq. ft. of gross floor area</td>
</tr>
<tr>
<td>Manufacturing uses</td>
<td>One tractor trailer space per 4 high dock doors</td>
</tr>
<tr>
<td>Trucks</td>
<td></td>
</tr>
</tbody>
</table>

Table 17.28.040C

Institutional Parking Requirements
<table>
<thead>
<tr>
<th>Building Type</th>
<th>Required Parking Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boarding houses, dormitories, single room occupancies and similar facilities</td>
<td>One (1) space per room, or one (1) space per two (2) beds, whichever is greater.</td>
</tr>
<tr>
<td>Churches, conference/meeting facilities, mortuaries, theaters, auditoriums</td>
<td>One (1) space for each four (4) fixed seats, or one space for each thirty-five (35) square feet of non-fixed seating area in the principal sanctuary, conference space or auditorium, whichever is greater.</td>
</tr>
<tr>
<td>Community college/university</td>
<td>Twelve (12) spaces for each classroom.</td>
</tr>
<tr>
<td>Day care centers</td>
<td>One (1) space for each staff member, plus one (1) space for each eight (8) children.</td>
</tr>
<tr>
<td>Elementary school/junior high</td>
<td>Three (3) spaces for each classroom.</td>
</tr>
<tr>
<td>High school</td>
<td>Eight (8) spaces for each classroom.</td>
</tr>
<tr>
<td>Hospitals</td>
<td>Three (3) spaces for each two (2) patient beds, or as determined in the development review process.</td>
</tr>
<tr>
<td>Libraries, museums, art galleries</td>
<td>One (1) space for each three hundred (300) sq. ft. of gross floor area, or as determined in the development review process.</td>
</tr>
<tr>
<td>Sanitariums/nursing homes</td>
<td>One (1) space for each five (5) beds, plus one (1) space for each employee on the largest shift, plus one (1) space for each staff doctor.</td>
</tr>
<tr>
<td>Senior congregate care housing</td>
<td>Two (2) spaces for each three (3) living units.</td>
</tr>
</tbody>
</table>

(Zoning Ord. dated 1/31/06, § 9107.04; Ord. No. 1355, § 3 (part); Ord. No. 1392, § 4.)

(Ord. No. 1407, § 3, 5-26-09)

17.28.050 - Handicapped parking requirements.
A. Handicapped parking requirements are established by the State of California. Any change in the State's handicapped parking requirements shall pre-empt the requirements in this section.
B. Layout and design of handicapped parking spaces:
   1. Handicapped parking spaces shall have curb ramps to minimize the effect of grade or elevation differences from the parking area to the adjacent surface. Curb ramps shall be a minimum of 48 inches wide.
   2. The walkway onto which a curb ramp leads shall also be at least 48 inches wide, and paved. Each parking space shall be at least nine feet wide and 19 feet deep, and the space between handicapped parking spaces leading to the curb ramp shall be at least 48 inches wide.
3. The handicapped parking sign shall be 80 inches high. Each handicapped parking space shall have blue striping and curb face, and the stripes shall be four inches wide. The symbol of a white wheelchair on a blue background shall be painted or sprayed onto the parking surface of the handicapped parking space. Typically the blue background is 48" by 48", and the white wheelchair is 36" by 36".

(Zoning Ord. dated 1/31/06, § 9107.05.)

(Ord. No. 1364, § A, 7-24-07)

17.28.060 - Parking lot design standards.

Off street parking areas shall be provided in the following manner:

A. Access.
   1. All parking areas shall provide suitable maneuvering room so that all vehicles may enter an abutting street in a forward direction. The director may approve exceptions for single family homes and other residential projects.
   2. No parking space shall be located so that a vehicle will maneuver within 25 feet of a parking entrance/vehicle entrance/parking aisle, vehicular entrance measured from the face of the curb.

B. Dimensional Requirements. Dimensional requirements for off-street parking include the following:
   1. Parking stalls shall be non-perpendicular to the parking aisle whenever possible.
   2. A minimum unobstructed inside dimension of 20 feet by 20 feet shall be maintained, for a private two-car garage or carport. The minimum obstructed ceiling height shall be 7 feet, six inches. For single-family residential units constructed prior to February 11, 1980, a minimum unobstructed inside dimension of 10 feet by 20 feet shall be maintained for a private one-car garage or carport.
   3. Parking structures may be subject to dimensional adjustment, but in no case shall the stall width be less than eight feet and six inches. Reductions in design standards shall be subject to approval by the City Engineer and shall be discouraged.
   4. Minimum parking dimensions shall be as follows:

Parking and Loading Standards

Table 17.28.060

Parking Stall Dimensions

<p>| | | | | | | | | | | | |</p>
<table>
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<tr>
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<td>D</td>
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</tr>
</tbody>
</table>

The Community Development Director may approve a parking adjustment to provide for a limited number of compact parking spaces at 16' x 8' and/or for an overall space size of 176" x 83" based on the parking adjustment findings.

**Parking Standards**

A. Parking Angle  
B. Stall Width  
C. Stall Depth  
D. Aisle Width  
E. Gross Length per Car  
F. Center to Center Width of Double Row and Aisle

C. Drainage. Off-street parking areas shall be so designed that surface water will not drain over any sidewalk,
or adjacent property.

D. Driveways.

1. Commercial/Industrial/Multi-family Residential.
   a. Commercial access standards shall be maintained by the Public Works Department.
   b. Drive aisles shall be a minimum width of 15 feet for a one-way driveway, and 24 feet for a two-way driveway.

2. Single Family Residential.
   1. Driveways for an attached two car garage shall have a minimum width of 16 feet and a minimum length of 20 feet measured from the inside sidewalk or apron to the front of the garage. Requirements for an attached three car garage are the same, except that the minimum width shall be 24 feet.
   2. Driveways for a detached two car garage shall be a minimum width of 16 feet, with a minimum 16 foot wide by 24 foot deep back up area immediately adjacent to the garage door. Requirements for a three car detached garage are the same, except that the minimum back up area shall be 24 feet by 24 feet.

E. Landscaping, Screening and Shading. A minimum of 15 percent of the net area of all parking areas shall be landscaped as follows:
   1. Where parking areas adjoin a public right of way, a landscaped planting strip equal to the required yard setback shall be established and continuously maintained between the public right of way and parking area.
   2. Any planting, sign, or any other structure within safety sight-distance of a driveway shall not exceed 30 inches in height.
   3. Pedestrian access shall be provided throughout the landscaped areas.
   4. At least one 24 inch box tree for every four spaces shall be included in the development of the overall landscape program. The maximum spacing between trees in parking areas shall be 30 feet; however, appropriate clustering of trees may be permitted. Landscaping islands are required at both ends of all parking rows.
   5. All areas in a parking lot not used for driveways, maneuvering areas, parking spaces or walks, shall be permanently landscaped with suitable materials and permanently maintained.
   6. A concrete curb, six inches high and six inches wide, shall abut all parking areas.
   7. All landscaped areas shall be a minimum interior dimension of six feet in width.
   8. Permanent and automatic irrigation systems shall be installed and permanently maintained in all landscaped areas, in conformance with the City's water conservation regulations in Chapter 17.32.
   9. To increase the parking lot landscaped area, a maximum of two feet of the parking stall depth may be landscaped in lieu of asphalt while maintaining the required parking dimensions. This overhang is in addition to the required yard setbacks.
   10. The landscaping plan shall provide for a variety of plant materials with an emphasis on drought tolerant species, and shall include a legend showing common names, sizes, quantities, location, dimensions of planted area, and square footage, irrigation, and percentage of parking lot landscaping.
   11. For screening purposes, all commercial, industrial and public parking areas abutting residentially designated property shall have a six foot high solid architecturally treated decorative masonry wall approved by the Community Development Director. All wall treatments shall occur on both sides.
12. Although any reasonable combination of shading methods can be utilized, all parking areas must provide at least 30 percent permanent shading for parked vehicles within two years of planting.

13. If trees are used, they may not thereafter be trimmed in a way which reduces the effectiveness of their shading ability.

14. Other landscaping requirements and guidelines shall be found in the Chapter 17.32, Landscaping.

F. Security and Lighting.

1. All parking facilities shall be designed, constructed and maintained with security as a priority to protect the safety of the users.

2. Adequate illumination for security and safety shall be provided in all parking areas. Lighting shall be energy efficient and in scale with the height and use of the structure. Any illumination, including security lighting, shall be shielded, visibility of light source eliminated and directed away from adjoining properties and public rights of way.

G. Location of Required Parking Spaces.

1. All parking spaces shall be located on the same parcel as the structure or the use, except in the Downtown Commercial district, or unless otherwise approved by the review authority. On site parking should be provided on the side or in the rear of a lot to the greatest extent possible. Off street parking spaces for multi-family residential developments shall be located within 150 feet from the front or rear door of the dwelling unit for which the parking space is provided.

2. No parking space required by this chapter shall be located in the front, side or rear setback area of any land use district except for a detached garage or carport structure and driveways which may be located in interior (non-street) side or rear setback areas, as allowed in Section 17.08.020, General Standards.

H. Maintenance. All required parking facilities shall be permanently maintained, free of litter and debris.

I. Parking Structures. All parking structures shall be landscaped as follows:
1. All landscaping shall be permanently maintained and automatically irrigated. The parking structure shall have continuous minimum ten foot perimeter landscaping with vertical elements, such as trees or climbing vines at least every 20 feet.

2. Entries and exits of the parking structure shall include a minimum six-foot wide landscaped median island and accent paving in the driveway.

3. Landscaped materials, excluding vertical element openings, shall be provided in planters and/or pots for at least five percent of the total surface deck area. The planters and pots shall be distributed through the top deck area, and the perimeter of intermediate decks.

4. Lighting shall not spill beyond the surface deck, and shall not spill onto other properties. Lighting fixtures shall not exceed four feet in height.

J. Shared Parking.

1. Parking facilities may be shared if multiple uses cooperatively establish and operate the facilities and if these uses generate parking demands primarily during hours when the remaining uses are not in operation. (For example, a nightclub and a bank would probably have very different hours, but might share the same parking facility.)

2. The applicant shall have the burden of proof for a reduction in the total number of required off-street parking spaces, and written documentation shall be submitted substantiating their reasons for the requested parking reduction. Shared parking may only be approved if:
   a. A sufficient number of spaces are provided to meet the greater parking demand of the participating uses;
   b. Satisfactory evidence, as determined by the Community Development Director, has been submitted by the parties operating the shared parking facility, describing the nature of the uses and times when the uses operate so as to demonstrate the lack of potential conflict between them; and
   c. Any additional covenants, deed restrictions or other agreements or documents as may be deemed necessary by the Community Development Director, are executed to assure that the required parking spaces provided are maintained, and that uses with similar hours and parking requirements, remain for the life of the commercial/industrial development.

K. Slope.

1. Driveways shall have no grades exceeding an eight percent slope, unless approved by the City Engineer.

2. Parking areas shall be designed and improved with grades not to exceed a five percent slope.

L. Striping and Surfacing

1. All parking spaces shall be striped in accordance with City requirements. The striping shall be maintained in a clear and visible manner. Each exit from any parking area shall be clearly marked with a "STOP" sign.

2. Driveway and parking areas should be surfaced with a minimum thickness of three inches of concrete, asphaltic concrete, or a material approved by the City Engineer with bituminous surfacing over a minimum thickness of four inches of an aggregate base material.

3. For areas which are close to trees and shrubs, a porous surface may be used such as gravel, if this will aid in bringing rainwater to the roots of the trees, and if this is approved by the City Engineer.

M. Curbing and Wheel Stops.

1. Continuous concrete curbing at least six inches high and six inches wide shall be provided at least three feet from any wall, fence, property line, walkway or structure where parking and or drive aisles are located adjacent thereto. Curbing may be left out at structure access points.

2. The space between the curb and wall, fence, property line, walkway or structure shall be landscaped. The clear width of a walkway adjacent to overhanging parked cars shall be four feet.
All parking lots shall have a continuous curbing at least six inches high and six inches wide around all parking areas and aisle planters. Wheel stops shall not be used in lieu of curbing to protect landscaping, signage structures and walls.

N. Parking Adjustment. Concurrent with an application for Design Review and/or Conditional Use Permit and application for a parking adjustment may be approved by the review authority subject to the findings:

Findings for a Parking Adjustment

1. The zoning regulations applicable to the property do not allow a reasonable use comparable to similar developments in the same zoning district;
2. The hardship for which the variance is requested is unique to the property area;
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located;
4. Neither present nor anticipated future traffic volumes generated by the use of the site or the sites in the vicinity require strict or literal interpretation and enforcement of the specific regulation;
5. The granting of this parking variance will not result in the parking or loading of vehicles in public streets in such a manner as to interfere with the free flow of street traffic;
6. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance; and
7. The variance will run with the use or uses to which it pertains and shall not run with the site.

The parking adjustment may include any or all of the following:

- A reduction in number of spaces required, subject to an approved parking study;
- Approval of a limited number of compact spaces;
- Recordation of a reciprocal parking agreement with nearby properties;
- 10 percent reduction in spaces required;
- Payment of an in-lieu fee for public parking facilities.

(Zoning Ord. dated 1/31/06, § 9107.06.)

(Ord. No. 1364, § B 9107.06, 7-24-07; Ord. No. 1476, § 4, 1-28-14)

17.28.070 - Off street loading standards.

A. Required Number of Loading Spaces.

1. The following number of minimum spaces shall be provided for all non-residential uses:
   a. For uses with less than 10,000 square feet of gross floor area: one loading space is required in addition to whatever space requirements are added by the Community Development Director.
   b. For uses of 10,000 to 25,000 square feet of gross floor area: two spaces are required in addition to whatever space requirements are added by the Community Development Director.
   c. For uses of more than 25,000 square feet of gross floor area: three spaces are required in addition to whatever space requirements are added by the Community Development Director.

2. Requirements for uses not specifically listed shall be determined by the Director based upon the requirements for comparable uses and upon the particular characteristics of the proposed use.

B. Design Standards for Off Street Loading Spaces. Required freight and equipment loading spaces shall be at least 15 feet wide and 20 feet in length, or greater (if determined by the Director), with 15 feet of vertical clearance.

C. Location. Loading spaces shall be located and designed as follows:

1. Adjacent to or as close as possible to, the main structure
2. Situated to ensure that all vehicular maneuvers occur in protected areas on site
3. Situated to ensure that no loading or unloading take place within roads or other public rights of way, or
D. Passenger Loading.
1. Passenger loading spaces shall be provided in addition to any required freight and equipment loading spaces whenever required by the Department as a result of the development review process.
2. Passenger loading spaces shall not be less than 11 feet wide and 20 feet long; shall be located in close proximity to the structure entrance; and shall not require pedestrians to cross a driveway, parking aisle, alley or street in order to reach the structure entrance.
3. Neither required parking spaces nor required freight/equipment loading spaces, shall count toward required passenger loading spaces.

F. Screening.
1. All loading areas abutting residentially designated property shall have a six foot high solid architecturally treated decorative masonry wall, approved by the Director. All wall treatments shall occur on both sides.
2. In addition, adequate area shall be provided adjacent to the public rights of way to accommodate a required four foot high permanently maintained and irrigated landscaped berm.

G. Striping. Loading areas shall be striped indicating the loading spaces and identifying the spaces for loading only. The striping shall be permanently maintained by the owner in a clear and visible manner.

H. Surfacing. Loading areas shall be surfaced with a minimum thickness of four inches of asphaltic concrete over a minimum thickness of six inches of an aggregate base material or an equivalent structural section to be approved by the City Engineer.

I. Security. All loading facilities shall be designed, constructed, and maintained with security as a priority to protect the safety of the users.

J. Wheel Stops and Curbing. Continuous concrete or stone curbing approved by the Director, at least six inches high and six inches wide, shall be provided for all loading spaces, and shall be set at least three feet from any wall, fence, property line, walkway or structure.

(Zoning Ord. dated 1/31/06, § 9107.07.)
ATTACHMENT 2
Chapter 17.88 of the Banning Municipal Code
Chapter 17.88 - NON-CONFORMING STRUCTURES AND NON-CONFORMING USES

Sections:

17.88.010 - Purpose.
A. These provisions provide for the orderly termination of non-conforming structures and uses to promote the public health, safety, and general welfare, and to bring these structures and uses into conformity with the goals and policies of the General Plan. The intent of this chapter is to prevent the expansion of nonconforming structures and uses to the maximum extent feasible, to establish the criteria under which they may be continued or possibly expanded, and to provide for the correction or removal of these land use nonconformities in an equitable, reasonable and timely manner.

B. Non-conforming structures and uses within the City are generally detrimental to both orderly and complementary development, and the general welfare of citizens and property. Furthermore, it is the intent of this chapter that non-conforming structures and uses shall be eliminated as rapidly as possible without infringing upon the constitutional rights of property owners.

(Zoning Ord. dated 1/31/06, § 9122.01.)

17.88.020 - Non-conforming structures.

Structures which lawfully existed prior to the effective date of this Zoning Ordinance are legal nonconforming structures, and may continue even though they fail to conform to the present requirements of the land use district in which they are located. Legal non-conforming structures may be maintained as follows:

A. Legal non-conforming structures which are damaged up to one-half (½) or more of the replacement cost immediately prior to such damage may be restored only if made to conform to all provisions of the Zoning Ordinance. However, any residential structure(s), including multifamily, in a residential land use district destroyed by a catastrophe, including fire and earthquake, may be reconstructed up to the original size, placement, and density. However, reconstruction shall be substantially completed within two (2) years of the damage or destruction.

B. Necessary repairs and desired alterations may be made to legal non-conforming residential structures located in a residential land use district.

C. Reasonable repairs and alterations may be made to legal non-conforming commercial, institutional, or industrial structures, provided that no structural alterations shall be made which would prolong the life of the supporting members of a structure, such as bearing walls, columns, beams, or girders. Structural elements may be modified or repaired only if the Chief Building Official determines that such modification or repair is immediately necessary to protect the health and safety of the public or occupants of the non-conforming structure, or adjacent property and the cost does not exceed one-half (½) of the replacement cost limitations, provided that such retrofitting is strictly limited to compliance with earthquake safety standards.

D.
Changes to interior partitions or other nonstructural improvements and repairs may be made to a legal non-conforming commercial, institutional, or industrial structure, provided that the cost of the desired improvement or repair shall not exceed one-half (½) of the replacement cost of the non-conforming structure over any consecutive five (5) year period.

E. The replacement cost shall be determined by the Chief Building Official of the City.

F. Any additional development of a parcel with a legal non-conforming structure will require that all new structures be in conformance with this Zoning Ordinance.

G. If a structure is permitted but is non-conforming only due to off-street parking or loading standards, expansion of that structure will require that it meet off-street parking or loading standards for the existing structure as well as for the expansion, in conformance with Chapter 17.28, Parking Standards.

H. If the use of a non-conforming structure is discontinued for a period of 6 or more consecutive calendar months, the structure shall lose its legal non-conforming status, and shall be removed or altered to conform to the provisions of this Development code. A use of a legal non-conforming structure shall be considered discontinued when any of the following apply:

1. The Director has determined, by whatever means, that the intent of the owner to discontinue use of the non-conforming structure is apparent.

2. Where characteristic furnishings and equipment associated with the use have been removed and not replaced with equivalent furnishings and equipment during this time, and where normal occupancy and/or use has been discontinued for a period of 6 or more consecutive calendar months.

3. Where there are either no business sales receipts or no business purchase receipts available for the 6 month period.

4. Where there has been no electrical utility bill paid for the property for the 6 month period.

(Zoning Ord. dated 1/31/06, § 9122.02.)

17.88.030 - Non-conforming uses.

Non-conforming uses are those which lawfully existed prior to the effective date of this Zoning Ordinance, but which are no longer permitted in the land use district in which they are located. The continuance of legal non-conforming uses are subject to the following:

A. Change of ownership, tenancy, or management of a non-conforming use shall not affect its legal non-conforming status, provided that the use and intensity of use does not increase.

B. If a non-conforming use is discontinued for a period of six (6) or more consecutive calendar months, it shall lose its legal non-conforming status, and the continued use of the property shall be required to conform with the provisions of this Zoning Ordinance.

C. Additional development of any property on which a legal non-conforming use exists shall require that all new uses conform to the provisions of this Zoning Ordinance.

D. If a non-conforming use is converted to a conforming use, no non-conforming use may be resumed.

E. No non-conforming use may be established or replaced by another non-conforming use, nor may any non-conforming use be expanded or changed, except as provided in this chapter.

F.
A nonconforming use located in a commercial or industrial zone may be expanded up to but not exceeding 50 percent of the existing floor area provided the expansion conforms to all other requirements of the zone and subject to the approval of a conditional use permit by the planning commission.

(Zoning Ord. dated 1/31/06, § 9122.03.)

(Ord. No. 1404, § 4, 3-10-09)

17.88.040 - Abatement of non-conforming uses.

Legal non-conforming uses shall be discontinued within the following specified time limits, from the effective date of this Zoning Ordinance:

**Table 17.88.040**

<table>
<thead>
<tr>
<th>Abatement Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Non-conforming uses which do not occupy structures</td>
</tr>
<tr>
<td>2 The non-conforming use of a conforming structure within any commercial or industrial land use district</td>
</tr>
</tbody>
</table>
17.88.050 - Certificate of occupancy prohibited.

When any non-conforming structure or use is no longer permitted pursuant to the provisions of this chapter, no permit for a structure shall thereafter be issued for further continuance, alteration, or expansion. Any permit issued in error shall not be construed as allowing the continuation of the nonconforming structure or use.

17.88.060 - Offers of dedication for right-of-way—No nonconformity.

When a property owner, upon request by the City, offers dedication for right-of-way which results in the reduction of a dimension of the property below the minimum property development requirements in the Zoning Ordinance, Council shall make a finding that such dedication is for public purposes and the reduction in minimum required dimension shall not in and of itself, create a nonconformity, pursuant to this Zoning Code.

17.88.070 - Removal of illegal non-conforming structures and uses.

Nothing contained in this chapter shall be construed or implied as to allow for the continuation of illegal non-conforming structures and uses. Said structures and uses shall be removed immediately subject to the provisions of this ordinance regarding the enforcement of provisions, and State Law.
ATTACHMENT 3
Chapters 1.20 and 1.28 of the Banning Municipal Code
Chapter 1.20 - ADMINISTRATIVE CITATIONS

Sections:

1.20.010 - Applicability.
A. This division provides for administrative citations which are in addition to all other legal remedies, criminal or civil, which may be pursued by the city to address any violation of this Code.
B. Prior to institution of any charge or the making of any claim for a violation of a provision of this Banning Ordinance Code or any general law enforceable by the city, and administrative citation or citations may be issued for such violation. Such citation may also be issued in conjunction with any other enforcement action.

(Code 1965, § 1-29.01.)

1.20.020 - Enforcement officer—Defined.
For purposes of this chapter, "enforcement officer" shall mean any city employee or agent of the city with the authority to enforce any provision of this Code.

(Code 1965, § 1-29.02.)

1.20.030 - Administrative citation.
A. Whenever an enforcement officer charged with the enforcement of any provision of this Code determines that a violation of that provision has occurred, the enforcement officer shall have the authority to issue an administrative citation to any person responsible for the violation.
B. Each administrative citation shall contain the following information:
   1. The date of the violation;
   2. The address or a definite description of the location where the violation occurred;
   3. The section of this Code violated and a description of the violation;
   4. The amount of the fine for the code violation;
   5. A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;
   6. An order prohibiting the continuation or repeated occurrence of the code violation described in the administrative citation;
   7. A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request for hearing form to contest the administrative citation may be obtained; and
   8. The name and signature of the citing enforcement officer.

(Code 1965, § 1-29.03.)

1.20.040 - Amount of fines.
A. The amounts of the fines for code violations imposed pursuant to this division shall be set forth in the schedule of fines established by resolution of the city council.
B. The schedule of fines shall specify any increased fines for repeat violations of the same code provision by the same person within thirty-six months from the date of an administrative citation.
C. The schedule of fines shall specify the amount of any late payment charges imposed for the
payment of a fine after its due date.

(Code 1965, § 1-29.04.)

1.20.050 - Payment of the fine.
A. The fine shall be paid to the city within thirty days from the date of the administrative citation.
B. Any administrative citation fine paid pursuant to subsection A shall be refunded in accordance with Section 1.20.100 if it is determined, after hearing, that the person charged in the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.
C. Payment of a fine under this chapter shall not excuse or discharge any continuance or repeated occurrence of the code violation that is the subject of the administrative citation.

(Code 1965, § 1-29.05.)

1.20.060 - Late payment charges.
Any person who fails to pay to the city any fine imposed pursuant to the provisions of this chapter on or before the date that fine is due shall also be liable for the payment of any applicable late payment charges as set forth in the schedule of fines.

(Code 1965, § 1-29.06.)

1.20.070 - Hearing request.
A. Any recipient of an administrative citation may contest that there was a violation of the code or that he or she is the responsible party by completing a request for hearing form and returning it to the city within fifteen calendar days from the date of the administrative citation, together with an advance deposit of the fine, or notice that a request for an advance hardship waiver has been filed pursuant to Section 1.20.080.
B. A request for hearing form may be obtained from the department specified on the administrative citation.
C. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten days prior to the date of the hearing.
D. If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, a copy of this additional report shall be served on the person requesting the hearing at least five days prior to the date of the hearing.

(Code 1965, § 1-29.07.)

1.20.080 - Advance deposit hardship waiver.
A. Any person who intends to request a hearing to contest that there was a violation of the code or that he or she is the responsible party and who is financially unable to make the advance deposit of the fine as required in Section 1.20.070(A) may file a request for an advance deposit hardship waiver.
B. The request shall be filed with the building and safety department on an advance deposit hardship waiver application form, available from the department of finance, within ten days of the date of the administrative citation.
C. The requirement of depositing the full amount of the fine as described in Section 1.20.070(A) shall be stayed unless or until the director of finance makes a determination not to issue the advance deposit hardship waiver.
D. The director may waive the requirement of an advance deposit set forth in Section 1.20.070(A) and issue the advance deposit hardship waiver only if the cited party submits to the director a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the director the person's actual financial inability to deposit with the city the full amount of the fine in advance of the hearing.

E. The administrative citation and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the facts contained in those respective documents.

F. The determination of the finance director shall be final and not subject to appeal except as an appeal of the final action.

(CODE 1965, § 1-29.08.)

1.20.090 - Hearing officer.

The city manager shall designate the hearing officer for the administrative citation hearing. The foregoing notwithstanding, the city shall grant the appellant's request for a hearing officer selected by both parties upon receipt of such request in writing and deposit with the city by the appellant of fees in an amount sufficient to cover the cost of such hearing officer. A hardship waiver may be granted for such costs under the procedures set forth herein for advance deposit of fees.

(CODE 1965, § 1-29.09.)

1.20.100 - Hearing procedure.

A. No hearing to contest an administrative citation before a hearing officer shall be held unless the fine has been deposited in advance in accordance with Section 1.20.070 or an advance deposit hardship waiver has been issued in accordance with Section 1.20.080.

B. A hearing before the hearing officer shall be set for a date that is not less than fifteen days and not more than sixty days from the date that the request for hearing is filed in accordance with the provisions of this chapter.

C. At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation.

D. The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.

E. The administrative citation and any additional report submitted by the code enforcement officer shall constitute prima facie evidence of the facts contained in those respective documents.

F. The hearing officer may continue the hearing and request additional information from the enforcement officer or the recipient of the administrative citation prior to issuing a written decision.

(CODE 1965, § 1-29.10.)

1.20.110 - Hearing officer's decision.

A. After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to either uphold or cancel the administrative citation and shall list in the decision the reasons for that decision. The decision of the hearing officer shall be final.

B. 
if the hearing officer determines that the administrative citation should be upheld, the fine amount on deposit with the city shall be retained by the city. When the violation pertains to building, plumbing, electrical, or other similar structural or zoning issues, and there is no immediate danger to health or safety, the decision shall allow the appellant ten calendar days within which to correct or otherwise remedy the violation before forfeiture of the deposit shall be deemed to have occurred.

C. If the hearing officer determines that the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the hearing officer shall set forth in the decision a payment schedule for the fine imposed.

D. If the hearing officer determines that the administrative citation should be canceled and the fine was deposited with the city, the city shall promptly refund the amount of the deposited fine, together with interest at the average rate earned on the city's portfolio for the period of time the fine amount was held by the city.

E. The recipient of the administrative citation shall be served with a copy of the hearing officer's written decision.

F. The employment, performance evaluation, compensation and benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount of administrative citation fines upheld by the hearing officer.

(Code 1965, § 1-29.11.)

1.20.120 - Recovery of administrative citation fines and costs.

The city may collect any past due administrative citation fine or late payment charge by use of all available legal means. The city also may recover its collection costs.

(Code 1965, § 1-29.12.)

1.20.130 - Right to judicial review.

Any person aggrieved by an administrative decision of a hearing officer or an administrative citation may obtain review of the administrative decision by filing a petition for review with the municipal court of Riverside County in accordance with the time lines and provisions set forth in California Government Code Section 53069.4.

(Code 1965, § 1-29.13.)

1.20.140 - Notices.

The administrative citation and all notices required to be given by this chapter shall be given either by personal delivery thereof to the person to be notified or by deposit in the United States mail, in a sealed envelope, postage prepaid, addressed to such person at his or her last known business or residence address as the same appears in the records of the county recorder, or other records pertaining to the matter to which such notice is directed. Failure to receive any notice specified in this chapter does not affect the validity of proceedings conducted hereunder.

(Code 1965, § 1-29.14.)

1.20.150 - Procedures.

The city manager is hereby authorized to promulgate such policies and procedures as are necessary for the successful implementation of this division.
(Code 1965, § 1-29.15.)

Chapter 1.28 - GENERAL PENALTY

Sections:

1.28.010 - General penalty—Continuing violations.
A. It is unlawful for any person to violate any provision or to fail to comply with any requirement of this Code.
B. Whenever in this Code any act or omission is made unlawful, it includes causing, permitting, aiding, abetting, maintaining, suffering or concealing the fact of such act or omission.
C. Any person violating any of the provisions of this Code is guilty of a misdemeanor, unless the offense is specifically classified in this Code or by state law as an infraction. However, the city attorney or city prosecutor is authorized to file or charge any violation of this Code as either a misdemeanor or infraction or reduce any charge filed as a misdemeanor to an infraction.
D. Each day that any condition caused or permitted to exist in violation of this Code constitutes a new and separate violation.
E. The owner of any property, building or structure within the city is responsible for keeping such property, building or structure free of violations related to its use or condition. The owner of such property, building or structure is separately liable for violations committed by tenants or occupants relative to the use or condition of the property.
F. The penalty provided in this section is in addition to other provisions of this Code or other law.
(Ord. No. 1381, § 3.)

1.28.020 - Misdemeanor penalties.

Where no specific penalty is provided, any conviction of a misdemeanor under the provisions of this Code or any other ordinance of the city shall be punished by a fine not exceeding one thousand dollars or imprisonment for a term not exceeding six months, or by both such fine and imprisonment.
(Ord. No. 1381, § 4.)

1.28.030 - Infraction penalties.

Whenever in this Code or in any other ordinance of the city, any act is prohibited or is made or declared to be unlawful or an offense or the doing of any act is required or the failure to do any act is declared to be unlawful and the violation of any such provision of this Code or any other ordinance of the city is expressly made an infraction, such infraction shall be punishable by:

A. A fine not exceeding one hundred dollars for a first violation;
B. A fine not exceeding two hundred dollars for a second violation of the same section of this Code or ordinance within one year;
C. A fine not exceeding five hundred dollars for each additional violation of the same section of this Code or ordinance within one year.
(Ord. No. 1381, § 5.)

1.28.040 - Enforcement of similar clauses or sections.
In all cases where the same offense is made punishable or is created by different clauses or sections of this Code, the city attorney or city prosecutor may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense.

(Ord. No. 1381, § 6.)

1.28.050 - Entitlement permit, other permit or license violations.
A. Each person or the successor of each person who holds an entitlement permit, a variance permit, or any other permit or license issued by the city shall comply with each provision of the permit or license and with each term that is imposed as a condition to the exercise of the permit or license.
B. Each person or the successor of each person who receives a rezoning or subdivision approval shall comply with each provision of the approval and with each term that is imposed as a condition to the approval of the rezoning or subdivision.

(Ord. No. 1381, § 7.)

1.28.060 - Criminal prosecution.

Pursuant to California Government Code Section 36900, the city attorney or city prosecutor may prosecute any violation of this Code in the name of the people of the State of California.

(Ord. No. 1381, § 8.)

1.28.070 - Violations deemed public nuisances.

In addition to other penalties provided by law, any condition caused or permitted to exist in violation of any provision of this Code or any other ordinance of the city, or any such threatened violation, shall be deemed a public nuisance and may be abated as such by the city, and each day that such condition continues shall be regarded as a new and separate offense.

(Ord. No. 1381, § 9.)