



AGENDA

Victor P. Lopez, Mayor

Diana Guerra Silva, Mayor Pro Tem
Minerva Pineda, Council Member

Gilbert Garcia, Council Member
Josie Cervantes, Council Member

WEDNESDAY, OCTOBER 14, 2015 - 6:30 P.M.

Orange Cove Council Chambers

633 6th Street, Orange Cove, California 93646

A. Call to Order/Welcome

1. Roll Call
2. Invocation
3. Flag Salute

B. Confirmation of Agenda

C. Presentation

1. Presentation by Brandi Orth, County Clerk/Registrar of Voters, regarding Update on Election
2. Presentation by Yenedit Valencia, Centro Binacional Community Worker & Oday Guerrero, EOC Immigration Outreach Liaison, regarding the Immigration Workshop (DACA) held at the Orange Cove Community Center on November 7th
3. Presentation by the Orange Cove High School Principal Angel Durazo report on Test Scores

D. Consent Calendar

1. City Council Minutes, Meeting of September 9, 2015
2. City Council Minutes, Meeting of September 23, 2015
3. Approve the Fresno County Rural Transit Safety and Security Services Memorandum of Understanding

E. Administration

City Engineer:

1. **SUBJECT: PUBLIC HEARING** - Consideration and Discussion regarding the General Plan Amendment 2015-01 and Rezone Amendment 2015-01: Update and Revision of the General Plan Map and Zoning Map

Recommendation: Council to consider the following:

- a. Adopt the attached Resolution for General Plan Amendment 2015-01
- b. Approve the first reading of Ordinance 373 for Rezone Amendment by title only waive full reading

City Manager:

2. **SUBJECT:** Presentation by David Horn, California Accessibility Specialist, regarding American's Disability Act (A.D.A.) Compliance

Recommendation: Council to give Staff Direction

3. **SUBJECT:** Consideration and Discussion regarding the Air Conditioning Unit at the Orange Cove Community Center

Recommendation: Council to approve the proposal from Cartozian Air Conditioning & Heating, Inc. in the amount of \$12,500.00 for the Orange Cove Community Center

Mayor and City Council Items:

4. **SUBJECT:** Consideration and Discussion regarding the Orange Cove Christmas Toy Give Away Donations

Recommendation: Council to authorize Mayor Lopez to contact Companies for donations for the Annual Orange Cove Christmas Toy Give Away in December 2015 and all checks/donations will be made out to the City of Orange Cove

Events Committee:

5. **SUBJECT:** Consideration and Discussion regarding the following items:
 - a. Halloween Event on October 31, 2015 at Eaton Park

- b. Annual Thanksgiving Dinner November 19, 2015 at Community Center
- c. Annual Tree Lighting on December 2, 2015 and Christmas Parade on December 4, 2015
- d. Annual Christmas toy giveaway on December 17, 2015 at Community Center

Recommendation: Council to approve the above Events

Building Official:

6. **SUBJECT:** Consideration and Discussion regarding Adoption of Ordinances pertaining to Code Enforcement Remedies and Procedures; Cost Recovery and Penalties; Administrative Procedures Hearing; and Substandard Housing, Unsafe Structures and Unsafe Use of Property

Recommendation: Council to consider approving the introduction and first reading waiving full reading of the following Ordinances:

a) **ORDINANCE 374: AN ORDINANCE OF THE CITY OF ORANGE COVE REPEALING CHAPTER 1.18 OF TITLE 1 OF THE ORANGE COVE MUNICIPAL CODE AND ADDING NEW CHAPTER 1.20 TO TITLE 1 OF THE ORANGE COVE MUNICIPAL CODE RELATING TO CODE ENFORCEMENT PROCEDURES**

b) **ORDINANCE 375: AN ORDINANCE OF THE CITY OF ORANGE COVE REPEALING CHAPTER 1.20 OF TITLE 1 OF THE ORANGE COVE MUNICIPAL CODE AND ADDING NEW CHAPTER 1.20 TO TITLE 1 OF THE ORANGE COVE MUNICIPAL CODE RELATING TO COST RECOVERY FOR CODE ENFORCEMENT**

c) **ORDINANCE 376: AN ORDINANCE OF THE CITY OF ORANGE COVE ADDING CHAPTER 1.28 TO TITLE 1 OF THE ORANGE COVE MUNICIPAL CODE AND AMENDING SECTION 1.18.080, AND REPEALING SECTIONS 1.18.090, 1.18.100, 1.18.110, AND 1.18.130 OF THE ORANGE COVE MUNICIPAL CODE RELATING TO ADMINISTRATIVE HEARING PROCEDURES.**

d) **ORDINANCE 377: AN ORDINANCE OF THE CITY OF ORANGE COVE AMENDING Chapter 15.17 OF TITLE 15 OF THE ORANGE COVE MUNICIPAL CODE RELATING TO SUBSTANDARD HOUSING, UNSAFE STRUCTURES, AND UNSAFE USE OF PROPERTY--NUISANCES.**

Police Department:

7. **SUBJECT:** Presentation and discussion by Chief of Police, Marty Rivera regarding monthly statistical report

Recommendation: Informational item only

F. Public Forum

Members of the public wishing to address the City Council on an item that is not on the agenda may do so now. No action will be taken by the City Council this evening. But items presented may be referred to the City Manager for follow up and a report. In order to allow time for all comments, each individual is limited to three minutes. When addressing the Council, you are requested to come forward to the speakers microphone, state your name and address, and then proceed with your comments.

G. City Manager's Report

H. City Attorney's Report

I. City Council Communications

J. Adjournment

ADA Notice: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk at (559) 626-4488 ext. 214. Notification 48 hours prior to the meeting will enable the City to make arrangements to ensure accessibility to this meeting.

Documents: Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at front counter at City Hall and at the Orange Cove Library located at 815 Park Blvd., Orange Cove, CA during normal business hours. In addition, most documents are posted on City's website at cityoforange Cove.com.

STATEMENT ON RULES OF DECORUM AND ENFORCEMENT

The Brown Act provides that members of the public have a right to attend public meetings, to provide public comment on action items and under the public forum section of the agenda, and to criticize the policies, procedures, or services of the city or of the acts or omissions of the city council. The Brown Act also provides that the City Council has the right to exclude all persons who willfully cause a disruption of a meeting so that it cannot be conducted in an orderly fashion.

During a meeting of the Orange Cove City Council, there is a need for civility and expedition in the carrying out of public business in order to ensure that the public has a full opportunity to be heard and that the Council has an opportunity to conduct business in an orderly manner. The following is provided to place everyone on notice of the rules of decorum and enforcement.

GENERAL RULES OF DECORUM

While any meeting of the City Council is in session, the following rules of decorum shall be observed:

1. All remarks shall be addressed to the City Council as a whole and not to any single member, unless in response to a question from a member of the City Council.
2. A person who addresses the City Council under public comment for a specific agenda item or under the Public Forum section of the agenda may not engage in speech or conduct (i) which is likely to provoke others to violent or riotous behavior, (ii) which disturbs the peace of the meeting by loud and unreasonable noise, (iii) which is irrelevant or repetitive, or (iv) which disrupts, disturbs, or otherwise impedes the orderly conduct of any City Council meeting.
3. A person, other than members of the Council and the person, who has the floor, shall not be permitted to enter into the discussion unless requested by the Mayor to speak.
4. Members of the City Council may not interrupt a person who has the floor and is making public comments. Members of the City Council shall wait until a person completes his or her public comments before asking questions or commenting. The Mayor shall then ask Councilmembers if they have comments or questions.
5. No person in the audience at a Council meeting shall engage in disorderly or boisterous conduct, including the utterance of loud, threatening or abusive language, whistling, stamping of feet or other acts which disturb, disrupt or otherwise impede the orderly conduct of any Council meeting.

ENFORCEMENT OF DECORUM RULES
(Resolution No. 2012-16)

While the City Council is in session, all persons must preserve order and decorum. A person who addresses the City council under public comment for a specific agenda item or under the Public Forum section of the agenda may not engage in speech or conduct which is likely to provoke others to violent or riotous behavior, which disturbs the peace of the meeting by loud and unreasonable noise, which is irrelevant or repetitive, or which disrupts, disturbs, or otherwise impedes the orderly conduct of any City Council meeting.

The Mayor or other presiding officer shall request that a person who is breaching the rules of decorum cease such conduct. If after receiving such a warning, the person persists in breaching the rules of decorum, the Mayor or other presiding officer may order the person to leave the City Council meeting. If such person does not leave, the Mayor or presiding officer may request any law enforcement officer who is on duty at the meeting as sergeant-at-arms to remove the person from the Council Chambers. In the event there is no one from law enforcement present, the Mayor or presiding officer may direct the City Manager to contact law enforcement.

In accordance with the Point of Order Rule 4.6, the majority of the Council may overrule the Mayor if the majority of the Council believes the Mayor or other presiding officer is not applying the rules of decorum appropriately.



MINUTES

Victor P. Lopez, Mayor

Diana Guerra Silva, Mayor Pro Tem
Minerva Pineda, Council Member

Gilbert Garcia, Council Member
Josie Cervantes, Council Member

WEDNESDAY, SEPTEMBER 9, 2015 - 6:30 P.M.

Orange Cove Council Chambers

633 6th Street, Orange Cove, California 93646

A. Call to Order/Welcome

COUNCIL PRESENT: Mayor Victor P. Lopez
Mayor Pro Tem Diana Guerra Silva
Councilmember Gilbert Garcia
Councilman Josie Cervantes
Councilmember Minerva Pineda

STAFF PRESENT: City Manager Samuel A. Escobar
City Clerk June V. Bracamontes
Police Chief, Marty Rivera
Attorney Dan McCloskey

INVOCATION: Mayor Pro Tem Diana Guerra Silva

FLAG SALUTE: Mayor Victor P. Lopez

B. Confirmation of Agenda

Remove Item I-11 under Closed Session

Upon the motion by Mayor Lopez and seconded by Mayor Pro Tem Silva, Council approved to remove item I-11 under Closed Session (Yes vote: Mayor Lopez, Silva, Pineda and Cervantes) (No Vote: Garcia)

C. Consent Calendar

1. Approval of Service Agreement with Valley Network Solutions for City Hall and the Orange Cove Police Department

Council approved by consensus.

D. Administration

City Engineer:

1. **SUBJECT:** Consideration regarding a Resolution Approving an Agreement for Engineering Services by Krazaan & Associates, Inc. for Quality Assurance Testing for the "G" Street Reconstruction Project

Recommendation: Council to adopt the Resolution Approving an Agreement for Engineering Services by Krazaan & Associates, Inc. for Quality Assurance Testing for the "G" Street Reconstruction Project

Upon the motion by Mayor Pro Tem Silva and seconded by Councilwoman Cervantes, Council approved to adopt the Resolution Approving an Agreement for Engineering Services by Krazaan & Associates, Inc. for Quality Assurance Testing for the "G" Street Reconstruction Project. (Yes Vote: Mayor Lopez, Silva, Garcia, Pineda and Cervantes)

2. **SUBJECT:** Consideration and Discussion regarding the possibility of Engineering Study for Projects to connect to North Tulare County Surface Water Treatment Plant

Recommendation: Council to receive report and give input to Staff

Gary Horn, City Engineer presented to Council the Engineering Study for Project to connect to North Tulare. City Staff has been working with neighboring communities and water suppliers to develop a second source of water for the City. Alta Irrigation District is spearheading an effort to construct a surface water treatment plant near East Orosi. Pipelines would connect seven communities to supply water from the plant and pipe well water when the canals are down. Presented the Long and Short Term Project. If Alta Irrigation is supportive, will apply for grant funding to prepare an engineering study for the project.

3. **SUBJECT:** Consideration regarding a Resolution awarding the bid for the remodeling of the Orange Cove Fire Station Restroom

Recommendation: Council to adopt the Resolution awarding the bid for the remodeling of the Orange Cove Fire Station Restroom to Yanez

Construction in the amount of \$8,970 and authorize the City Manager to sign a standard construction agreement.

Upon the motion by Mayor Pro Tem Silva and seconded by Councilwoman Pineda, Council approved to adopt the Resolution awarding the bid for the remodeling of the Orange Cove Fire Station Restroom to Yanez Construction in the amount of \$8,970 and authorize the City Manager to sign a standard construction agreement. (Yes Vote: Mayor Lopez, Silva, Garcia, Pineda and Cervantes)

Mayor and City Council Items:

4. **SUBJECT:** Consideration and Discussion regarding the Certification and Pay Allowances under Article 11 Section A of the International Union of Operating Engineers, Local 39

Recommendation: Council to give City Manager and Staff direction pertaining to the Certification and Allowances under Article 11 Section A of the International Union of Operating Engineers, Local 39

Upon the motion by Mayor Pro Tem Silva and seconded by Councilwoman Cervantes, Council approved the Certification and Allowances under Article 11 Section A of the International Union of Operating Engineers, Local 39 to retro back to July 1, 2014. (Yes Vote: Mayor Lopez, Silva, Garcia, Pineda and Cervantes)

Police Department:

5. **SUBJECT:** Presentation and discussion by Chief of Police, Marty Rivera regarding monthly statistical report

Recommendation: Informational item only

Chief of Police Marty Rivera reported on the following:

- 10 officers and 2 reserves in the process
- Explore Program, 8 new applications from the High School
- Cameras for Day Care Center currently no bids
- COPS Grant Pending
- Presented the August 2015 monthly Statistics.

City Manager:

6. **SUBJECT:** Consideration and Discussion regarding a Resolution pertaining to the Facility fees and cleaning deposit at the Orange Cove Community Center

Recommendation: Council to approve the Resolution relating to the Facilities Fees and cleaning deposit at the Orange Cove Community Center and Repealing Resolution No. 2010-05

Upon the motion by Mayor Pro Tem Silva and seconded by Councilman Garcia, Council approve to increase the deposit only for residents to \$500 and Non-resident \$550 at the Orange Cove Community Center and Repealing Resolution No. 2010-05. (Yes Vote: Mayor Lopez, Silva, Garcia, Pineda and Cervantes)

7. **SUBJECT:** Consideration regarding the Joint Exercise of Powers Agreement Creating the San Joaquin Valley Water Infrastructure Authority (SJVVIA)

Recommendation: Council to consider approving the Joint Exercise of Powers Agreement Creating the San Joaquin Valley Water Infrastructure Authority (SJVVIA)

Upon the motion by Mayor Pro Tem Silva and seconded by Councilwoman Pineda, Council approved the Joint Exercise of Powers Agreement Creating the San Joaquin Valley Water Infrastructure Authority (SJVVIA) (Yes Vote: Mayor Lopez, Silva, Garcia, Pineda and Cervantes)

8. **SUBJECT:** Consideration and Discussion regarding the appointment(s) to the Orange Cove Planning Commission

Recommendation: Council to review the applications submitted to the City for the two (2) vacant seats on the Orange Cove Planning Commission and to consider appointing the applicant(s) to serve on the Orange Cove Planning Commission till October 9, 2017

Upon the motion by Mayor Pro Tem Silva and seconded by Mayor Lopez, Council approved the application for Rick Alonso and Charles Lopez to serve on the Orange Cove Planning Commission till October 9, 2017. (Yes Vote: Mayor Lopez, Silva, Pineda and Cervantes)(No Vote: Garcia)

9. **SUBJECT:** Discussion and update report on the application for a 501© (3) non-profit status for Friends of Orange Cove Animal Shelter

Recommendation: Council to give staff direction how to proceed with the Orange Cove Animal Shelter

Upon the motion by Councilman Garcia and seconded by Mayor Pro Tem Silva, Council gave City Manager authorization to work with the Friends of Orange Cove Animal Shelter. (Yes Vote: Mayor Lopez, Silva, Garcia, Pineda and Cervantes)

10. **SUBJECT:** Consideration and Discussion regarding the First Amendment to the Ground Lease between City of Orange Cove and Target Eight Advisory Council, Inc. relating to the premises located on the southeast corner of "G" Street and E. Railroad on the west side of Fifth Street

Recommendation: Council to approve the First Amendment to the Ground Lease between the City of Orange Cove and Target Eight Advisory, Council, Inc. effective September 1, 2015 and ending at midnight on August 30, 2065 for fifty (50) years

Upon the motion by Councilwoman Cervantes and seconded by Councilwoman Pineda, Council approved the First Amendment to the Ground Lease between the City of Orange Cove and Target Eight Advisory, Council, Inc. effective September 1, 2015 and ending at midnight on August 30, 2065 for fifty (50) years. (Yes Vote: Mayor Lopez, Silva, Pineda and Cervantes)(No Vote: Garcia)

E. Public Forum

Members of the public wishing to address the City Council on an item that is not on the agenda may do so now. No action will be taken by the City Council this evening. But items presented may be referred to the City Manager for follow up and a report. In order to allow time for all comments, each individual is limited to three minutes. When addressing the Council, you are requested to come forward to the speakers microphone, state your name and address, and then proceed with your comments.

1. Ms. Irene Alvarado read page 4 of the Agenda "Statement on Rules of Decorum and Enforcement". Ms. Alvarado stated no one in the audience should not sit and be attacked and be personally attacked by Mayor Pro Tem. Requesting the Council and the City Attorney to enforce the Brown Act Law. This is inappropriate and a violation. Target Eight is a sad representation for the innocent children of the City of Orange Cove, the children deserve better. This behavior is sad and an embarrassment. This needs to be exposed to the parents. To be a

subcontractor for the City of Orange Cove is very shameful and disgusting that you call yourselves educators and leaders. Addressed Mayor Pro Tem stated that she does not know how to behave in public, she shouts need to control yourself and have common sense and self-respect.

2. Leticia Mendoza from the Joe Serna Estates presented to Council that Councilmember Gilbert Garcia asked why the Closed Session item was being removed and everyone ignored him so as a citizen asking why. As an educator would love to take Victor Lopez place and serve on the board. We can all speak in a nice tone and respect one another. As public representatives its part of the job. Wanting to serve the community and don't make it will keep trying. Enough is enough let someone else give new ideas.
3. Mario Villarreal requested Council and public stay firm and stick to business. There are business people in the audience.

Mayor Pro Tem Diana Guerra Silva stated that she will not apologized for the voice God gave her. Asked not to judge her.

F. City Manager's Report

Meeting today with Sally Tripp of USDA regarding the drought coalition. Express the needs and what services/programs are available.

On September 10th will be giving a tour of our industrial areas to EDC.

G. City Attorney's Report

No report.

H. City Council Communications

- Councilman Gilbert Garcia: No report**
- Councilwoman Josie Cervantes: No report**
- Councilwoman Minerva Pineda: No report**
- Mayor Pro Tem Diana Guerra Silva: No report**

Mayor Victor P. Lopez

Attended the USDA Meeting with Sally Tripp regarding the drought coalition along with all the agency, local pastor and Mr. Ferreira. Discussion regarding the needs of Orange Cove.

Attended and spoke at the EPA conference in Chicago only Mayor from California. Questions were asked about the need and the cost of the drought. 2 private meetings. 18 million proposal pending through USDA asking for partnership everyone there very

impressed. When one gets invited to a conference by a National Figure very proud to attend. Mayor's son attended and stated that he will pay for his trip.

Mayor Pro Tem Diana Guerra Silva very proud and thanked Mayor for attending the EPA conference and representing the City of Orange Cove.

I. Closed Session

- 11. Pursuant to Government Code Section 54957(b) (1):
PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: City Manager

Item removed

J. Reconvene City Council Meeting
Report out of closed session

No report.

K. Adjournment

Mayor Lopez adjourned the City Council Meeting at 8:40 p.m.

RESPECTFULLY SUBMITTED:

June V. Bracamontes, City Clerk
City of Orange Cove

PRESENTED TO COUNCIL:

DATE: _____

ACTION: _____



MINUTES

Joint Meeting of City Council and Successor Agency to the Redevelopment Agency of the City of Orange Cove

Victor P. Lopez, Mayor

Diana Guerra Silva, Mayor Pro Tem

Minerva Pineda, Council Member

Gilbert Garcia, Council Member

Josie Cervantes, Council Member

WEDNESDAY, SEPTEMBER 23, 2015 - 6:30 P.M.

Orange Cove Council Chambers

633 6th Street, Orange Cove, California 93646

A. Call to Order/Welcome

COUNCIL PRESENT: Mayor Victor P. Lopez
Councilmember Minerva Pineda
Mayor Pro Tem Diana Guerra Silva
Councilman Josie Cervantes

COUNCIL ABSENT: Councilman Gilbert Garcia

STAFF PRESENT: City Manager Samuel A. Escobar
City Clerk June V. Bracamontes
Police Chief, Marty Rivera
Attorney Dan McCloskey
Senior Account Clerk Phyllis Mendez

INVOCATION: Mayor Pro Tem Diana Guerra Silva

FLAG SALUTE: Mayor Victor P. Lopez

B. Confirmation of Agenda

Removing Item #2 under Administration by Council Census

C. Consent Calendar

1. Resolution approving City Warrants (037896 – 038056)
2. Resolution Authorizing City Manager to Execute agreement with Prepaid Mobile Telephony Services
3. City Council Minutes of August 12, 2015
4. City Council Minutes of August 26, 2015
5. City Council Minutes Special Meeting August 28, 2015
6. City Council Minutes Special Meeting August 31, 2015

Upon the motion by Mayor Pro Tem Silva and seconded by Councilwoman Pineda, Council approved the Consent Calendar as presented. (Yes Vote: Mayor Lopez, Silva, Pineda and Cervantes)(Absent: Garcia)

D. Administration

City Engineer:

1. **SUBJECT:** Consideration and discussion of the recommended change orders for the 2014 Wastewater Treatment Plant Project.

Recommendation: Council to approve two change orders for additional work at the Wastewater Treatment Plant Project, one for \$12,610 and the second one for \$18,589, totaling \$31,199.

Upon the motion by Councilwoman Cervantes and seconded by Mayor Pro Tem Silva, Council approved the two changes orders for additional work at the Wastewater Treatment Plant Project, one for \$12,610 and the second one for \$18,589, totaling \$31,199. (Yes Vote: Mayor Lopez, Silva, Pineda and Cervantes)(Absent: Garcia)

2. **SUBJECT:** Consideration regarding a Resolution accepting the lowest bid for the Joe Serna Basin Backfill Project.

Recommendation: Council to adopt the Resolution Awarding the bid for the Joe Serna Basin Backfill Project to Valley Excavation in the amount of \$94,350.20 and authorize the City Manager to sign a standard construction agreement.

Item removed.

3. **SUBJECT:** Consideration regarding a Resolution accepting the lowest bid for the 2015 Sidewalk Repair Project.

Recommendation: Council to adopt the Resolution awarding the bid for the 2015 Sidewalk Repair Project to Don Berry Construction in the

amount of \$162,970.00 and authorize the City Manager to sign a standard construction agreement.

Upon the motion by Mayor Pro Tem Silva and seconded by Councilwoman Cervantes, Council approved the Resolution awarding the bid for the 2015 Sidewalk Repair Project to Don Berry Construction in the amount of \$162,970.00 and authorize the City Manager to sign a standard construction agreement. (Yes Vote: Mayor Lopez, Silva, Pineda and Cervantes)(Absent: Garcia)

4. **SUBJECT:** Consideration regarding a Resolution accepting bids for the Community Center Maintenance Project.

Recommendation: Council to adopt the Resolution awarding bids for the Community Center Maintenance Project to the following Contractors for a total amount of \$88,779.00 and authorize the City Manager to sign the standard construction agreements

- a) Marble Life of Central Valley in the amount of \$16,803 for tile work;
- b) William B. Saleh Co. in the amount of \$39,153 for painting and wall covering;
- c) Quality Plumbing in the amount of \$6,900 for plumbing work in the restrooms;
- d) Jon Casey Construction, Inc. in the amount of \$21,517 for carpentry
- e) DFS Flooring in the amount of \$4,406 for new carpeting in the offices and conference room;

Upon the motion by Mayor Pro Tem Silva and seconded by Councilmember Pineda, Council approved to adopt the Resolution awarding bids for the Community Center Maintenance Project to the following Contractors for a total amount of \$88,779.00 and authorize the City Manager to sign the standard construction agreements and to include the additional Wall paper cost of \$16,720.00 with a total cost \$105,499.00. (Yes Vote: Mayor Lopez, Silva, Pineda and Cervantes)(Absent: Garcia)

5. **SUBJECT:** Consideration and discussion regarding the “G” Street and Anchor Avenue underground conduit change order.

Recommendation: Council to approve a change order in the amount of \$12,227.00 for the G” Street Reconstruction Project for the installation of underground conduits for the future Anchor Avenue Utility underground project to avoid cutting the new pavement.

Upon the motion by Mayor Pro Tem Silva and seconded by Councilwoman Cervantes, Council approved the change order in the amount of \$12,227.00

for the G” Street Reconstruction Project for the installation of underground conduits for the future Anchor Avenue Utility underground project to avoid cutting the new pavement. (Yes Vote: Mayor Lopez, Silva, Pineda and Cervantes)(Absent: Garcia)

E. City Council and Successor Agency

6. **SUBJECT:** Consideration and discussion regarding a Resolution approving a Revolving Loan Agreement between the City of Orange Cove and the Successor Agency to the Orange Cove Redevelopment Agency

Recommendation: Council and the Successor Agency to consider the following:

1. Adopt the Resolution of the City Council of the City of Orange Cove and authorizing the provision of a loan to the Successor Agency to the Orange Cove Redevelopment Agency
2. Adopt the Resolution of the Successor Agency to the Orange Cove Redevelopment Agency Authorizing the Acceptance of a Loan from the City of Orange Cove

Upon the motion by Mayor Pro Tem Silva and seconded by Councilwoman Cervantes, Council approved the Resolution of the City Council of the City of Orange Cove and authorizing the provision of a loan to the Successor Agency to the Orange Cove Redevelopment Agency and the Successor Agency approved the Resolution of the Successor Agency to the Orange Cove Redevelopment Agency Authorizing the Acceptance of a Loan from the City of Orange Cove. (Yes Vote: Mayor Lopez, Silva, Pineda and Cervantes)(Absent: Garcia)

7. **SUBJECT:** Consideration and discussion regarding a Resolution approving the Recognized Obligation Payment Schedule 15-16B for January through June 2016 and Authorizing its Transmittal

Recommendation: Successor Agency to consider adopting a Resolution approving the Recognized Obligation Payment Schedule 15-16B for January through June 2016 and Authorizing its Transmittal

Upon the motion by Member Silva and seconded by Member Pineda, the Successor Agency approved to adopt the Resolution approving the Recognized Obligation Payment Schedule 15-16B for January through June 2016 and Authorizing its Transmittal. (Yes Vote: Lopez, Silva, Pineda and Cervantes)(Absent: Garcia)

F. Public Forum

Members of the public wishing to address the City Council on an item that is not on the agenda may do so now. No action will be taken by the City Council this evening. But items presented may be referred to the City Manager for follow up and a report. In order to allow time for all comments, each individual is limited to three minutes. When addressing the Council, you are requested to come forward to the speakers microphone, state your name and address, and then proceed with your comments.

1. Mr. Manuel Ferreira from Orange Cove presented to Council the following items:
 - a. Received 2 bids for the American Legion Building termites. First bid came in at \$35,000 and the second is unknown at this time. Mayor Lopez indicated that there are funds available for the veterans.
 - b. ADA is back in town and hitting the businesses. The Hardware is closing. Mayor Lopez asked City Manager to contact City of Fowler regarding this matter.

G. City Manager's Report

City Manager presented the Street Projects Anchor Avenue and "G" Street

H. City Attorney's Report

No report.

I. City Council Communications

Councilman Gilbert Garcia – Absent

Councilwoman Josie Cervantes

No report

Councilwoman Minerva Pineda:

No report

Mayor Pro Tem Diana Guerra Silva:

Share her father's experience with ADA settled out of court or will place lien against property. Need to be aggressive on this issue. Businesses are leaving. Regarding the fires fighters it was a sight to see saving lives and protecting.

Mayor Victor P. Lopez:

Toured the Camp of the Fire Fighters located at the Orange Cove Community Center along with Fire Chief Tom Greenwood and thanked them for all their help.

Attended the Board of Supervisors meeting on September 22, 2015: Billions of dollars in the package. Create a new JPA with 5 counties including Orange Cove and City of Mendota. Senator endorsing the JPA. Board of Supervisors indicated that if the other counties support this JPA including Madera and Tulare then will move forward. Kings County is pending.

J. Adjournment

Mayor Lopez adjourned the Council Meeting at 9:30 p.m.

RESPECTFULLY SUBMITTED:

*June v. Bracamontes, City Clerk
City of Orange Cove*

PRESENTED TO COUNCIL:

DATE: _____

ACTION: _____

STAFF REPORT

To: Orange Cove City Council

From: Gary Horn, City Engineer
Bruce O'Neal, Fresno COG Circuit Planner

Subject: General Plan Amendment 2015-01 And Rezone Amendment 2015-01:
Update And Revision Of The General Plan Map And Zoning Map

Attachments: Resolution and Ordinance

RECOMMENDATION:

Staff recommends that the Orange Cove City Council take the following actions:

1. Adopt the attached Resolution for General Plan Amendment 2015-01
2. Adopt the attached Ordinance for Rezone Amendment 2015-01

Planning Commission Recommendation: On September 15, 2015, the Planning Commission recommended Council approval of General Plan Amendment 2015-01 and Rezone 2015-01 with the exception that the existing R-A zone district should not be eliminated.

EXECUTIVE SUMMARY:

In 2014, the Fresno Council of Governments (COG) initiated the Circuit Planner Project to assist with local planning needs and retained Bruce O'Neal as Circuit Planner. The task selected by Orange Cove is *Update and Revision of the General Plan Land Use Map and Zoning Map*.

Based on review and analysis, recommendations have been developed for formal amendment of the General Plan text and land use map, as well as the zoning ordinance text and zone map. The amendments are described in detail in the exhibits attached to the City Council Resolution and Ordinance.

BACKGROUND:

Each California city is required to adopt a General Plan providing for long-term growth and day-to-day decisions. The City is responsible for keeping the General Plan current; although updates to the General Plan are usually made every 10-15 years, it is more common to amend the plan from time to time to incorporate growth trends or reflect piecemeal changes made over time. Amendments can be either to the General Plan text or to the land use map.

Each city is also required to have a zoning ordinance that implements the General Plan. While a General Plan land use designation shows location and density for particular uses, the zoning map shows zoning on individual parcels and the ordinance provides detailed standards, including setbacks, density, lot coverage, height regulations, parking, and landscaping. State planning law requires that the zoning ordinance be consistent with the General Plan and that the plan contain a list of zoning districts that can be used to implement the land use element. Staff has identified several issues with the land use and zoning maps that should be resolved, including inconsistencies with existing land use and inconsistencies with the General Plan (for example, existing or planned commercial uses with residential zoning). Various general plan designations, amendments and rezones approved by the City are also not reflected on the zoning map. The work program has included several meetings with staff to review map issues and proposed solutions, including review of existing zoning on an assessor's parcel (APN) basis.

In addition to the mapping issues, several amendments to the text of the General Plan and Zoning Ordinance are also recommended. These proposed amendments help insure consistency between the documents and also will assist the staff, Planning Commission and City Council in regulating future development.

Prior to their public hearing on September 15, 2015, the Planning Commission held a workshop on September 1, 2015 to discuss examples of inconsistencies between the General Plan and zoning map and staff recommendations.

General Plan Amendment (GPA) 2015-01:

General Plan Revisions

1. Neighborhood Commercial Land Use Designation (to be consistent with existing NC zone district)

A Neighborhood Commercial designation has been added to provide for small scale retail and service developments which serve the convenience needs of a neighborhood. Development is intended to be pedestrian-oriented and compatible with the scale of surrounding residential areas.

2. *The Land Use/Zoning Consistency Matrix*

The *Land Use/Zoning Consistency Matrix* shown below is an amendment to the land use element and contains both existing and new land use designations from the General Plan and those zone districts consistent with the designations. The matrix is a requirement for applying consistent zoning to sites shown on the land use map or when the General Plan is amended.

**Orange Cove General Plan
Land Use/Zoning Consistency Table**

State planning law requires that the zoning on every Site be consistent with the General Plan land use designation for that Site. The table below is a matrix that shows which General Plan land use designations are consistent with which zone districts. Land use designations are listed in the left column of the matrix while zone districts run across the top. Shaded boxes show consistency between a land use category and a zone district. For example, a Site zoned R-1-6 would be consistent with the Medium Density designation.

Land Use Designation	R-A	R-1-12	R-1-6	R-1-3	R-2-A	R-2	R-3-A	R-3	MHP	C-1	C-2	C-3	M-U	M-1	M-2	O	PF	PUD
Low Density																		
Medium Density																		
High Density																		
Neighborhood Commercial																		
General Commercial																		
Central Commercial																		
Mixed Use																		
Industrial																		
Public Facilities																		
Open Space																		

Note: The land use map contains a single "Industrial" designation, but the matrix includes both M-1 (light industrial) and M-2 (heavy industrial) as consistent districts. This would leave the decision to the City Council to zone heavy industrial uses M-2 on a case-by-case basis.

3. General Plan Land Use Map Amendments.

Approximately 17 amendments to the General Plan land use map are proposed to reflect existing land use or plan amendments. In most cases, there are no changes to existing developed uses and the amendments are intended to regulate future development.

Rezone Amendment (RA) 2015-01:

1. The following zone districts are removed in their entirety from the Zoning Ordinance:

- a. Chapter 17.22 - R-M/H RESIDENTIAL MANUFACTURED HOME DISTRICT
- b. Chapter 17.38 - P OFF-STREET PARKING DISTRICT
- c. Chapter 17.40 - UR URBAN RESERVE DISTRICT

2. The following zone districts are amended or added as indicated:

- a. Chapter 17.10 – R-1-12 SINGLE-FAMILY/LOW DENSITY RESIDENTIAL DISTRICT (amended to allow duplex/triplex buildings or corner lots by CUP)
- b. Chapter 17.12 - R-1-6 SINGLE-FAMILY/MEDIUM DENSITY RESIDENTIAL DISTRICT (amended to allow duplex/triplex buildings or corner lots by CUP)
- c. Chapter 17.19 - R-2-A MEDIUM DENSITY MULTIPLE-FAMILY RESIDENTIAL DISTRICT, ONE STORY (new added district)
- d. Chapter 17.18 - R-2 MEDIUM/HIGH DENSITY RESIDENTIAL DISTRICT (amended to limit number of multifamily units in any project to 100)
- e. Chapter 17.20 - R-3 HIGH DENSITY RESIDENTIAL DISTRICT (amended to limit number of multifamily units in any project to 100)
- f. Chapter 17.32 - C-3 CENTRAL BUSINESS AND SHOPPING DISTRICT (amended to add automobile repair and towing as a conditional use)
- g. Chapter 17.33 - M-U MIXED-USE ZONING DISTRICT (new added district)
- h. Chapter 17.62 - NONCONFORMING USES AND STRUCTURES (amended to allow restoration by CUP)

3. Zoning Map Amendments To Be Consistent With Revised Land Use Map.

Approximately 41 amendments to the Zone Map are proposed to be consistent with the General Plan, reflect existing land use or recent rezonings. In most cases, there are no changes to existing developed uses and the amendments are intended to regulate future development.

ENVIRONMENTAL REVIEW: CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

Article 19 of the CEQA Guidelines includes a list of classes of projects which have been determined to not have a significant effect on the environment and which are, therefore, exempt from the provisions of CEQA. The classes of projects listed in the article do not have a significant effect on the environment, and they are declared to be categorically exempt from the requirement for the preparation of environmental documents.

Class 5: Minor Alterations In Land Use Limitations. Class 5 consists of minor alterations in land use limitations which do not result in any changes in land use or density.

REASON FOR RECOMMENDATION:

The amendments will clarify inconsistencies for the City staff and the public and reduce conflicts in future land use applications.

FISCAL IMPACT:

Minor impacts to the General Fund for mapping by the City Engineer. Zoning ordinance amendments will be codified in the Municipal Code.

ALTERNATIVES:

Amendments could be delayed until the comprehensive update of the General Plan at which time all land uses in the City will be reviewed. Due to the expected cost of an update, however, the timing of such an effort is unknown.

ACTIONS FOLLOWING APPROVAL:

The general plan amendment will become effective immediately. Zoning provisions will become effective 30 days after the second reading of the ordinance. Both documents will be used in the day-to-day administration of the Building and Engineering Department and in future land use decisions by the Planning Commission and City Council.

CONFLICT OF INTEREST:

None.

RESOLUTION NO. 2015-57

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE COVE, CALIFORNIA
APPROVING GENERAL PLAN AMENDMENT 2015-01:
UPDATE AND REVISION OF THE GENERAL PLAN TEXT AND LAND USE MAP

WHEREAS, the Orange Cove City Council did consider during a duly noticed public hearing conducted on October 15, 2015, General Plan Amendment (GPA) 2015-01; and

WHEREAS, GPA 2015-01 proposes to amend the Orange Cove General Plan text and amend the General Plan land use map to reflect existing land use and previously approved plan amendments, and to promote consistency with the Zoning Ordinance; and

WHEREAS, the City has determined that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) subject to CEQA Guidelines Section 15305, minor alterations in land use limitations; and

WHEREAS, the City Council at the public hearing received oral and written evidence, including the staff report prepared by the City of Orange Cove Planning Department and determined that approval of GPA 2015-01 protects and promotes the public health, safety, and general welfare of the citizens of Orange Cove.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Orange Cove, California, as follows:

1. The above recitals are true and correct and are adopted as the findings of the City Council.
2. The City Council hereby approves GPA 2015-01 amending the General Plan text and Land Use Map attached to this Resolution as Exhibits "A" and "B" and incorporated herein by reference.
3. The provisions of this Resolution are severable and if any provisions, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, works or parts thereof of the Resolution or their applicability to other persons or circumstances.
4. That the City Clerk shall certify to the adoption of this Resolution and that the same shall be in full force and effect.

This resolution was adopted at a Regular Meeting of the City Council of the City of Orange Cove held on October 14, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Victor P. Lopez, Mayor

ATTEST:

June Bracamontes, City Clerk

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

I, JUNE BRACAMONTES, hereby certify that I am the duly appointed City Clerk of the City of Orange Cove and that the foregoing resolution was duly adopted at a regular meeting of the City Council held on the 14th day of October, 2015.

June Bracamontes
City Clerk

Exhibit "A"
Amendments to the Orange Cove General Plan and Land Use Map

General Plan Revisions

1. Neighborhood Commercial Land Use Designation (to be consistent with existing NC zone district)

The Neighborhood Commercial designation provides for small scale retail and service developments which serve the convenience needs of a neighborhood and is not intended to accommodate major or large scale commercial or service activities. Acceptable uses will have a limited impact on adjacent residential areas in terms of lighting, traffic, noise, and hours of operation. Acceptable uses include neighborhood scale commercial, offices, small service establishments, convenience stores with limited hours of operation, small restaurants, and small public facilities. Development is intended to be pedestrian-oriented and compatible with the scale of surrounding residential areas.

2. The Land Use/Zoning Consistency Matrix

The *Land Use/Zoning Consistency Matrix* shown below is an amendment to the land use element and contains both existing and new land use designations from the General Plan and those zone districts consistent with the designations. The matrix is, in effect, a requirement for applying consistent zoning to sites shown on the land use map or when the General Plan is amended.

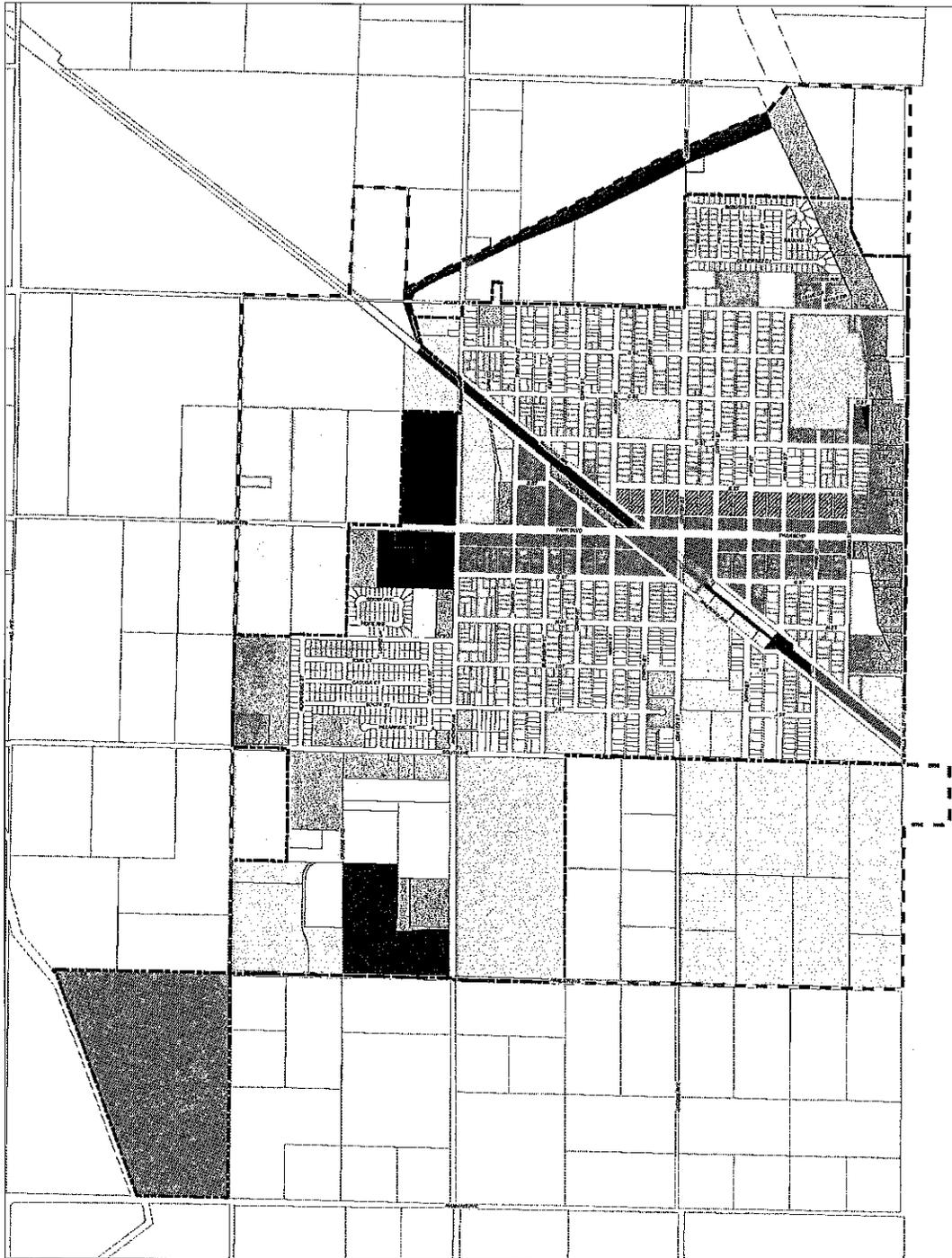
**Orange Cove General Plan
Land Use/Zoning Consistency Table**

State planning law requires that the zoning on every Site be consistent with the General Plan land use designation for that Site. The table below is a matrix that shows which General Plan land use designations are consistent with which zone districts. Land use designations are listed in the left column of the matrix while zone districts run across the top. Shaded boxes show consistency between a land use category and a zone district. For example, a Site zoned R-1-6 would be consistent with the Medium Density designation.

Land Use Designation	R-A	R-1-12	R-1-6	R-1-3	R-2-A	R-2	R-3-A	R-3	MHP	C-1	C-2	C-3	M-U	M-1	M-2	O	PF	PUD
Low Density																		
Medium Density																		
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Neighborhood Commercial																		
General Commercial																		
Central Commercial																		
Mixed Use																		
Industrial																		
Public Facilities																		
Open Space																		

Note: The land use map contains a single "Industrial" designation, but the matrix includes both M-1 (light industrial) and M-2 (heavy industrial) as consistent districts. This would leave the decision to the City Council to zone heavy industrial uses M-2 on a case-by-case basis.

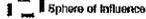
Exhibit "B"
AMENDED ORANGE COVE GENERAL PLAN LAND USE MAP



City of Orange Cove - Land Use




**Vernon & Herr
 Engineering, Inc.**
 Updated: 09/08/2015

 City Limits
 Sphere of Influence

Low Density Residential	High Density Residential	Central Commercial	Industrial	Schools	Mixed Use
Medium Density Residential	Neighborhood Commercial	General Commercial	Public Facilities	Open Space	

September 8, 2015

ORDINANCE NO. 373

AN ORDINANCE OF THE CITY OF ORANGE COVE DELETING CHAPTERS 17.22 (R-M/H RESIDENTIAL MANUFACTURED HOME DISTRICT), 17.38 (P OFF-STREET PARKING DISTRICT), 17.40 (UR URBAN RESERVE DISTRICT); AMENDING CHAPTERS 17.10 (R-1-12 SINGLE-FAMILY/LOW DENSITY RESIDENTIAL DISTRICT), 17.12 (R-1-6 SINGLE-FAMILY/MEDIUM DENSITY RESIDENTIAL DISTRICT), 17.18 (R-2 MEDIUM/HIGH DENSITY RESIDENTIAL DISTRICT), 17.20 (R-3 HIGH DENSITY MULTIPLE-FAMILY RESIDENTIAL DISTRICT), 17.32 (C-3 CENTRAL BUSINESS AND SHOPPING DISTRICT), 17.62 (NONCONFORMING USES AND STRUCTURES); ADDING CHAPTERS 17.19 (R-2-A MEDIUM DENSITY MULTIPLE-FAMILY RESIDENTIAL DISTRICT, ONE STORY), 17.33 (M-U MIXED-USE ZONING DISTRICT) OF TITLE 17 (ZONING) OF THE ORANGE COVE MUNICIPAL CODE AND ADOPTING AN AMENDED ZONING MAP

THE CITY COUNCIL OF THE CITY OF ORANGE COVE DOES ORDAIN AS FOLLOWS:

SECTION 1. Amendment to the Orange Cove Municipal Code

Chapter 17.22 - R-M/H RESIDENTIAL MANUFACTURED HOME DISTRICT is hereby removed in its entirety.

SECTION 2. Amendment to the Orange Cove Municipal Code

Chapter 17.38 - P OFF-STREET PARKING DISTRICT is hereby removed in its entirety.

SECTION 3. Amendment to the Orange Cove Municipal Code

Chapter 17.40 - UR URBAN RESERVE DISTRICT is hereby removed in its entirety.

SECTION 4. Amendment to the Orange Cove Municipal Code

Chapter 17.10 – R-1-12 SINGLE-FAMILY/LOW DENSITY RESIDENTIAL DISTRICT is hereby amended to read as follows:

17.10.030 - Conditional use permit.

Uses permitted subject to conditional use permit in the R-1-12 district are:

- j. Duplex/triplex buildings or corner lots in single family subdivisions

SECTION 5. Amendment to the Orange Cove Municipal Code

Chapter 17.12 - R-1-6 SINGLE-FAMILY/MEDIUM DENSITY RESIDENTIAL DISTRICT is hereby amended to read as follows:

17.12.030 - Conditional use permit.

Uses permitted subject to conditional use permit in the R-1-6 district are:

- j. Duplex/triplex buildings or corner lots in single family subdivisions

SECTION 6. Amendment to the Orange Cove Municipal Code

Chapter 17.18 - R-2 MEDIUM/HIGH DENSITY RESIDENTIAL DISTRICT is hereby amended to read as follows:

17.18.020 - Permitted uses.

d. Multifamily development in the R-2 district shall not exceed 100 units in any project.

SECTION 7. Amendment to the Orange Cove Municipal Code

Chapter 17.20 - R-3 HIGH DENSITY MULTIPLE-FAMILY RESIDENTIAL DISTRICT is hereby amended to read as follows:

17.20.20 - Permitted uses.

h. Multifamily development in the R-3 district shall not exceed 100 units in any project.

SECTION 8. Amendment to the Orange Cove Municipal Code

Chapter 17.32 - C-3 CENTRAL BUSINESS AND SHOPPING DISTRICT is hereby amended to read as follows:

17.32.030 - Conditional use permit.

Uses permitted subject to conditional use permit in the C-3 district are:

4. *Automobile repair and towing;*

SECTION 9. Amendment to the Orange Cove Municipal Code

Chapter 17.62 - NONCONFORMING USES AND STRUCTURES is hereby amended to read as follows:

17.62.060 - Restoration of damaged structure.

Whenever a nonconforming use or structure shall be destroyed or substantially damaged by fire or other calamity, by an act of God, or by the public enemy, the structure may be restored and the nonconforming use may be resumed subject to approval of a Conditional Use Permit in conformance with Chapter 17.52, provided that restoration is started within six months and diligently pursued to completion. Should the Conditional Use Permit be denied, or the building razed either voluntarily or as required by law, the structure shall not be restored except in full conformity with the regulations for the district in which it is located, and the nonconforming use shall not be resumed. The extent of damage to any structure or use shall be as determined by the building official.

SECTION 10. Amendment to the Orange Cove Municipal Code

Chapter 17.19 - R-2-A MEDIUM DENSITY MULTIPLE-FAMILY RESIDENTIAL DISTRICT, ONE STORY is hereby added to the Code to read in its entirety as follows:

R-2-A MEDIUM DENSITY MULTIPLE-FAMILY RESIDENTIAL DISTRICT, ONE STORY

17.19.010 - Purpose.

17.19.020 - Permitted uses.

17.19.030 - Conditional use permit.

17.19.040 - Prohibited uses.

17.19.050 - Property development standards.

17.19.060 - General provisions and exceptions.

17.19.070 - Site plan review.

17.19.010 - Purpose.

The R-2-A district is intended to provide for medium density multifamily structures, limited to one story in height, for the purposes of rental or sale to permanent occupants. Single family units are a permitted use and may be constructed with two stories consistent with provisions of the R-1-6 district.

17.19.020 - Permitted uses.

In the R-2-A district, uses permitted are:

A. Uses permitted in the R-2 district, Section 17.18.020, shall apply.

17.19.030 - Conditional use permit.

In the R-2-A district, uses permitted subject to conditional use permit are: uses listed in the R-2 district, Section 17.18.030, shall apply.

17.19.040 - Prohibited uses.

In the R-2-A district, uses expressly prohibited are:

A. The uses listed as uses expressly prohibited in the R-2 district, Section 17.18.040

B. Any multifamily dwelling structure exceeding one story or twenty feet in height.

17.19.050 - Property development standards.

A. The provisions of the R-2 district, Sections 17.18.050 through 17.18.180 shall apply, excepting Section 17.19.080 relating to building height.

B. Building Height.

1. Multifamily structures erected in this district shall not exceed one story, or twenty feet in height.
2. Single family structures erected in this district shall not exceed two stories, or thirty feet in height.
3. *Accessory buildings erected in this district shall not exceed one story, or twelve feet to plate height.*

17.19.060 - General provisions and exceptions.

All uses shall be subject to the general provisions and exceptions prescribed in Chapters 17.52 through 17.64.

17.19.070 - Site plan review.

Before any building or structure, with the exception of a one-family dwelling, is erected on any lot in the R-2-A district, a site plan pursuant to Chapter 17.56 of this code shall have been submitted to and approved by the City Manager, or his designee.

SECTION 11. Amendment to the Orange Cove Municipal Code

Chapter 17.33 M-U MIXED-USE ZONING DISTRICT is hereby added to the Code to read in its entirety as follows:

Chapter 17.33 M-U MIXED-USE ZONING DISTRICT

17.33.010 - Purpose

17.33.011 - Definitions

17.33.012 - Permitted Uses

17.33.013 - Conditional use permit.

17.33.014 - Prohibited uses.

17.33.015 - Commercial Establishment Size Limits

17.33.016 - Property development standards.

17.33.017 - Indoor/outdoor operations.

17.33.018 - Lot area per unit (density).

17.33.019 - Floor Area Ratio.

17.33.020 - Setbacks.

17.33.021 - Space between buildings.

17.33.022 - Fences, hedges and walls.

17.33.023 - Off-street parking.

17.33.024 - Access.

17.33.025 - Signs.

17.33.026 - Loading.

17.33.027 - General provisions and exceptions.

17.33.028 - Site plan review.

17.33.029 - Building compatibility.

17.33.010 - Purpose The purposes of the M-U zoning district are to:

The M-U zoning district represents a commercial zoning classification that permits a vertical or horizontal mix of commercial and residential uses on the same lot or within the same building. The district is intended to accommodate a physical pattern of development often found along village main streets and in neighborhood commercial areas of older cities.

17.33.011 - Definitions

As used in this ordinance, the following words and terms shall have the meanings specified herein:

“Floor Area Ratio” means the ratio of a building’s gross floor area to the area of the lot on which the building is located.

“Gross Floor Area” is the sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. Gross floor area does not include basements when at least one-half the floor-to-ceiling height is below grade, accessory parking (i.e., parking that is available on or off-site that is not part of the use’s minimum parking standard), attic space having a floor-to-ceiling height less than seven feet, exterior balconies, uncovered steps, or inner courts.

“Mixed-use Building” means a building that contains at least one floor devoted to allowed nonresidential uses and at least one devoted to allowed residential uses.

17.33.012 - Permitted Uses

Uses permitted in the M-U district are:

1. Animal services, sales and grooming
2. Art and antique stores
3. Day care
4. Dwelling units located above ground floor commercial or office use
5. Entertainment venue (1-149 seats)
6. Financial services
7. Food and beverage retail sales, including bakeries (retail), delicatessens, ice cream stores, meat markets, soft drink fountains, and similar uses
8. Grocery stores
9. Group homes
10. Health clubs and gyms
11. Medical services
12. Music, dance and art studios
13. Offices
14. Personal services, including barber and beauty shops, tailors, florists, photography studios, shoe repair shops and similar uses
15. Public safety services
16. Repair services for consumers, including bicycles
17. Restaurants (not including drive-ins)
18. Retail sales, general
19. Utilities and services, minor
20. Wireless communication services, co-located only

17.33.013 - Conditional use permit.

Uses permitted subject to conditional use permit in the M-U district are:

1. Artist live/work space
2. Artisan manufacturing (hand tools only, e.g., jewelry or ceramics)
3. Assisted living
4. Automobile parts sales
5. Churches
6. Drive through facilities
7. Electrical distribution substation
8. Ice and food products dispensing machines
9. Laundry, self-service
10. Libraries
11. Lodging (motels, bed and breakfast, 1-10 guest rooms)
12. Nursing home
13. Parks and recreation
14. Private clubs, lodges
15. Public grounds and buildings
16. Public parking lot or structure
17. Residential – freestanding attached or detached single family home; multifamily (2+ units)
18. Schools
19. Transitional and supportive housing
20. Utilities and services, major
21. Water pump station

17.33.014 - Prohibited uses.

Uses expressly prohibited in the M-U district are:

1. Advertising structures
2. Adult uses
3. Animal boarding kennel
4. Gas stations
5. Hospitals
6. Industrial uses
7. Liquor stores
8. Mini storage warehouse
9. Trailer parks
10. Vehicle sales, service, and repair
11. Bars, cocktail lounges, and the like

17.33.015 - Commercial Establishment Size Limits

The gross floor area of commercial establishments in the M-U district shall not exceed 10,000 square feet.

17.33.016 - Property development standards.

Property development standards in the M-U district are:

- A. Lot area: no requirement
- B. Lot dimensions: no requirement
- C. Building height: maximum building height shall be three stories, not to exceed forty feet for mixed-use buildings, and two stories not to exceed 30 feet for all other buildings.

17.33.017 - Indoor/outdoor operations.

All permitted uses in the M-U district must be conducted within completely enclosed buildings unless otherwise expressly authorized. This requirement does not apply to off-street parking or loading areas, automated teller machines, or outdoor seating areas.

17.33.018 - Lot area per unit (density).

The minimum lot area per dwelling unit shall be 2,000 square feet for mixed-use buildings, and 3,000 square feet for all other freestanding residential buildings.

17.33.019 - Floor Area Ratio.

The maximum FAR shall be 2.0 for mixed-use buildings and 1.25 for all other buildings.

17.33.020 - Setbacks.

- A. For commercial, office, or mixed-use buildings, the entire building façade must abut front and street side property lines or be located within 10 feet of such property lines. The minimum rear setback shall be 5 percent of the lot depth. No interior side setbacks are required, except when M-U zoned property abuts R-zoned property, in which case the minimum side setback in the M-U district shall be the same as required on the abutting R-zoned lot.
- B. For freestanding residential uses, the minimum front yard setback shall be 15 feet; the minimum rear yard shall be 10 feet; and the minimum side yard shall be 5 feet.
- C. All proposed yards shall be landscaped in accordance with conditions of site plan review.
- D. Open parking areas shall be provided with appropriate perimeter and internal landscaping in accordance with conditions of site plan review.

17.33.021 - Space between buildings.

- A. For commercial, office, or mixed-use buildings, there are no requirements for space between buildings in the M-U district.
- B. For freestanding multifamily buildings, space between buildings shall be as prescribed the R-2 district, Section 17.18.130.

17.33.022 - Fences, hedges and walls.

- A. Any fence, hedge or wall shall be reduced to three feet when within the front yard or street side yard.
- B. Fences, walls and railings shall be ornamental masonry or concrete, textured or stamped metal, or ornamental iron work or similar durable materials.

17.33.023 - Off-street parking.

- A. The requirement for off-street parking spaces for commercial or office uses shall be one square foot of off-street parking for each three square feet of floor area.
- B. The requirement for off-street parking for residential uses shall be 1 ½ spaces for each dwelling unit.
- C. For mixed use projects, the number of parking spaces shall be determined as part of the site plan review process, but shall be generally based on A. and B., above.
- D. Spaces shall be provided on a site not more than five hundred feet from the external boundaries of the lot upon which the building it serves is located. This required parking area shall be provided in any of the following ways:
 - 1. On the lot with the building served;
 - 2. On a contiguous lot or a lot within five hundred feet of the building or use being served;
 - 3. By membership in an assessment district established for the purpose of providing off-street parking for the uses located in the district.
- E. The improvement and maintenance standards of Sections 17.60.100 through 17.60.160 shall apply.

17.33.024 - Access.

There shall be adequate vehicular access from a dedicated and improved street or alley.

17.33.025 – Signs.

The provisions of the C-1 district, Section 17.28.180(A), (B), (D) and (F) shall apply.

17.33.026 - Loading.

For nonresidential uses the requirements for size, location, treatment and maintenance of loading spaces, Section 17.60.190 shall apply.

17.33.027 - General provisions and exceptions.

All uses shall be subject to the general provisions and exceptions prescribed in Chapters 17.52 through 17.64.

17.33.028- Site plan review.

Before any building or structure is erected on any lot in the M-U district, a site plan pursuant to Chapter 17.56 of this code shall be submitted to and approved by the City Manager, or his designee.

17.33.029 - Building compatibility.

Any proposed structure in the M-U district shall be architecturally compatible with existing or future buildings and reviewed and approved for conformance by the City Manager, or his designee, upon submittal of a site plan review or conditional use permit application.

SECTION 12. Amendment to the Orange Cove Municipal Code

The Orange Cove Zoning Map is hereby amended as shown in Exhibit "A."

SECTION 13. Severability.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 14. Effective Date.

This ordinance shall become effective and in full force 30 days after its passage and adoption.

SECTION 15. Publication.

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published according to law.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council of the City of Orange Cove held on October 14, 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

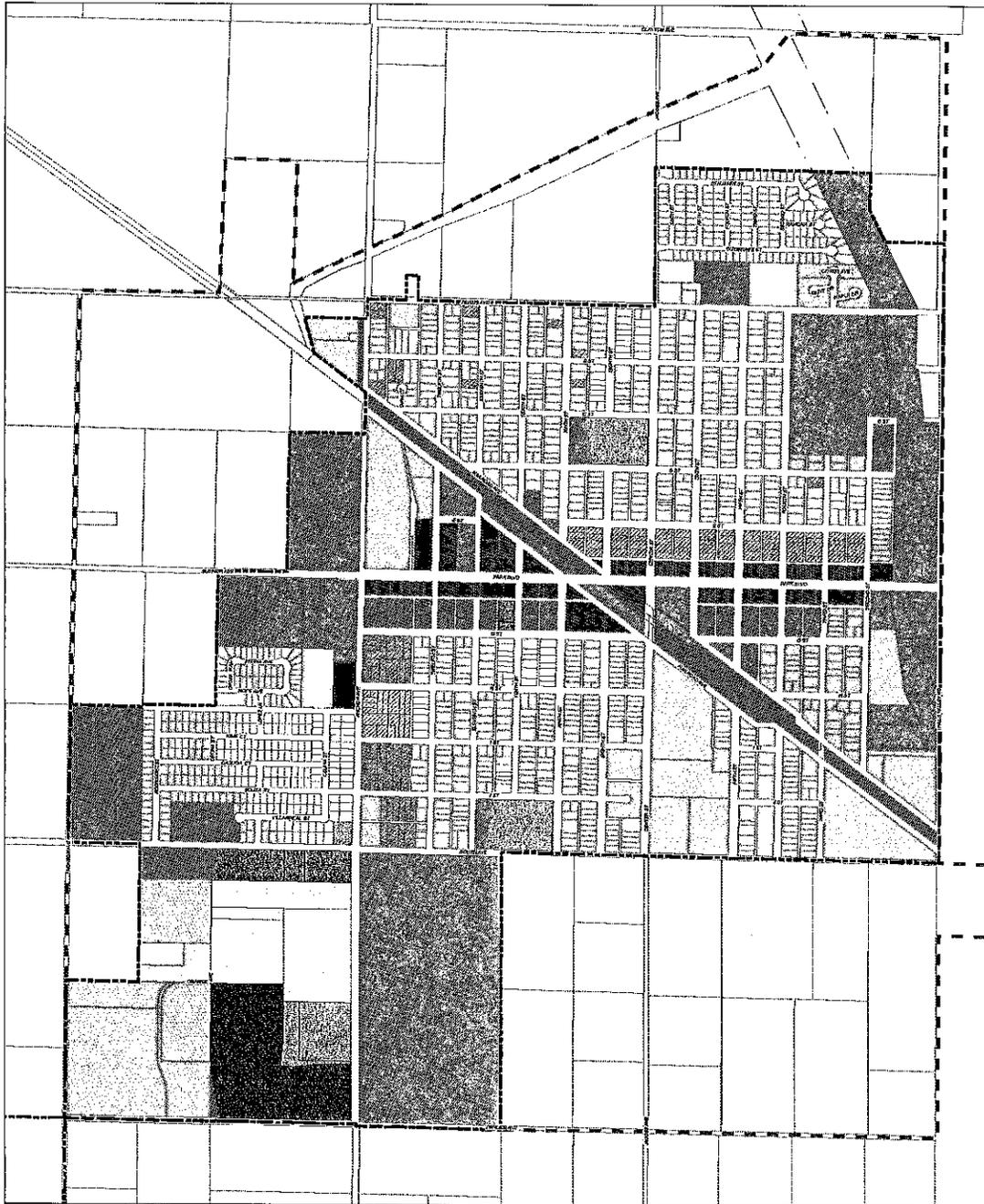
APPROVED:

City Clerk

Mayor, City of Orange Cove

Exhibit "A"

Amended Orange Cove Zone Map



City of Orange Cove - Zoning

Vanvorke & Heaux
Engineering, Inc.
Updated: 09/08/2015

<p> City Limits</p> <p> Sphere of Influence</p> <p> C-1 Neighborhood Shopping Center</p> <p> C-2 Community Shopping Center</p>	<p> G-3 Central Business and Shopping</p> <p> M-1 Light Manufacturing</p> <p> M-2 Heavy Manufacturing</p> <p> M-U Mixed Use</p> <p> O Open Space</p> <p> PF Public Facilities</p> <p> R-1-12 Single Family Residential 12,000 sq. ft. min.</p> <p> R-1-0 Single Family Residential 0,000 sq. ft. min.</p>	<p> R-2 Med. High Density Residential 3,000 sq. ft. min.</p> <p> R-2A Med. High Density Res. One Story 3,000 sq. ft. min.</p> <p> R-3 High Density Multi-Family Residential 1,500 sq. ft. min.</p> <p> R-3A High Density Multi-Family Res. One Story 1,500 sq. ft. min.</p>
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September 8, 2015



PREMIER DEALER

COMFORT PROPOSAL

CARTOZIAN

Date: 10/6/2015

Customer: City of Orange Cove

Address: 633 Sixth Street

City, St. Zip: Orange Cove, Ca 93646

Phone: 559-626-4488

Email: _____

Air Conditioning & Heating Inc.

When Comfort Really Matters

1630 Manning Ave #133

Reedley, Ca 93654

Phone: (559)643-8500

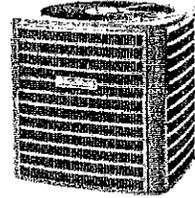
Lic# 788470

Fax: (559)403-5551



SCOPE OF WORK

REMOVE EXISTING 15 TON CONDENSER AND REPLACE WITH SYSTEM SHOWN BELOW.
 CLEAN AREA, TRASH AND DISPOSE OF OLD SYSTEM AS PER E.P.A GUIDELINES
 START TEST VERIFY FAN AND COOL OPERATION
1st come 1st Serve on 13 Seer R22 Equipment



**NOTE: 2 LEFT IN CALIFORNIA ONLY
 NOT A COMPRESSOR, THIS IS NEW EQUIPMENT WITH WARRANTY.**

STANDARD ITEMS INCLUDED IN PROPOSAL

(2) 7.5 TON GOODMAN CONDENSERS	ANCHORS/STRAPS WELDING	MECH. PERMIT LABOR & SALES TAX	UV PROTECTION OVER LINE SET MISC ELECTRICAL
(2) 5/8 SIGHT GLASS	EVAC./R22 FREON	DISPOSAL OF EQUIP.	100% CUSTOMER SATISFACTION

SYSTEM INFORMATION

Brand		GOODMAN
Ton		Oty. (2) 7.5 Ton Condensers
SEER/EER		13 Seer1 11.2 EER
BTU Heating		Model #GSC1000903
BTU Cooling		114,000 BTU Cooling
Freon		HCFC/R22 Refrigerant
Voltage		230 V 3 Phase
WARRANTY:		
MFG. WARRANTY		5 Yrs. Parts 5 Yrs. Compressor
LABOR WARRANTY ONLY COVERS REPAIRS NOT SEASONAL SERVICE FOR HEATING & COOLING		

NO CARRIER OR BRYANT AVAILABLE FOR REPLACEMENT ONLY GOODMAN/R22 REFRIGERANT

Total Investment			\$ 12,500.00
Please Initial Desired	Option 1 x _____	Option 2 x _____	Option 3 x _____

IF CHOOSEING LABOR WARRANTY, CHECK APPROPRIATE BOX AND ADD AMOUNT TO TOTAL INVESTMENT AMOUNT

****Require 50% upon acceptance, Remainder 50% Due upon completeion****

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alterations or deviation from above specifications involving extra costs, will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent up strikes, accidents or delays beyond out control. This proposal is subject to acceptance within 30 days and it is void thereafter at the option of the undersigned.

ACCEPTANCE OF PROPOSAL
 Date: 7/8/15 Authorized By: Jeff Cartozian

The above prices, specifications and conditions are hereby accepted. You are authorized to do the work as specified
 Payments will be made as outlined above. Date: _____ Signature: _____

Mayor
Victor P. Lopez

Mayor Pro Tem:
Diana Guerra Silva

City Council Members:
Gilbert Garcia
Minerva Pineda
Josie Cervantes



City Manager:
Samuel A. Escobar
(559) 626-4488 ext. 215

Finance Director:
(559) 626-4488 ext. 216

City Clerk:
June V. Bracamontes
(559) 626-4488 ext. 214

Incorporated January 20, 1948

633 Sixth Street Orange Cove, California 93646 Phone: (559) 626-4488 / FAX: (559) 626-4653

MEMORANDUM

DATE: October 14, 2015
TO: Orange Cove City Council

FROM: Ray Hoak, Building Official

SUBJECT: Consider Adoption of a Code Enforcement Remedies and Procedures Ordinance, a Cost Recovery and Penalties Ordinance, an Administrative Procedures Hearing Ordinance and a Substandard Housing, Unsafe Structures and Unsafe Use of Property Ordinance.

RECOMMENDATION

It is recommended the Council waive the full reading and introduce the four ordinances: (1) Code Enforcement Remedies and Procedures Ordinance, (2) Cost Recovery and Penalties Ordinance, (3) Administrative Procedures Hearing Ordinance, (4) Substandard Housing, Unsafe Structures and Unsafe Use of Property Ordinance. If the ordinances are introduced they will be presented to the City Council for adoption at the next regular meeting.

EXECUTIVE SUMMARY

To ensure that the City has all the tools necessary for code enforcement, it is necessary that the Council adopt ordinances regarding enforcement remedies and procedures, cost recovery, due process administrative hearings procedures, substandard housing, unsafe structures and unsafe use of property nuisances. The four proposed ordinances have been reviewed by the City Attorney. The ordinances will ensure the City is able not only to enforce code violations but also collect and recover its costs.

BACKGROUND:

Code enforcement presents challenges to cities. State law provides cities with various enforcement tools to address code enforcement problems. However, in almost instances the city must enact ordinances to exercise its authority. The City has enacted a Public Nuisance Ordinance in Chapter 7.07 of the Municipal Code which provides a comprehensive list of the types of conditions that constitute a public nuisance. The ordinance provides that the City may pursue various enforcement procedures. The list of nuisances described in the Substandard Housing, Unsafe Structures and Unsafe Use of Property Ordinance are in addition to those described in the City's Nuisance Abatement Ordinance Chapter 7.07.

In order for the City to be able to exercise its full authority to enforce and recover its costs the city needs to adopt ordinances expressly providing for the cost recovery methods and penalties. Enforcement includes administrative citations, criminal citations, and abatement procedures. Administrative citations and abatement procedures require due process. The City must also provide due process as required by law.

At this time, the Building Department is proposing four ordinances to equip the City with the tools necessary and required:

1. **A code enforcement remedies and procedures ordinance.**

This ordinance establishes that the City is authorized to enforce the Code by civil, administrative citations and criminal code procedures. We note that the City already has an ordinance entitled "Administrative Citations" which when one reads that ordinance it also includes criminal code enforcement. The proposed Code Enforcement Remedies and Procedures Ordinance clarifies that it applies to both civil and criminal code enforcement and updates and streamlines various provisions.

2. **An administrative hearing procedures ordinance.**

Due process factors into the various enforcement mechanisms. In the past many city councils conducted code enforcement hearings. However, over the last few years, case law has developed in a manner that necessitates the utilization of independent hearing officers to conduct the hearings. This ordinance meets the legal requirements for administrative hearings.

3. **A cost recovery and penalties ordinance.**

This ordinance places the responsibility of costs borne by the City in code enforcement on those persons responsible for violating the Municipal Code or state law. The ordinance allows the City to recover costs and penalties from persons responsible for creating, causing, committing or maintaining a public nuisance or Code or state law violation. The cost may be a lien or special assessment on the subject property and/or a personal obligation of the person responsible.

4. **An unsafe use of property ordinance.**

This ordinance describes nuisances that are related to substandard housing, unsafe structures, and unsafe use of property. This ordinance repeals outdated chapters of Title 15 and the updated the due process procedures are now contained in the Administrative Procedures Hearing Ordinance.

ORDINANCE NO. 374

AN ORDINANCE OF THE CITY OF ORANGE COVE REPEALING
CHAPTER 1.18 OF TITLE 1 OF THE ORANGE COVE MUNICIPAL
CODE AND ADDING NEW CHAPTER 1.20 TO TITLE 1 OF THE
ORANGE COVE MUNICIPAL CODE RELATING TO CODE
ENFORCEMENT PROCEDURES

THE CITY COUNCIL OF THE CITY OF ORANGE COVE DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 1.18 of Title 1 is hereby repealed.

SECTION 2. Chapter 1.18 is added to Title 1 of the Orange Cove Municipal Code to read as follows:

CODE ENFORCEMENT PROCEDURES

1.18.010	Purpose
1.18.020	General Enforcement Authority; Enforcement Officers
1.18.030	Authority to Inspect
1.18.040	General Provisions Regarding Code Violations
1.18.050	Administrative Citations and Penalties
1.18.060	Criminal Citations
1.18.070	Issuance of Permits; Violations of Law
1.18.080	Adjudicatory Decisions
1.18.090	Severability

1.18.010 Purpose.

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

(B) Under Article XI, section 7, of the California Constitution, the City has the authority to make and enforce within its jurisdictional limits all laws for the public health, safety and welfare of the citizens of Orange Cove which are not in conflict with general state laws. In addition, California Government Code section 36901 specifically provides that the City may impose civil fines, penalties and forfeitures for violations of City ordinances. Further, California Government

Code section 53069.4 expressly authorizes the City to establish an administrative citation program for violations of City ordinances.

(C) The Council further finds that certain violations of the Code may be of such a nature, or the administrative citation may be ineffective in ensuring compliance with the Municipal Code, that existing enforcement mechanisms may have to be utilized. These methods include, but are not necessarily limited to, the use of a criminal citation or complaint, or civil injunction. Therefore, nothing in this Chapter is intended to preclude the City's use of alternative code enforcement methods.

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

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

1.18.040 **General Provisions Regarding Code Violations.**

(A) **Misdemeanor.** Under Government Code Section 36900, and this Code, a violation of a City ordinance is a misdemeanor punishable by a fine of not exceeding one thousand dollars (\$1,000.00) or by imprisonment in the Fresno County jail for a period of not more than six months, or by both such fine and imprisonment.

(B) **Infraction.** Any person violating any of the provisions or failing to comply with any of the requirements of this Code shall be guilty of a misdemeanor unless a Code provision makes violation thereof an infraction; or the City Attorney files a complaint charging the offense as an infraction; or the court, with the consent of the defendant, determines that the offense is an infraction, in which event the case shall proceed as if the defendant had been arraigned on an infraction complaint.

Any infraction under the provisions of this Code shall be punishable by a fine not exceeding one hundred dollars (\$100.00) for a first violation; a fine not exceeding two hundred dollars (\$200.00) for a second violation of the same provision within one year of the date of the

first violation; a fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same provision within one year of the date of the violation.

Except as otherwise provided by law, all provisions of law or ordinance relating to misdemeanors shall apply to infractions.

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

(D) Notice and Order Process. The City may utilize any of the procedures set forth in this Ordinance as well as the Notice and Order Process set forth in Chapter 7.07 of this Code or in any state law provision.

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

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

The City Attorney has discretion to institute the appropriate civil action to ensure compliance with the Orange Cove Municipal Code, including but not limited to an action for a temporary restraining order, a preliminary or permanent injunction, an action to recover damages incurred as a result of any Code violation.

1.18.050 **Administrative Citations and Penalties.** The City Council finds that there is a need for an alternative method of enforcement of violations of the Municipal Code. The City Council further finds and declares that an appropriate method for enforcement for violations of the Code is the following administrative citation and civil penalty program.

(A) Administrative Citation. Any person violating any provision of the Code may be issued an administrative citation by an enforcement officer as provided in this Chapter. A separate civil penalty for each violation of the Code may be assessed by means of one administrative citation. The City is authorized under Government Code Sections 36901 and 53069.4 and this Code to recover administrative fines and penalties by civil lawsuit.

(B) Contents. Upon discovering or observing any violation of the Municipal Code, an enforcement officer may issue an administrative citation, in a form approved by the City Manager and City Attorney, to a violator or property owner, with the following contents:

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

- (2) Section(s) of the Code violated and brief description of how the section(s) are violated;
- (3) Description of the action required to correct the violation(s), if applicable; and if applicable, the date by which the violation must be corrected.
- (4) Statement explaining the consequences of failure to correct the violation(s);
- (5) Amount of penalty imposed for the violation(s);
- (6) Explanation of how the penalty shall be paid and the time period by which it shall be paid, and the consequences of failure to pay the penalty;
- (7) Right to appeal, including the name and address of the City Manager for purposes of filing any notice of appeal; and
- (8) Signature of the enforcement officer.

(C) Issuance. Upon discovering or observing a code violation, the Enforcement Officer shall determine the party responsible for the violation. If a business, the responsible person shall be deemed the person who is in immediate control of the business on site that day. The Enforcement Officer may also determine that the owner of the business is the responsible party. The enforcement officer shall attempt to issue the citation to the responsible party for any violation of this Code. The citation officer shall attempt to obtain the signature of the person upon whom the citation was issued. If the responsible party refuses to sign the citation, the Enforcement Officer may either leave the citation with the responsible party or mail the citation to the responsible party by certified and first class mail to the responsible party's business address, principal place of business address, residence address or other address known to the Enforcement Officer by reliable information.

The failure of any person to receive an administrative citation shall not affect the validity of any proceedings taken under this chapter. Notice shall be effective on the date the citation is received if personally served, or the date mailed if the citation was sent by certified mail.

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

(E) Exceptions to Administrative Citation. An administrative citation issued for a continuing violation of a building, plumbing, electrical or other structural or zoning regulation, that does not create an immediate danger to public health or safety, may not be issued until the responsible party has been given a reasonable period of time by the city to correct the violation through a notice of violation, notice and order or other type of corrective notice in accordance with Chapter 7.07 of this Code.

(F) Appeal. Any person issued an administrative citation may contest the contents of the administrative citation by filing an appeal under the City's Administrative Hearing Procedures Ordinance set forth in Chapter 1.28 of this Code. If no appeal is filed within the time prescribed, the penalty shall be final and immediately payable.

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

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

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

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

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

(I) Payment of Fine Without Correction of Violation. Payment of any penalty shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the city.

(J) Collection of Penalty. The city shall collect delinquent under the provisions of the Cost and Penalty Recovery Ordinance and Penalties in Chapter 1.20 of the Code.

(K) Authority to Issue Administrative Citation. The following officers and employees have the authority to issue administrative citations and civil penalties: City Manager, Building Official, Public Works Director, Police Chief and any other person delegated such authority by the City Manager.

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

1.18.060 **Criminal Citations.**

(A) The provisions of Part 2, Title 3, Chapter 5c of the Penal Code, as amended, shall govern the procedures required for criminal enforcement of the Orange Cove Municipal Code.

(B) Criminal Citation Officer. When in this Code, or in any other ordinance of the city, an officer or employee of the city is empowered to enforce, or charged with the duty of enforcing, any particular provision or provisions of this Code or of any other ordinance of the city, the violation of which provision or provisions would constitute a misdemeanor or infraction, the officer or employee so empowered, or so charged with such duty, shall have the authority to issue criminal citations as set forth in this section for the purpose of enforcing this Code. Such public officer or employee shall be deemed a criminal citation officer and shall have all the powers and protection, as conferred pursuant to California Penal Code § 836.5.

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

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

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

(E) Release on Written Promise to Appear. A criminal citation officer exercising the authority pursuant to this section may release the person to be issued a citation on his or her written promise to appear in court. The citation officer shall under no circumstances take the person to be issued a citation into custody.

(F) Refusal to Sign. In the event that the person to be issued a citation refuses to provide his or her written promise to appear in court, a citation officer may summon an Orange Cove Police Department peace officer and request that such peace officer take the person into custody. If the person demands to be taken before a magistrate, the citation officer may summon an Orange Cove City Police officer and request that such peace officer take the person into

custody, or seek assistance of the City Attorney and request that a complaint be prepared and filed against that person.

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

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

(I) Failure to Appear as Misdemeanor. Any person willfully violating his or her written promise to appear in court is guilty of a misdemeanor regardless of the disposition of the charge upon which the person was originally arrested.

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

1.18.070 **Issuance of Permits; Violations of Law.** When in this Code, or in any other ordinance of the city, an officer or employee of the city is empowered and has the duty to issue a regulatory permit, and the officer or employee has reason to believe that the applicant is engaged in, or has on his premises a violation of law, ordinance, or city regulation, and exercise of the permit will propagate, encourage, or perpetuate the violation, then the officer or employee, with the approval of the City Attorney, may refuse to issue the permit until such time that it is established that the violation has been abated or does not exist, provided that the officer or employee may, with the permission of the City Attorney, issue the permit upon conditions reasonably calculated to eliminate the violation and in such case the permit may be revoked upon failure to perform or conform to the condition.

1.18.080 **Adjudicatory Decisions.** The provisions of Section 1094.6 of the California Code of Civil Procedure shall be applicable to all adjudicatory decisions of the Council, any board or commission established pursuant to this Code, and any hearing officer pursuant to the Administrative Hearing Ordinance in this Code.

1.18.090 **Severability.** If any section, subsection, phrase, or clause of this Chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Chapter. The City Council hereby declares that it would have adopted this Chapter and each section, subsection, phrase, or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared invalid.

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

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Orange Cove held on _____, 20__, and was passed and adopted at a regular meeting of the City Council held on _____, 20__, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

APPROVED:

City Clerk

Mayor, City of Orange Cove

ORDINANCE NO. 375

**AN ORDINANCE OF THE CITY OF ORANGE COVE REPEALING
CHAPTER 1.20 OF TITLE 1 OF THE ORANGE COVE MUNICIPAL
CODE AND ADDING NEW CHAPTER 1.20 TO TITLE 1 OF THE
ORANGE COVE MUNICIPAL CODE RELATING TO COST
RECOVERY FOR CODE ENFORCEMENT**

THE CITY COUNCIL OF THE CITY OF ORANGE COVE DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 1.20 of Title 1 is hereby repealed.

SECTION 2. Chapter 1.20 is added to Title 1 of the Orange Cove Municipal Code to read as follows:

COST RECOVERY FOR CODE ENFORCEMENT

1.20.010	Title
1.20.020	Findings and Purpose
1.20.030	Definitions
1.20.040	Recovering Abatement and Enforcement Costs and Penalties
1.20.050	Invoice of Costs
1.20.060	Administrative Review of Costs
1.20.070	Recovery of Administrative Penalties
1.20.080	Recovery of Enforcement Costs
1.20.090	Recovery of Abatement Costs
1.20.100	Personal Obligation
1.20.110	Lien
1.20.120	Special Assessment
1.20.130	Recovery of Graffiti Abatement Costs
1.20.140	Subsequent Civil or Criminal Judgment
1.20.150	Repair and Demolition Fund

1.20.010 **Title.** This ordinance shall be known as the “Ordinance for Cost Recovery for Code Enforcement.”

1.20.020 **Findings and Purpose.** The City Council finds that substantial public resources are spent each year to enforce the Code and State laws enacted to protect the public health, safety and welfare of the City and its residents. The Council finds that the responsibility of these costs should be properly placed on those persons responsible for violating the Code or State laws and or causing public nuisances. The City Council further finds that the recovery of costs incurred by the city to enforce these laws and to collect penalties issued to those persons causing public nuisances and or violating these laws is important in deterring future violations and maintaining the integrity of the city's code enforcement system. The purpose of this Chapter is to provide a means for the City of Orange Cove to recover these costs and penalties from those

persons responsible for creating, causing, committing or maintaining a public nuisance or Code or State law violation.

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

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

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

(C) "Bona Fide Purchaser" means a person who (i) purchases any portion of the subject property after the city incurs abatement costs or enforcement costs and (ii) at the time he or she acquired his or her portion of the subject property did not have actual or constructive knowledge of the city's interest in the property.

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

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

(F) "Noticed Party" means the person or entity that is required to be noticed in the underlying abatement or enforcement action in which costs were incurred, but in all cases must include the

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

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

(H) "Public Nuisance" means a public nuisance as declared or defined by any provision of the Code.

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

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

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

1.20.040 **Recovering Abatement and Enforcement Costs and Penalties.**

(A) Special Assessment and Lien or Personal Obligation. The cost of abating a public nuisance and or enforcing the Code or State law shall either be a lien on the subject property, a special assessment against the subject property, or the personal obligation of the owner of the subject property and/or the person responsible for creating, causing, committing or maintaining the public nuisance or violating the Code or State law. Costs incurred by the city are recoverable even if a public nuisance or Code violation is corrected by the property owner or other responsible party.

(B) Applicability. This Chapter shall govern the procedures used to recover all abatement and enforcement costs incurred by the city in the abatement of a public nuisance or Code violation and/or the enforcement of the Code or law pursuant to the procedures and authority found in this Code. Additionally, this Chapter shall govern the procedures used to recover administrative penalties imposed pursuant to the procedures and authority found in this Code.

(C) Cumulative Remedies. The remedies provided in this chapter shall be cumulative to any other provided in this Code or by law. Nothing in this Chapter shall prevent the city at any time from accepting payment for unpaid costs or penalties in whole or by way of a payment plan, provided the rules on debts owing to the city are complied with as may be required in the Code.

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1.20.050 **Invoice of Costs.**

(A) Accounting. The enforcing department shall keep an itemized account of the abatement and or enforcement costs incurred by the City. Those costs shall be included in a report that includes a description of the abatement and/or enforcement action taken by the City and where applicable the address, APN or other description of the subject property.

(B) Notice of Invoice. The enforcing department may invoice the noticed party for the costs incurred by the City.

(C) Invoice. The invoice shall notify the noticed party of the following:

(1) A description of the abatement or enforcement action taken by the city, a description of the property subject to the abatement or enforcement, and the total amount of the costs incurred by the city. The requirements of this subsection may be met by providing the noticed party with a copy of the report required under Subsection (A) of this section.;

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

(3) That the noticed party has a right to administrative review of the accounting costs incurred by the City by filing a written request for such review with the City Clerk within fifteen (15) days of the date of the invoice and that a failure to request administrative review will be deemed a waiver of the right to review the amount of the costs.

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

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

(D) Recording. The enforcing department may record the invoice as a Notice of Costs or Penalties in the County Recorder's Office. Once payment is received for the outstanding costs and/or penalties, or there has been a successful appeal following administrative review, and no further action will be taken under this Chapter, the enforcing department shall record a Notice of Satisfaction. The Notice of Satisfaction shall be filed with a copy of the original invoice of costs and shall state that no further action by the city will be taken to collect the costs referred to in the invoice of costs.

(E) *This section 1.20.040 is inapplicable to the collection of unpaid administrative penalties.*

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ORDINANCE NO. 376

AN ORDINANCE OF THE CITY OF ORANGE COVE ADDING CHAPTER 1.28 TO TITLE 1 OF THE ORANGE COVE MUNICIPAL CODE AND AMENDING SECTION 1.18.080, AND REPEALING SECTIONS 1.18.090, 1.18.100, 1.18.110, AND 1.18.130 OF THE ORANGE COVE MUNICIPAL CODE RELATING TO ADMINISTRATIVE HEARING PROCEDURES.

THE CITY COUNCIL OF THE CITY OF ORANGE COVE DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 1.18.080 is hereby repealed.

SECTION 2. Sections 1.18.090, 1.18.100, 1.18.110, and 1.18.130 are hereby repealed.

SECTION 3. Chapter 1.28 is added to Title 1 of the Orange Cove Municipal Code to read as follows:

ADMINISTRATIVE HEARING PROCEDURES ORDINANCE

1.28.010	Title
1.28.020	Applicability
1.28.030	Rules and Regulations
1.28.040	Hearing Officer Selection
1.28.050	Services of Process
1.28.060	Filing a Notice of Appeal
1.28.070	Conduct of Hearing
1.28.080	Hearing Officer Authority
1.28.090	Decision

1.28.010 **Title.** This chapter shall be known as the “Administrative Hearing Procedures Ordinance.”

1.28.020 **Applicability.** Except where specifically provided otherwise in this Code, this chapter shall provide the procedures, rules and standards for all administrative hearings provided under this Code or administrative hearings provided under rules or regulations promulgated pursuant to this Code.

1.28.030 **Rules and Regulations.** The City Manager may adopt rules, regulations, policies, and procedures, that are consistent with the intent or provisions of this ordinance as may be necessary or desirable to aid in its administration or enforcement.

1.28.040 **Hearing Officer Selection.** Hearing officers may be selected as follows:

(A) The City Manager may appoint any person willing to serve without compensation or valuable consideration or promise of future compensation or valuable consideration, on a case by case basis.

(B) The City Manager may appoint a State Administrative Law Judge under a contract with the Office of Administrative Hearings or a hearing officer or an arbitrator employed by a private independent arbitration service, such as JAMS or the American Arbitration Association, on a case by case basis.

(C) The City may award a contract to a person to serve as permanent hearing officer. The permanent hearing officer shall be hired under a contract with a minimum one year term. The hearing officer may not be terminated without cause and the basis for termination shall not be related to the outcomes and/or administration of hearings.

1.28.050 **Service of Process.** Service of any notice, hearing packet, or order under this chapter shall be by personal service or first class mail to the last known address. The date of service shall be considered the date the notice, hearing packet or order was personally served or three days after the date of mailing.

1.28.060 **Filing a Notice of Appeal.**

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

(B) Notice of Appeal. Unless otherwise provided in this Code, a notice of appeal shall be filed in writing with the City Clerk within **fifteen calendar days** after the service of the order, citation, decision, or determination appealed. The appeal shall contain the following:

1. The name, address, and telephone number of the appellant;
2. A statement describing the appellant's legal existing interest in the property, right or entitlement subject to the city order, citation, decision or determination sought to be appealed from;
3. A brief description of the specific order, citation, decision, or determination being appealed;
4. A statement of the relief sought;
5. The reasons why such relief should be granted.

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

(D) Defective Notice of Appeals. If, in the opinion of the City Clerk, the appeal or an amended appeal fails to comply substantially with the requirements of this section, the City Clerk may give written notice of such insufficiency to the appellant, stating with particularity the defects or omissions therein. Failure of the appellant to file an amended appeal within seven calendar days of the date of service of such notice of insufficiency shall constitute a waiver of the appeal. Failure of the City Clerk to give notice of any insufficiency within seven calendar days shall result in the appeal being heard on its merits, without regard to any insufficiency.

(E) Notice of Hearing. Upon receipt of an appeal, or if notice of insufficiency is given in accordance with this section, upon receipt of an amended appeal within the time specified, the City Clerk shall cause on copy to be stamped indicated the date of receipt. The City Clerk shall set the appeal for hearing and shall give to the appellant and to the officer or employee whose order, citation, decision, or determination is being appealed not less than fifteen calendar days written notice of the date, time, and place of hearing. The appellant may waive the fifteen calendar days written notice, so long as said waiver is in writing and filed with the City Clerk. The notice of the hearing to the appellant shall include a statement as to the appellants' rights as provided in this chapter.

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

1.28.070 **Conduct of Hearing.**

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

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

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

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

(E) Scope. The scope of the hearing shall be limited to the order, citation, decision, or determination being appealed, the grounds for relief raised in the notice of appeal and any specific requirements of this Code.

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

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

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

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

(J) Communication with Hearing Officer. Other than at the hearing, there shall be no direct oral communication between the parties and the hearing officer on any matter related to the hearing without both parties being present. Any written communication to the hearing officer by a party shall be copied and served to the other party. This limitation shall not apply to the City Clerk or other designee who shall serve as liaison with the Hearing Officer.

(K) Record Keeper. The City shall maintain the administrative record of the hearing.

1.28.080 **Hearing Officer Authority.**

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

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

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

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

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

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

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

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

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

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

1.28.090 **Decision.**

(A) Decision. Unless otherwise provided in this Code or agreed by the parties, within fifteen days of the conclusion of the hearing, after the hearing officer has considered all evidence presented and the relevant standard of review, the hearing officer shall issue a written decision. The decision shall include a statement of the issues, findings of fact, a summary of the relevant evidence, and the order. The decision shall be served upon the responsible party in the same manner as service of Notice of Hearing in 1.28.060 (E).

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

(C) Effective. Unless otherwise provided in the Code or the hearing officer's decision, the decision shall be effective upon date of service.

(D) Notice of Code of Civil Procedure Section 1094.6. Hearing officer decisions shall include a notice that the appellant has ninety days to pursue a petition for a writ of administrative mandamus of the decision under Code of Civil Procedure Section 1094.6 except that decisions in

Administrative citations shall contain the following statement in substantially the following form:

“This decision is the final decision of the City. You have the right to seek judicial review of the decision pursuant to Government Code Section 53069.4 by filing an appeal with the Municipal Court. The time to file the appeal is twenty (20) days after service of this decision. These are your only rights to judicial review. If you fail to file an appeal within the prescribed time, you will be barred from seeking judicial review.”

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

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Orange Cove held on _____, 20__, and was passed and adopted at a regular meeting of the City Council held on _____, 20__, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

APPROVED:

City Clerk

Mayor, City of Orange Cove

ORDINANCE NO. 377

AN ORDINANCE OF THE CITY OF ORANGE COVE AMENDING Chapter 15.17 OF TITLE 15 OF THE ORANGE COVE MUNICIPAL CODE RELATING TO SUBSTANDARD HOUSING, UNSAFE STRUCTURES, AND UNSAFE USE OF PROPERTY--NUISANCES.

THE CITY COUNCIL OF THE CITY OF ORANGE COVE DOES ORDAIN AS FOLLOWS:

SECTION 1. Current Chapter 15.17 of Title 15 of the Orange Cove Municipal Code is repealed.

SECTION 2. New Chapter 15.17 of Title 15 of the Orange Cove Municipal Code is added to read as follows:

Chapter 15.17

SUBSTANDARD HOUSING, UNSAFE STRUCTURES, AND UNSAFE USE OF PROPERTY--NUISANCES

15.17.010 Public Nuisance
15.17.120 Definitions
15.17.130 Applicability of Nuisance Abatement Ordinance

15.17.010 – Public Nuisance. The following conditions are in addition to the public nuisances described in the City’s Nuisance Abatement Ordinance as set forth in Chapter 7.07 of this Code.

- A. Any property or portion thereof which, as the result of the development, use, and/or conditions created thereon, has become unsafe, injurious to health, indecent, offensive to the senses, or which unlawfully obstructs free passage or use in the customary manner of any city park, street, or highway, or which constitutes a fire hazard.
- B. Any dangerous building or structure; and
- C. Any substandard housing or dwelling.

15.17.120 – Definitions. For the purpose of this chapter, the words set out in this section shall have the following meanings:

- A. “Abandoned building or structure” means any building or structure which has not been actively utilized for a lawful purpose, which has not been maintained, and which has not been rendered inaccessible to members of the public by boarding or similar means, for a continuous period of not less than six months.

B. "Dangerous building or structure" means that the condition or defect hereinafter described exists to the extent that life, health, property or safety of the public or its occupants are endangered:

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size, or is not so arranged as to provide safe and adequate means of exit in case of fire or panic;

2. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed in the city building code for new buildings of similar structure, purpose, or location;

3. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the city building code for new buildings of similar structure, purpose, or location; or

4. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

5. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the city building code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the city building code for such buildings;

6. Whenever any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;

7. Whenever the building or structure, or any portion thereof, because of dilapidation, deterioration, or decay; faulty construction; the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; the deterioration, decay or inadequacy of its foundation; or any other cause, is likely to partially or completely collapse;

8. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used;

9. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base;

10. Whenever the building or structure, exclusive of the foundation, shows thirty-three percent or more damage or deterioration of its supporting member or members, fifty

percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings;

11. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated through lack of maintenance, as to become an attractive nuisance to children; a harbor for vagrants, criminals or immoral persons; or as to enable persons to resort thereto for the purpose of committing unlawful or immoral acts;

12. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion, less than fifty percent, or in any supporting part, member or portion less than sixty-six percent of the strength, fire resisting qualities or characteristics, or weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location;

13. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise is determined by the enforcement officer, to be unsanitary, unfit for human habitation or in such condition that is likely to cause sickness or disease;

14. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire resistive construction, faulty electric wiring, faulty gas connections or heating apparatus, faulty construction, or other cause, is determined to be a fire, health, or safety hazard;

15. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure;

16. Whenever any building or structure is abandoned.

C. "Substandard housing" and/or "unsafe use of property" means, in addition to the conditions described in subsections 1 through 4 above, and the definition of "substandard building" as set forth in the State of California Health and Safety Code Section 17920.3, as amended, that one or more of the following conditions or defects are present in a dwelling unit, guest room, suite of rooms or the premises on which the same are located; or a condition created on the property through use of the property, which are ordinarily and customarily used for human habitation, to the extent that life, limb, health, safety, or property of the occupants or the public are in danger:

1. Inadequate sanitation, which shall include but not be limited to the following:
 - a. Lack of or improper water closet, lavatory, bathtub or shower in a dwelling unit;
 - b. Lack of or improper water closet, lavatories, and bathtubs or showers per number of guests in a hotel;

- c. Lack of or improper kitchen sink;
 - d. Lack of hot and cold running water to plumbing fixtures in a hotel;
 - e. Lack of hot and cold running water to plumbing fixtures in a dwelling unit;
 - f. Lack of adequate heating facilities;
 - g. Lack of or improper operation of required ventilation equipment;
 - h. Lack of minimum amounts of natural light and ventilation as required by Title 15 of this code;
 - i. Room and space dimensions less than required by Title 15 of this code;
 - j. Lack of required electrical lighting;
 - k. Excessive dampness in habitable rooms;
 - l. Excessive infestation of insects, vermin, or rodents;
 - m. General dilapidation;
 - n. Lack of connection to functional sewage disposal system;
 - o. Discharge of sewage on the surface of the ground; and
 - p. Lack of an adequate and safe water supply.
2. Structural hazards, which include but are not limited to the following:
- a. Deteriorated or inadequate foundations;
 - b. Defective or deteriorated flooring or floor supports;
 - c. Flooring or floor supports of insufficient size to carry imposed loads with safety;
 - d. Members of walls, partitions or other vertical supports that split, lean, list, or buckle due to defective material or deterioration;
 - e. Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety;
 - f. Members of ceiling, roofs, ceiling and roof supports or other horizontal members which sag, split, or buckle due to defective material or deterioration;
 - g. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety;

11. Inadequate fire-protection or fire-fighting equipment, which means all buildings or portion thereof which are not provided with the fire-resistive construction or fire-extinguisher systems or whose fire-resistive integrity and fire-extinguishing systems or equipment have not been adequately maintained and improved in relation to any increase in occupant load, alteration, addition, change in occupancy, or change in use;

12. The presence, disposals, releases or threatened releases of hazardous substances, or hazardous wastes, on from, or under the property. The terms "disposal," "releases," "threatened release," "hazardous substances" and "Hazardous wastes" shall have definitions assigned thereto by the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601, as amended. Also including all hazardous materials that is defined by the State of California Health and Safety Code Sections 25117 and 25124;

13. Overcrowding as defined by the Uniform Housing Code.

15.17.130 - Applicability of Nuisance Abatement Ordinance. The City's Nuisance Abatement Ordinance as set forth in Chapter 7.07 of this Code shall apply to enforcement of public nuisance conditions described in this chapter

SECTION 3. The City Clerk is authorized to cause this ordinance or a summary of this ordinance to be published in a newspaper of City circulation in the Reedley Exponent, a newspaper of City circulations published and circulated in the City of Orange Cove, within fifteen (15) days after its adoption. If a summary of the ordinance is published, the City Clerk shall cause a certified copy of the full text of the proposed ordinance to be posted at City Hall at least five (5) days prior to the meeting at which the ordinance is adopted and again after the meeting at which it is adopted. The ordinance shall become effective thirty (30) days after its adoption.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Orange Cove held on _____ and was passed and adopted at a regular meeting of the City Council held on _____ by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

APPROVED:

City Clerk

Mayor, City of Orange Cove

