



REPORT TO CITY COUNCIL

MEMORANDUM

AGENDA ITEM NO: 10

COUNCIL MEETING DATE: August 25, 2009

SUBJECT: *Consideration to payoff remaining debt for the Reedley Business and Community Development Corporation, dba the Reedley Chamber of Commerce.*

RECOMMENDATION:

Pay the portion of local debt, incurred and remaining, while the Reedley Business and Community Development Corporation was doing business as the Reedley Chamber of Commerce in the amount of \$447.00.

BACKGROUND:

The Reedley Business and Community Development Corporation (RBCDC) dba chamber of commerce, while dissolving, has incurred a total debt in the amount of \$7,841.56.

The Greater Reedley Chamber of Commerce will be taking over the new phone line and will therefore pay the \$604.46 owed to Verizon. The City would pay the debt, \$250, for the blossom trail posters to the Sanger Chamber, once we have them in our possession. The Greater Reedley Chamber of Commerce will be purchasing the furniture and list of business names from the old chamber for approximately \$1,000.

This then will leave the local portion of the debt in the amount of \$447 for which the City could pick up those cost. This leaves a total debt left to pay of \$5,540.10 which is attributed to nonpayment of employee tax to the IRS since March 2008.

Staff does not feel the Reedley Business and Community Development Corporation fulfilled its obligation as a Chamber in 2008 and 2009 during my tenure as the City Manager. While benefit can be derived from the majority of local debt incurred by the RBCDC through the City receiving a physical benefit in return for its contribution, it is not the case with the staffing or employees of the RBCDC. It is also staff's understanding, after speaking with legal counsel, that the IRS debt is a debt of the corporation and not of the individual officers within the corporation. This I interpret to mean that the IRS will write off the debt as uncollectable.

The City has spent hours of both the City Manager's and then Assistant City Manager's time working with the corporation to help make the organization stable and fiscally sound. The City has also written off the legal debt loan and streetscape fee as a loss in the amounts of \$2,916.33 and \$49.50 respectively, knowing the dissolution of the corporation was in progress. Staff asks for Council's direction as to finalizing the debt of the Reedley Business and Community Development Corporation dba The Reedley Chamber of Commerce.

FISCAL IMPACT:

Budgeted item: No
Expenditure: ONE TIME
Fund Acct(s): Staff to recommend

Approved by:  City Manager

Attachment(s): Former Chamber Debt Report by Donna Cole

Motion: _____

Second: _____

**Former Reedley Chamber of Commerce
Closed 3/31/09**

Creditor	Balance	Notes
Verizon Phone & Fax 638-3548 /	\$604.46	New Board approved paying it. Per Carroll
Blossom Trail Poster billed by Sanger	\$250.00	Est. 10 copies left
Total	\$ 854.46	
Garner's Stationery *	\$ 316.00	Bill every month
Mid Valley Publishing *	\$ 277.00	Bill every month
Odyssey Computer	\$ 100.00	Jay Reimer
Sanborn & Sanborn	\$ 500.00	Accountant
Signal Communication *	\$ 254.00	
Total	\$ 1,447.00	
IRS 940/941 EE end Filings		
March 31, 2008 *	\$ 870.00	Levy for payment, acct closed.
June 30, 2008 *	\$ 2,599.19	Rec'd Final notice 8/3/09
September 30, 2008 *	\$ 1,317.70	Rec'd Final notice 8/3/09
March 31, 2009 Closed	\$ 753.21	Rec'd Final notice 8/3/09
Total	\$ 5,540.10	
Total Estimate due to finance charges every month and penalties added to the amount.*	\$ 7,841.56	<p>1. Rec'd letter from IRS terminating RBCC's 501 C status retro back to 3/31/09; still waiting for a letter from the Secretary of State dissolving corporation.</p> <p>2. Still have old RCC furniture sitting in Suite 102 & 104, conference room & the small storage area since 3/31/09.</p> <p>3. Please let me know if you want the furniture or I will give it to Salvation Army and/or Thrift Store no later than August 31, 2009.</p>

Report by Donna J Cole as of August 4, 2009



REPORT TO CITY COUNCIL

MEMORANDUM

AGENDA ITEM NO: 11

COUNCIL MEETING DATE: August 25, 2009

SUBJECT: *Ordinance 2009-004, an ordinance of the City Council of the City of Reedley amending the Animal Control Ordinance, Sections 5-3-1 through 5-3-34 of Title 5, Chapter 3 of the Reedley Municipal Code*

RECOMMENDATION:

Introduce Ordinance No. 2009-04, an ordinance of the City Council of the City of Reedley amending the Animal Control Ordinance, Sections 5-3-1 through 5-3-34 of Title 5, Chapter 3 of the Reedley municipal Code.

BACKGROUND:

The existing Animal Control Ordinance contains provisions dating back to the 1920s and 1930s. In addition to many of the provisions being outdated, the existing ordinance also does not adequately address the prohibition or limitation of certain animals in residential zones. Finally, the existing ordinance lacks a clear and adequate procedure for the City to deal with vicious animals so as to protect the public safety. As a result, the police department has been faced with numerous challenges in enforcing the existing animal control regulations.

Police Department staff and Fire Department staff are responsible for enforcing the Animal Control Ordinance, and have reviewed the existing ordinance and worked with the City Attorney's office in preparing the amended ordinance. The amended Animal Control Ordinance includes the necessary provisions to bring the ordinance up to date to protect public health and safety, provide adequate guidelines for enforcement, and make it consistent with the City's zoning ordinance.

FISCAL IMPACT

Budgeted Item: NA
Expenditure : NA
Fiscal Account: NA

Prepared by:

_____ Chief of Police

Approved by:

 _____ City Manager

Attachments:

09sw

ORDINANCE NO. 2009-04

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REEDLEY
AMENDING CHAPTER 3 OF TITLE 5 OF THE REEDLEY MUNICIPAL
CODE RELATING TO ANIMAL CONTROL**

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

SECTION 1: Chapter 3 of Title 5 of the Reedley Municipal Code is hereby amended to read as follows:

CHAPTER 3

ANIMAL CONTROL

Sections:

- 5-3-1: Definitions
- 5-3-2: Pound Master
- 5-3-3: Impoundment of Animals
- 5-3-4: Trespassing; Seizure
- 5-3-5: Record of Impoundment
- 5-3-6: Duties of Animal Control Officer
- 5-3-7: Authority of Pound Master and Animal Control Officer
- 5-3-8: Animal Care
- 5-3-9: Limits on Number of Dogs and Cats
- 5-3-10: Excessive Noise; Nuisance
- 5-3-11: Animals at Large Prohibited
- 5-3-12: Animal Bites
- 5-3-13: Animals Bitten by Other Animals
- 5-3-14: Bringing Animal into City
- 5-3-15: Dogs: License Required
- 5-3-16: Issuance of License and Tag
- 5-3-17: Rabies Vaccinations Required
- 5-3-18: Impoundment of Unlicensed Dogs
- 5-3-19: Confinement of Dogs Less than Four Months of Age
- 5-3-20: Redemption of Impounded Animals
- 5-3-21: Impoundment Fees
- 5-3-22: Disposition of Impounded Animals; Abandonment

- 5-3-23 Prohibition of Farm Animals and Wild Animals
- 5-3-24 Prohibition of Certain Reptiles
- 5-3-25 Care of Feral Cats and Dogs
- 5-3-26 Feeding of Birds and Wild Animals
- 5-3-27 Commercial Animal Establishments
- 5-3-28 Prohibition of Vicious Animals
- 5-3-29 Procedure to Determine if Animal is Vicious
- 5-3-30 Petition to Declare Animal as Vicious
- 5-3-31 Administrative Hearing
- 5-3-32 Hearing Decision
- 5-3-33 Disposition of Vicious Animal
- 5-3-34 Dogs in Camacho Park and Sports Park

5-3-1: Definitions:

The following terms as used in this chapter shall have the meaning ascribed to them in this section as follows:

Animal: Any living vertebrate member of the animal kingdom, excluding man.

Animal Control Officer: Any person designated by the State of California, City of Reedley, or Fresno County as an animal control officer who is authorized to perform such duties under the laws of this State or this Chapter.

Animal Shelter: Any facility that is on property owned by the City of Reedley, operated by a humane society, or a public agency, or its authorized agents for the purpose of impounding or caring for animals held under the authority of this Chapter or State law.

At Large: Shall mean off the premises of the person owning or having the possession, charge, custody, or control of the animal and not under the immediate control of a person by means of an enclosure, leash, rope, chain or other means of immediate effective physical control. At large shall also mean when the animal is on the premises of the person owning or having possession, charge or custody of the animal and not under the immediate effective physical control of said person sufficient to prevent ingress and egress of the animal.

Bird: Any member of the bird family, including, but not limited to, parakeets, cockatiels, macaws, parrots, finches, conures and swans, domesticated to serve as a pet.

Breeder: Any person, persons or business who breeds two (2) or more litters of dogs in one year for sale or profit.

Cat: Any member of the feline family, wild or domesticated, and shall be intended to mean both male and female.

Commercial Animal Establishment: Any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, performing animal exhibit, or boarding kennel.

Dog: Any member of the canine family, wild or domesticated, and shall be intended to mean both male and female.

Domestic Animals: Animals that are ordinarily permitted in a place of residence and habituated to live on or about the habitations of persons, and kept for company and pleasure.

Excessive Noise; Barking, howling, whining, screaming, screeching, squeaking, squawking, or any noise which is loud, frequent, and continual over a period of time and which disturbs the peace and comfort of a person of ordinary sensitivity. The following shall be presumed to disturb the peace and comfort of a person of ordinary sensitivity: (1) excessive noise for a continuous period of ten (10) minutes; or (2) excessive noise for a continuous period of five (5) minutes on three separate occasions within any sixty (60) minute period. Continual shall mean excessive noise with intervals of less than sixty (60) seconds between the noise. Provided, however, it shall not be deemed to be excessive noise if at the time of the noise a person or persons were teasing or provoking the animal or trespassing or threatening to trespass upon the private property of the owner.

Farm Animal: any chicken, goat, pig, cow, mule, sheep, horse, duck, goose or other species of bird, fowl, livestock, bovine, porcine, ovine or equine animal commonly kept or raised on a farm, except for dogs or cats that are licensed as otherwise allowed as provided in this Chapter or by state law.

Fowl: Any chicken, duck, goose, turkey, guinea, pigeon, peacock or other fowl.

Hearing Officer: The Pound Master or any designee of the Pound Master.

Impoundment: Shall mean the taking up and confinement of any animal in an animal shelter, veterinary hospital, or other facility.

Kennel: Any premises, wherein any person keeps six (6) or more dogs more than four (4) months of age except commercial animal establishments.

Litter: A litter shall be defined as two (2) or more offspring from one or more female dogs located at the same premises.

Livestock: Any large animal kept or raised for use, pleasure, or profit.

Owner: Any person, partnership, firm or corporation owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) consecutive days or more.

Person: Any individual, partnership, firm, corporation, joint venture or entity.

Pet: Any domesticated animal ordinarily permitted in a place of residence, kept for pleasure rather than utility, such as: dogs, cats, birds, guinea pigs, or hamsters.

Pet Shop: Any person, partnership, firm or corporation whether operated separately or in connection with another business enterprise except for licensed kennels, that buy, sell, or board any species of animals.

Pound Master: Shall mean the Chief of Police, unless the City Manager has specifically appointed another City employee to serve as Pound Master, or the City has contracted for the performance of such services. Whenever the term "Pound Master" is used in this Chapter, it shall include his or her designee.

Premises: Shall mean a house, other dwelling, lot, or parcel of land in the City incorporated limits.

Private Property: That property on which a person or persons have the exclusive rights of disposition.

Public Nuisance: Any animal or animals which:

- A. Molests passerby or chases passing vehicles.
- B. Attacks other animals.
- C. Trespasses on school grounds.
- D. Is repeatedly at large.
- E. Damages private or public property.
- F. Barks, whines, or howls or makes any other noise that disturbs the comfort and quiet of any neighborhood or any person.

Public Place: Any park, public building, playground, street, road, alleyway, or other places open to the public.

Reptile: Any cold-blooded animal including, but not limited to, turtles, snakes, lizards, crocodiles and alligators.

Restraint: A leash not in excess of eight feet (8'), a tethered lead, or a fenced enclosure capable of keeping the animal under the control of a responsible person or within the real property limits of its owner.

Unlicensed Dog: Any dog for which the license for the current year has not been paid.

Vaccination or Vaccination against rabies: The inoculation of a dog with a canine check embryo origin modified live virus rabies vaccine, or canine nerve tissue killed virus rabies vaccine, approved by a health officer of the United States public health service for use in the prevention of rabies in dogs.

Veterinary Hospital: Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

Vicious Animal: Any animal, wild or domesticated, that when unprovoked, does any of the following:

- A. Has seriously bitten, inflicted severe injury on, or killed a human being;
- B. On two separate occasions within the prior thirty-six (36) month period has bitten a person causing a less than severe injury;
- C. Has attacked and killed a domestic animal;
- D. On two separate occasions within the prior thirty-six (36) month period has seriously bitten or inflicted severe injury on a domestic animal;

Wild Animal: Shall mean any of the following:

- A. Any non-domesticated animal living in a feral state;
- B. Any animal described in California Fish and Game Code Sections 2116 and 2118, or in any addition to Fish and Game Code Section 2118 by regulation of the Fish and Game Commission as provided for in those sections;
- C. Any animal not normally kept as a domesticated animal or pet, nondomestic species when kept, maintained or harbored in such numbers or in such a manner as to constitute the likelihood of danger to the animals themselves, to human beings or to the property of human beings including, but not limited to, alligators, crocodiles, lions, monkeys and tigers;
- D. Any species of animal which is venomous to human beings whether its venom is transmitted by bite, sting, touch or other means, except honey-producing bees;
- E. A vicious animal over which the owner has evidenced a failure to maintain control.

5-3-2: Pound Master:

The Chief of Police, in addition to this other duties, shall perform the duties of Pound Master, in the absence of a pound master specially appointed. The Chief of Police shall designate a police employee as the Animal Control Officer. In addition, all police officers of the City are required to perform the duties of the Animal Control Officer as may be required by the Chief of Police.

5-3-3: Impoundment of Animals:

The Pound Master, or his designee, shall take up, impound and safely keep any dog, which is found at large contrary to the provisions of this Chapter within the incorporated territory of the City.

5-3-4: Trespassing; Seizure:

Any animal, including but not limited to dogs, found trespassing on private property may be taken up and detained by the owner of the private property and turned over to the Pound Master to be disposed of as provided by law.

5-3-5: Record of Impoundment:

The Pound Master shall keep a record of all impounded animals, including a description of the animal, the date of receipt, the date and manner of disposal. The Pound Master shall provide the necessary subsistence for all animals that are impounded.

5-3-6: Duties of Animal Control Officer:

The duties of the Animal Control Officer shall be as follows:

- A. To take up and impound any dog or other animals (except cats), found at large, staked, or tied in any public place within the City or upon the premises of any person other than the owner of such dog.
- B. To make a complete registry of impounded animals, entering the date of receipt, the breed, color, and sex of the animal, and if licensed, the number of such license and the name and address of the owner.
- C. To notify by mail or phone the owner of any animal, bearing identification, impounded by the Animal Control Officer, and informing the owner that such animal is confined at the Animal Shelter, and specify the amount necessary to reclaim or redeem the animal and the time period which the animal will be held before destroying or otherwise disposing of the animal.

5-3-7: Authority of Pound Master and Animal Control Officer:

The Pound Master shall have the same authority and powers as granted to Animal Control Officers. Authority or powers granted specifically to the Pound Master may only be exercised by the Pound Master or his or her authorized designee.

- A. Authority: Each Animal Control Officer shall have, and is hereby vested with the authority of a public officer. An Animal Control Officer may, in the performance of his or her duties, enter upon any property pursuant to law, to ascertain if any of the provisions of

this Chapter or any State laws relating to disease, care, treatment, or cruelty to animals are being violated. An Animal Control Officer may issue citations for the violation of the provisions of this Chapter, and State law, or City ordinance in the manner prescribed by the ordinance, and remove animals from said premises if deemed necessary. The authority to issue citations in the manner prescribed by the City shall be alternative to any other authority provided by law.

- B. **Police Powers:** An Animal Control Officer of the City shall have police powers in the enforcement of this Chapter and no person shall interfere with, hinder, molest or abuse any Animal Control Officer of the City in the exercise of such powers.
- C. **Animal Control Devices:** In the performance of duties for the control of animals, an Animal Control Officer shall have the authority to employ the use of a tranquilizer gun or other animal control devices in common use with the State of California.
- D. **Quarantine of Suspected Animal:** Whenever the owner of any animal shall observe or learn that the animal has rabies; has symptoms of rabies; has been exposed to rabies or has acted in a manner that would lead the owner to suspect that the animal might have rabies, the owner shall immediately notify the Pound Master or Animal Control Officer and shall allow the Pound Master or Animal Control Officer to make an inspection or examination of the animal. Whenever it appears to the Pound Master or Animal Control Officer that the animal has rabies or has been exposed to rabies, the animal shall be quarantined until it shall be established to the Pound Master's satisfaction that the animal does not have rabies.
- E. **Destruction of Rabid Animals:** If the Pound Master determines that an animal has rabies, the Pound Master shall cause said animal to be destroyed in a lawful manner, which may include destroying the animal immediately if this is the only method available to contain the animal.

5-3-8: Animal Care:

It shall be unlawful for any owner or person having custody of any animal to permit, either willfully or through failure to exercise due care or control, any cruel acts upon any animal. "Cruel Acts" are defined as follows:

- A. To place, leave or expose, making accessible to animals, any poisonous substance.
- B. To have, keep, or harbor any animal, which is infected with any dangerous, incurable, or painfully crippling condition, except as hereinafter provided. All such diseased or crippled animals with an incurable ailment taken into custody by the City shall be transferred to the Pound Master for impoundment. This section shall not apply to animals within veterinary hospitals or under the care of a veterinarian, or having been

diagnosed with any common, incurable disease where impoundment or quarantine is not recommended by a veterinarian.

- C. To fail, refuse, or neglect to provide any animal in their charge or custody as owner or otherwise, with adequate food, drink, shade, sanitary shelter, and protection from weather, or to carry any animal in or upon any vehicle in a cruel or inhumane manner.
- D. To willfully, or maliciously kill, maim, disfigure, torture, beat with a stick, chain, club, or other object, mutilate, burn, scald with any substance, overwork or otherwise abuse any animal as provided In Penal Code section 597, except that a reasonable force may be employed to drive off vicious or trespassing animals.
- E. To hobble livestock or other animals by means of chains, which are composed of, tempered or other permanent wire links.
- F. To drive or work any animal in a cruel manner when such animals is unfit for such work.
- G. To promote, stage, hold, manage, conduct, carry on, or attend any game, exhibition, contest, or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves or any other animal or person.
- H. No person shall keep upon any premises, any animals in a foul, offensive, obnoxious, filthy or unsanitary condition.

5-3-9: Limits on Number of Dogs and Cats:

No person shall keep, harbor or maintain upon his or her premises within the City more than a total of five (5) dogs over the age or four (4) months, five (5) cats, or any combination of dogs and cats exceeding six (6) unless said person shall obtain a kennel permit in addition to obtaining a license for each dog more than four (4) months of age and shall comply with the kenneling permit requirements of this Chapter, unless said person comes within one of the following conditions:

- A. Upon reasonable showing of necessity to the Animal Control Officer, a person may be permitted to keep a dog or cat on a temporary basis for a period not to exceed thirty (30) days.
- B. Any person keeping, harboring, or maintaining six (6) or more licensed dogs, six (6) or more cats, or any combination of dogs and cats exceeding six (6) upon any premises in the City on the effective date of this section shall be required to obtain a yearly kennel permit from the City and pay any applicable permit fees in order to continue to keep, harbor, or maintain the dogs and/or cats in excess of the limits in this section. The kennel permit shall be obtained no later than ninety (90) days after the effective date of this

section, and shall be renewed annually for so long as dogs and/or cats in excess of the limits herein are kept, harbored, or maintained on the premises.

5-3-10: Excessive Noise; Nuisance:

- A. No person shall keep or maintain, or cause or permit to be kept or maintained upon any premises within the City limits, any animal which creates excessive noise that disturbs the peace and comfort of any neighborhood or interferes with the reasonable and comfortable enjoyment of life or property by any person. Violation of this section is an infraction.
- B. No person shall keep or maintain, or cause or permit to be kept or maintained, any animal owned by him or in his possession or under his control, which habitually commits a nuisance upon the property of any other person. Violation of this section is an infraction.
- C. Any person convicted of an infraction under the provisions of this Chapter shall be punishable by (1) a fine not exceeding one hundred dollars (\$100.00) for a first violation; (2) a fine not exceeding two hundred dollars (\$200.00) for a second violation of the same provision within one year of the date of the first violation; (3) a fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same provision within one year of the date of the first violation.
- D. If an Animal Control Officer determines upon investigation that there is probable cause to believe that the owner of the animal is maintaining an animal which creates excessive noise, the officer may take the following actions:
 - 1. First offenses. For a first time offense, the officer should issue a warning to the owner of the animal notifying the owner of the excessive noise complaint(s) and inform the owner of steps necessary to correct the problem and the consequences if the owner fails to take corrective steps.
 - 2. Second and subsequent offenses. For a second offense and subsequent offenses, the officer should issue an infraction citation.
- E. Seizure and impoundment. In addition to any other remedy available to the City under this Chapter or the Municipal Code, the investigating Animal Control Officer may seize and impound any animal that is creating excessive noise. The owner of such animal shall be responsible for the costs of impoundment as provided in this Chapter.
- F. Removal of animal from City. Upon a fourth offense within a twelve (12) month period, the animal making the excessive noise shall be deemed a public nuisance and the Pound Master may order the owner to permanently remove the animal from the City limits. A failure to so remove the animal shall be a misdemeanor.

5-3-11: Animals at Large Prohibited:

No owner of any animal, except a cat that has been spayed or neutered, shall cause, permit, or allow any such animal to be at large in the City. A violation of this provision is an infraction. An animal that is at large three or more times within a twelve (12) month period shall be deemed a public nuisance and the Pound Master may order the owner to remove the animal from the City limits. A failure to so remove the animal shall be a misdemeanor. The Pound Master shall have the authority to take up and impound any animal at large, except a cat that has been spayed or neutered.

5-3-12: Animal Bites:

- A. Whenever it is shown that any animal has bitten any person, the owner thereof shall, upon notice from the Pound Master, quarantine it and keep it tied up or confined for a period of ten (10) days and shall allow the Pound Master or other authorized official to make an examination of the animal at any time during the period of quarantine.
- B. The owner of an animal that has bitten a person or domestic animal shall, upon demand from any Animal Control Officer, demonstrate to the officer that the animal has been properly immunized with a rabies vaccine in accordance with the provisions of this Chapter or otherwise release the animal to the Animal Control Officer for inspection or quarantine.

5-3-13: Animals Bitten by Other Animals:

Whenever any animal shall be bitten by another animal having rabies or showing symptoms of having rabies, the owner of the animal so bitten shall, upon being informed thereof, either destroy the animal, quarantine it and keep it confined for a period of at least six (6) month, or place the animal in the care of duly licensed veterinarian for the purpose of having the standard anti-rabies treatment administered and keep the animal confined for a period of at least three (3) weeks after the treatment has been completed. The Pound Master shall have the authority to quarantine, treat, or destroy the animal so bitten if the owner thereof fails to do so immediately or is unavailable.

5-3-14: Bringing Animal into City:

No person shall bring an animal or permit an animal to enter the City if the animal has rabies or has had rabies within six (6) months prior to entering the City, unless the animal has been vaccinated with anti-rabies vaccine, and the owner of the animal has an official tag or other receipt showing that the animal has been vaccinated by a duly licensed veterinarian.

5-3-15: Dogs; License Required:

- A. Every person owning, possessing, keeping, harboring or having custody of any dog over four months old shall obtain a license for each dog. The applicable license fee shall be paid annually. The license fees shall be set City Council resolution. Such license shall be obtained, and the applicable license fee paid within thirty (30) days after the day on which a dog reaches four months old, within thirty (30) days after acquisition of a dog if over four months old, or within thirty (30) days of moving into the City. Any person who enters the City intending to reside in the City beyond a period of thirty (30) days, and who has brought a dog with them from outside the City, shall secure a license and pay the applicable license fee for the dog within thirty (30) days after the person enters the City. A license shall not be issued for any dog unless a valid certificate of rabies vaccination signed by a duly licensed veterinarian showing that the dog has been vaccinated within the prior 12 months is presented and the applicable license fee paid.
- B. The license shall be renewed on January 1 of each year thereafter.
- C. Exemptions:
 - 1. Service dogs for the disabled. Dogs being raised, trained and used to aid disabled persons shall be licensed without fee. Such dogs shall be either a guide dog, service dog, or signal dog as defined in California Civil Code Section 54.1.
 - 2. Government dogs. Dogs owned and used by the city, county, or other public agencies, including dogs used by law enforcement agencies in the performance of law enforcement activity, shall be licensed without fee.
 - 3. Temporary. Dogs brought into the City for the purpose of participating in any dog show or whose owners are nonresidents or temporarily within the City for a period not exceeding thirty (30) consecutive days need not be licensed.

5-3-16: Issuance of License and Tag:

- A. Upon payment of the license fee, the City shall issue to the person making the payment a license certificate and a tag bearing the serial number and year for which the license is issued. The license tag must, in all cases and at all times, be fastened to a suitable collar worn around the neck of the dog for which it was issued. Whenever a tag issued for the then current year has been stolen or lost, the owner of the dog for which the tag was issued may request a replacement tag.
- B. No refunds or credits shall be made on any license because of the death of any licensed animal or the owner leaving the City before the expiration of the license period.

5-3-17: Rabies Vaccinations Required:

- A. Every person who keeps or harbors any dog over the age of four (4) months shall have such dog vaccinated against rabies by a duly licensed veterinarian. Such vaccination shall be at intervals of eighteen (18) months if nerve tissue vaccine is used or twenty four (24) months if chicken embryo vaccine is used.
- B. Every person bringing any dog into the city which has not been so vaccinated within the time stated above prior to importation, shall cause such dog to be vaccinated within thirty (30) days after its arrival in the city.
- C. On demand of the Pound Master, every person keeping or harboring any dog over four (4) months of age shall exhibit to the Pound Master a certificate of a duly licensed veterinarian certifying that said dog has been vaccinated, the date of the vaccination and the type of vaccine used.
- D. The Pound Master shall impound any dog which has not been vaccinated as required by this section.

5-3-18: Impoundment of Unlicensed Dogs:

Any dog upon which the license fee is unpaid, or upon which the owner refuses to pay the license fee, or refuses to have the dog vaccinated as herein required, may be lawfully taken up and impounded by the Pound Master, his designee, or any Animal Control Officer, and it shall be lawful for such officer to enter upon the property of any person for the purpose of enforcing this section.

Any dog taken up and impounded pursuant to this section shall be held at the Animal Shelter. If the owner of the dog fails to take the necessary action to properly license the dog and pay the applicable impound fees to redeem the dog within five (5) days of impoundment, the Pound Master shall cause the dog to be disposed of in any lawful manner.

In addition to the requirements for the license fees, the owner shall also pay redemption and impoundment fees before the impounded dog will be released.

5-3-19: Confinement of Dogs Less than Four Months of Age:

All dogs less than four (4) months of age shall be confined to the premises of, or kept under physical restraint by the owner, keeper, or harbored. Nothing in this Section shall be construed to prevent the sale or transportation of a puppy four (4) months old or younger.

5-3-20: Redemption of Impounded Animals:

The owner or person(s) entitled to the control of any animal, which is impounded, may at any time prior to the lawful disposal of the animal redeem the animal by paying all applicable fees.

5-3-21: Impoundment Fees:

The fees for impoundment and redemption of all animals impounded under this Chapter shall be established by resolution of the City Council.

5-3-22: Disposition of Impounded Animals; Abandonment:

- A. All animals impounded under the provisions of this Chapter shall be disposed of as provided by law; provided that no impounded dog shall be disposed of until after written notice has been given by the Pound Master or his designee to the owner of said dog as provided in this Chapter. If the dog is licensed under the provisions of this Chapter and a City license tag is affixed to the collar of the dog, the notice shall be given to the owner at the address set forth in the City licensing records. If the dog is not licensed and there is no license tag attached to the collar of the dog, no notice need be given, unless the unlicensed dog is impounded pursuant to section 6-3-18 and the dog owner's address is known by the Pound Master or any Animal Control Officer. If no person appears and redeems the dog within five (5) days from the date of mailing of the notice or within (5) days after the dog was impounded, whichever is later, the Pound Master shall cause the dog to be disposed of in any lawful manner.
- B. If any unlicensed dog, or any dog bearing no license tag, is taken up and impounded under the provisions of this Chapter, and is not redeemed within five (5) days of impoundment, the Pound Master may, in his discretion, at any time thereafter, humanely destroy such dog or turn over to the SPCA for disposal.
- C. Except as otherwise provided in this chapter, an impounded animal that is not redeemed within the specified holding period, whether due to a failure to satisfy monetary obligations or otherwise, shall be considered to be abandoned by its owner and shall become the property of the City. Thereafter, such animal may be adopted or euthanized. Abandonment does not relieve the owner's obligation to pay all fees related to the impounding and keeping of the animal.

5-3-23: Prohibition of Farm Animals and Wild Animals:

No person shall keep, harbor, or maintain any farm animal or wild animal on any lot or parcel within the City, unless specifically permitted by the zoning regulations of the City or in connection with bona fide schools, colleges, universities, research organizations, zoos, and laboratories engaged in the field of scientific research and education. Any person keeping, harboring, or maintaining any farm animal or wild animal on the effective date of this Chapter shall have ninety (90) days from the effective date hereof to come into compliance with this Section.

5-3-24: Prohibition of Certain Reptiles:

The keeping of reptiles in the City is limited to turtles, lizards, and non-venomous snakes no longer than six feet in length. No person shall keep, harbor, or maintain any reptile other than turtles, lizards, and non-venomous snakes no longer than six feet in length on any lot or parcel within the City, except in connection with bona fide schools, colleges, universities, research organizations, zoos, and laboratories engaged in the field of scientific research and education. It shall be unlawful for any person to keep, harbor, or maintain within the City any snake that is determined by the Pound Master to be a nuisance or danger to persons or other animals.

5-3-25: Care of Feral Cats and Dogs:

It shall be unlawful for any person within the City to intentionally provide food, water, or other forms of sustenance to a feral cat or feral dog.

5-3-26: Feeding of Birds and Wild Animals:

It shall be unlawful for any person to feed any bird or wild animal outdoors in a manner that creates: harmful health and/or sanitation conditions; destruction of property; unsightly or increased slipperiness of sidewalks; animal dependency; attraction of squirrels, rats and/or other vermin; or otherwise creates an unreasonable disturbance, such as noise, so as to disturb the peace and comfort of two (2) or more persons of ordinary sensitivity from different surrounding households.

5-3-27: Commercial Animal Establishments:

It is unlawful for any person, firm, corporation, or association to erect, establish, and maintain any commercial animal establishment or pet shop without first obtaining a business license from the City. After inspection and approval of the conditions of the commercial animal establishment by the Pound Master, the required business license may be issued by the City. Such license shall be issued pursuant to City licensing regulations, provided any inspection by the Pound Master and other City officials does not reveal any violation of the provisions of this Chapter, the City Building Codes, Zoning Ordinances, or any other ordinance, rules or regulations.

Every person within the City who owns, conducts, manages, a commercial animal establishments for which a City business license or special use permit is required shall comply with each of the following conditions:

- A. Housing facilities shall be structurally sound and shall be maintained in good repair to protect animals from injury and restrict entrance of other animals.
- B. All animals and all animal buildings or enclosures shall be maintained in a clean and sanitary condition.

- C. All animals shall be supplied with sufficient good and wholesome food and water as often as the feeding habits of the respective animals require.
- D. Animal buildings and enclosures shall be so constructed and maintained as to prevent escape of animals.
- E. All reasonable precautions shall be taken to protect the public from the animals and the animals from the public.
- F. Every building or enclosure wherein animals are maintained shall be properly ventilated to prevent drafts and to remove odors. Heating and cooling shall be provided as required according to the physical needs of the animals.
- G. All animal rooms, cages, and runs shall be of sufficient size to provide adequate and proper housing for animals kept therein.
- H. All animal runs shall be of concrete and provided with adequate drainage into an approved sewer or individual sewer disposal installation.
- I. Any animal shall be taken to a licensed veterinarian for an examination and treatment if so ordered by the Animal Control Officer.
- J. Every violation of applicable regulation shall be corrected within reasonable time to be specified by the Animal Control Officer.
- K. Commercial animal establishments shall comply with all other applicable Reedley codes and ordinances.
- L. All commercial animal establishments may be inspected from time to time by an Animal Control Officer to investigate any complaints of violations of the provisions of this Section.

Failure of the applicant for a license or special use permit to comply with any one of the foregoing conditions shall be deemed just cause for the denial of any business license, whether original or renewal and/or the issuance of a citation for violations pursuant to provisions of this Section.

5-3-28: Prohibition of Vicious Animals:

It shall be unlawful for a person to keep a vicious animal. Any animal which has been found to be vicious pursuant to this Chapter, or any other county or city ordinance or any state statute, shall be conclusively presumed to be vicious.

5-3-29: Procedure to Determine if Animal is Vicious:

- A. Whenever an animal suspected of being or vicious is reported, an Animal Control Officer shall investigate the circumstances and if the officer finds that the animal has attacked, bitten, or caused injury to any human or a domestic animal, or shows a propensity to attack or bite people or other domestic animals without provocation, the officer shall notify the owner in writing, stating the facts and circumstances. The Animal Control Officer may order that the animal be kept within an enclosure, securely leashed or otherwise controlled.
- B. If the Animal Control Officer has probable cause to believe an animal may be designated as “vicious” under this chapter, and the owner is unwilling or unable to properly contain or control the animal immediately or the animal poses an immediate threat to the safety of persons or domestic animals, the animal may be seized pending the outcome of a hearing or trial and any appeals conducted pursuant to this chapter, or during the period of time the owner needs to comply with any requirements imposed hereunder. Any animal seized hereunder shall be impounded and kept at the Animal Shelter at the owner’s expense.
- C. The animal’s owner shall be charged for all costs incurred or fees applicable with respect to such impoundment unless a finding is made that the animal is not vicious. An animal held under the provisions of this section shall not be released until the owner pays all applicable costs and fees for impoundment and redemption under this Chapter. If the owner refuses to pay such charges, the animal shall be treated as abandoned by the owner, and disposed of pursuant to Section 6-3-22 of this Chapter. Disposal of the animal does not release the owner from his/her responsibility to pay the impoundment charges.

5-3-30: Petition to Declare Animal as Vicious:

If an Animal Control Officer has investigated and determined that there is probable cause to believe that an animal is vicious, an Animal Control Officer or the Pound Master may prepare a petition to have the animal declared vicious. The petition may be filed with the Court or the City Manager. If filed with the Court, the procedures set forth in Food and Agricultural Code Sections 31621 through 31624, as those sections may be amended from time to time, shall apply. If filed with the City Manager, the procedures set forth in this Chapter shall apply.

5-3-31: Administrative Hearing:

There is hereby created an administrative procedure for the hearing of petitions filed with the City Manager. Hearings for classification as “vicious” shall be conducted as follows:

- A. The owner of the animal shall be given written notice of the hearing, by either first class mail or personal service, a copy of the petition, and notice of the restrictions that will apply to the animal if it is classified as a vicious animal. A failure of the owner to receive notice by first class mail shall not affect the validity of these proceedings. The Animal Control Officer shall also send written notice of the hearing to any alleged victims of the animal.
- B. The owner may waive his/her right to a hearing by filing a written waiver with the Pound Master, whereupon the Pound Master shall make the findings and apply the sanctions provided in this Chapter.
- C. If the animal has not been impounded, the hearing shall be set not less than five (5) working days nor more than thirty (30) calendar days after the notice was mailed to the owner or the owner was personally served. If the animal has been impounded, the hearing shall be set not less than five (5) calendar days after the notice was mailed to the owner or the owner was personally served, and within fifteen (15) calendar days of the date of impoundment. The owner of the animal may agree to an earlier or later hearing date.
- D. If the owner fails to appear at the hearing, the hearing shall nevertheless proceed, and an appropriate order shall be issued.
- E. The hearing shall be conducted before a hearing officer appointed by the City Manager. The Pound Master may not serve as the hearing officer. The hearing shall be conducted informally and the technical rules of evidence shall not apply. The hearing officer shall consider all relevant evidence presented at the hearing. The Animal Control officer filing the petition shall be present at the hearing and shall present evidence that the animal is vicious by witness testimony or affidavits, incident reports, and other records.
- F. In making a determination of whether or not an animal is vicious, evidence of the following may be considered:
 - 1. Any previous history of the animal attacking, biting or causing injury to a human being or other animal;
 - 2. The nature and extent of injuries inflicted and the number of victims involved;
 - 3. The place where the bite, attack or injury occurred;
 - 4. The circumstances surrounding the bite, attack, or injury, including without limitation, the presence or absence of any provocation for the bite, attack or injury;
 - 5. The extent to which property has been damaged or destroyed;

6. Whether the animal exhibits any characteristics of being trained for fighting or attack or other evidence to show such training or fighting;
7. Whether the animal exhibits characteristics or aggressive or unpredictable temperament or behavior in the presence of human beings or dogs or other animals;
8. Whether the animal can be effectively trained to change its temperament or behavior;
9. The manner in which the animal has been maintained by its owner or custodian;
10. Any other relevant evidence concerning the maintenance of the animal; and
11. Any other relevant evidence regarding the ability of the owner or custodian to protect the public safety in the future if the animal is permitted to remain in the City.

5-3-32: Hearing Decision:

- A. After the hearing, the owner or keeper of the animal shall be notified in writing of the hearing officer's decision and any orders issued, either personally or by first class mail. The hearing officer shall prepare a written decision within fifteen (15) days after the hearing is concluded, unless the animal has been impounded, in which case the written decision shall be prepared within five (5) working days after the hearing is concluded. The decision of the hearing officer shall be final. A failure of the owner to receive notice by first class mail shall not affect the validity of the proceedings or any decision or order issued.
- B. If the owner or keeper of the animal contests the hearing officer's decision, he or she may, within five (5) days of the service of the decision if service is by personal service, or within six (6) days of service of the decision if service is by mail, appeal the decision of the hearing officer to the Superior Court, Reedley Division, or other court having jurisdiction. The owner or keeper of the animal shall serve notice of appeal on the City by either first class mail or personally on the City Manager. Any such appeal shall be a trial de novo. The determination of the court hearing the appeal shall be final and conclusive upon all parties.

5-3-33: Disposition of Vicious Animal:

- A. It shall be unlawful for any person to own, possess, harbor or keep any animal declared to be vicious pursuant to this Chapter or any decision following a hearing conducted pursuant to the provisions of this Chapter.
- B. Any animal declared vicious, if not already impounded, shall be immediately surrendered to an Animal Control Officer, and it is the duty of any Animal Control Officer to take up and impound any such animal.

- C. Any animal declared vicious shall be lawfully and humanely destroyed. The Animal Control Officer shall sign an order authorizing the destruction of the animal no sooner than five (5) business days following the hearing officer's decision declaring the animal vicious.

5-3-34: Dogs in Camacho Park and Sports Park:

No dogs shall be permitted in Camacho Park and the Sports Park at any time whether on leash or off leash, except Seeing Eye dogs, police or fire service dogs, or when permitted by the City's park and recreation department for purposes of show or competition. A permit of use shall be obtained from the City's park and recreation department prior to any show or competition of dogs. A deposit for usage and cleanup will be assessed with said permit.

SECTION 2. The City Clerk is hereby directed to cause a summary of this Ordinance to be published by one insertion in a newspaper of general circulation in the community at least five (5) days prior to adoption and again 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 in the office of the City Clerk at least five days prior to the Council meeting at which the Ordinance is adopted and again after the meeting at which the Ordinance is adopted. The summary shall be approved by the City Attorney.

This Ordinance shall take effect and be in full force thirty (30) days from and after its adoption.

The foregoing Ordinance No. 2009-004 was introduced at a regular meeting of the City Council of the City of Reedley held on the ____ day of August, 2009, and was thereafter duly adopted at a regular meeting of said City Council held on the ____ day of September, 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mary L. Fast, Mayor of the City of Reedley

ATTEST:

Kay L. Pierce, City Clerk

REPORT TO CITY COUNCIL



MEMORANDUM

AGENDA ITEM NO.: 12

COUNCIL MEETING DATE: August 25, 2009

SUBJECT: Public Hearing - Zoning Ordinance Amendment No. 2009-1 amending Sections 10-6B-3, 10-6C-3, 10-6B-2A, 10-6B-5C, and 10-6C-2A of the Reedley Municipal Code and adding Section 6D to Chapter 6 of Title 10 of the Reedley Municipal Code relating to second units.

RECOMMENDATION:

Staff recommends the City Council approve Zoning Ordinance Amendment No. 2009-1 by the adoption of Ordinance No. 2009-05.

BACKGROUND:

Assembly Bill 1866 amends the California Government Code regarding provisions for second dwelling units (AB 1866 attached). The amended provisions mandate that a City may not preclude second dwelling units from being constructed within single-family and multiple-family zoned areas and that local ordinance is not enforceable unless it complies with the minimum requirements of state law. The current provisions in the Reedley Municipal Code are not consistent with state law and are largely not enforceable. The City Attorney's office has provided direction regarding amendments to the Reedley Municipal Code necessary for compliance with the changes approved by AB 1866 (letter from City Attorney's Office dated April 14, 2009 attached). The amendments contained in attached Ordinance Amendment No. 2009-1 implement the provisions mandated by AB 1866 and provide legally permissible local development requirements for construction of second dwelling units within single-family and multiple-family zoned areas.

On August 6, 2009 the City of Reedley Planning Commission held a public hearing to review proposed Zoning Ordinance Amendment No. 2009-1 and recommended approval as stated in attached Resolution No. 2009-4.

Zoning Ordinance Amendment No. 2009-1 is exempt from CEQA review: 15282 – Other Statutory Exemptions.

FISCAL IMPACT:

Budgeted item: Yes ___ No X
Expenditure: Ongoing – One Time (pick one or the other)
Fund Acct(s): _____

Prepared by: OB City Planner Approved by: _____ City Manager

Attachments:

1. City Attorney (Lozano Smith) letter dated April 14, 2009.
2. Second Unit Law as Amended by Chapter 1062, Statutes of 2002 (Assembly Bill 1866).
3. Resolution No. 2009-4.
4. Notice of Exemption.
5. Ordinance No. 2009-05 for Zoning Ordinance Amendment Application No. 2009-1.

LOZANO SMITH

Partnering For Excellence In Education and Government

Dale E. Bacigalupi
Attorney at Law

E-mail: dbacigalupi@lozanosmith.com

April 14, 2009

David Brletic, Chief Planner
City of Reedley
1733 Ninth Street
Reedley, California 93654

Re: City of Reedley Second Dwelling Unit Provisions in the Current Municipal Code

Dear David:

Pursuant to your recent request, I have drafted and attached herewith an ordinance to revise the Reedley Municipal Code in a way that will make current those provisions of the Code that address "second dwelling units". The current provisions in the Reedley Municipal Code pertaining to "second dwelling units" are not consistent with state law and are, to a large degree, not enforceable.

As I have previously advised you, the legislature has preempted the field when it comes to second dwelling units in Section 65852.2 of the Government Code and has provided that any local ordinance is not enforceable unless it complies with the minimum requirements of state law as found in Section 65852.2 and, moreover, this statute specifically provides that a city may not totally preclude second dwelling units within single family or multi-family zoned areas, unless, it makes specific findings that there would be specifically identified adverse impacts on the public health, safety, and welfare that would result from allowing second units within single family and multi-family zones. I am not aware of any city that has made such findings and I suggested it would be very difficult to factually support such findings. Moreover, such an ordinance would likely meet with disapproval at the Department of Housing and Community Development at such time as the City's housing element was reviewed.

In addition to the inability to totally preclude second dwelling units, state law also has mandated those elements in a second dwelling unit ordinance that are permissible and not permissible.

Much of your ordinance is not permissible nor enforceable as it presently stands.

The purpose of this letter is to provide you suggestions and advice about the proper standards that can be used to process applications for second dwelling units until such time as the attached ordinance is formally adopted. In the meantime, because of the inconsistencies, there are only

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David Brletic, Chief Planner
City of Reedley
April 14, 2009
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portions of Reedley's ordinance that are enforceable and, therefore, most of your ordinance has been superceded by the provisions of state law.

As a result, please consider the following standard conditions and provisions to apply as you process applications for second dwelling units during this interim period:

1. As a matter of state law, second dwelling units are deemed permitted uses in all single-family and multi-family residential zone districts.
2. As a matter of state law, applications for second dwelling units, which meet the criteria listed below, must be approved ministerially and without discretionary review or hearing and the City's ordinance required a conditional use permit, is not enforceable.
3. You may enforce that portion of the Municipal Code which requires that a covenant running with the land be recorded by the applicant, approved by the City, which requires that at least one of the dwelling units on the property be occupied by an owner of record.
4. The City may enforce its requirement of an additional off-street parking space must be provided for the exclusive use of the second dwelling unit.

The City may also enforce its requirement that the roofing and setting materials shall be consistent or compatible with the primary dwelling unit and the adjacent neighborhood.

The remaining provisions in the Reedley Municipal Code are not enforceable because they are inconsistent with state law, however, the following provisions are mandated by state law and should be followed as you determine whether or not a second dwelling unit application meets the following minimum requirements:

1. Second dwelling unit may be either attached to the existing dwelling and located within the living area of the existing dwelling or may be detached from the existing dwelling but located on the same lot.
2. The increased floor area of an attached second unit shall not exceed 30% of the existing living area.
3. The total area of floor space for a detached second unit shall not exceed 1200 square feet.
4. You may enforce the requirements for the residential zone district in which the proposed second dwelling unit is proposed relating to building height, setback, lot coverage, site plan review (if you require site plan review in a single-family neighborhood for the construction of a single home), fees, charges, and other generally applicable zoning

David Brletic, Chief Planner
City of Reedley
April 14, 2009
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requirements which you would apply to the construction of a single detached dwelling in an existing residential neighborhood.

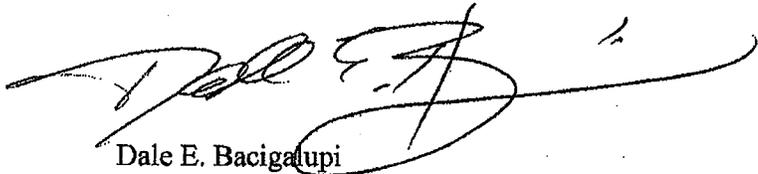
5. Local building codes may be enforced.

For purposes of processing applications for "second units", state law defines "second units" to include the following: an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. A second dwelling unit also includes the following: an efficiency unit as defined in Section 17958.1 of the Health and Safety Code (definition is attached to this letter) and a manufactured home as defined in Section 18007 of the Health and Safety Code (definition also attached to this letter).

Should you have any questions, please contact me.

Sincerely,

LOZANO SMITH

A handwritten signature in black ink, appearing to read "Dale E. Bacigalupi", with a long horizontal flourish extending to the right.

Dale E. Bacigalupi

DEB/sr

Encls.

§ 18007

HEALTH AND SAFETY CODE

§ 18007. Manufactured home

(a) "Manufactured home," for the purposes of this part, means a structure * * * that was constructed on or after June 15, 1976, is transportable in one or more sections, * * * is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, * * * is built on a permanent chassis and designed to be used as a single-family dwelling with or without a * * * foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein * * *. "Manufactured home" includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under * * * the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, * * * and following).¹

(b) Notwithstanding any other provision of law, if a codified provision of state law uses the term "manufactured home," and it clearly appears from the context that the term "manufactured home" should apply only to manufactured homes, as defined under subdivision (a), the codified provision shall apply only to those manufactured homes. If any codified provision of state law, by its context, requires that the term applies to manufactured homes or mobilehomes without regard to the date of construction, the codified provision shall apply to both manufactured homes, as defined under subdivision (a), and mobilehomes as defined under Section 18008.

(Added by Stats.1981, c. 975, p. 3726, § 3. Amended by Stats.1981, c. 975, p. 3782, § 4; Stats.2007, c. 540 (S.B.538), § 4.)

¹ 42 U.S.C.A. § 5401 et seq.

§ 17958.1. Efficiency units

Notwithstanding Sections 17922, 17958, and 17958.5, a city or county may, by ordinance, permit efficiency units for occupancy by no more than two persons which have a minimum floor area of 150 square feet and which may also have partial kitchen or bathroom facilities, as specified by the ordinance. In all other respects, these efficiency units shall conform to minimum standards for those occupancies otherwise made applicable pursuant to this part.

"Efficiency unit," as used in this section, has the same meaning specified in the Uniform Building Code of the International Conference of Building Officials, as incorporated by reference in Chapter 2-12 of Part 2 of Title 24 of the California Code of Regulations.

(Added by Stats.1987, c. 208, § 1. Amended by Stats.1997, c. 645 (A.B.1071), § 10.)

Second Unit Law as Amended by
Chapter 1062, Statutes of 2002
(Assembly Bill 1866)

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ATTACHMENT 1

Government Code Section 65852.2

State Second Unit Law

Chapter 1062, Statutes of 2002 **(Assembly Bill 1866)**

A. IMPLEMENTATION DISCUSSION FOR SECOND UNIT LAW GOVERNMENT CODE SECTION 65852.2

Introduction

Second-units (i.e., in-law apartments, granny flats, or accessory apartments) provide an important source of affordable housing. By promoting the development of second-units, a community may ease a rental housing deficit, maximize limited land resources and existing infrastructure and assist low and moderate-income homeowners with supplemental income. Second-units can increase the property tax base and contribute to the local affordable housing stock. Government Code Section 65852.2 (a.k.a. second-unit law) was enacted in 1982 and has been amended four times (1986, 1990, 1994 and 2002) to encourage the creation of second-units while maintaining local flexibility for unique circumstances and conditions. Local governments may allow for the creation of second-units in residential zones, set development standards (i.e., height, setbacks, lot coverage), require minimum unit sizes and establish parking requirements. However, State standards apply if localities do not adopt a second-unit ordinance in accordance with the intent of second-unit law and subsections (a) or (c).

Chapter 1062 amends second-unit law to require ministerial consideration of second-unit applications to encourage the creation of second-units. For the text of Chapter 1062 (AB 1866) relating to Government Code Section 65852.2, see the second section of this attachment, titled "Changes to Government Code Section 65852.2". Following is a discussion of the new legislation to assist localities in carrying out the provisions of Chapter 1062:

Intent of Second-Unit Law (Government Code Section 65852.150)

The preparation, adoption, amendment and implementation of local second-unit ordinances should be carried out consistent with Government Code Section 65852.150:

The Legislature finds and declares that second units are a valuable form of housing in California. Second units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. Homeowners who create second units benefit from added income, and an increased sense of security.

It is the intent of the Legislature that any second-unit ordinances adopted by local agencies have the effect of providing for the creation of second units and that provisions in these ordinances relating to matters including unit size, parking, fees and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create second units in zones in which they are authorized by local ordinance.

When Does a Local Second-Unit Ordinance Apply versus State Standards?

Second-unit law contains provisions to guide the adoption of a local ordinance (subsections (a) and (c-g)) and describes State standards that apply in the absence of a local ordinance (subsection (b)). When a local second-unit ordinance is enacted in accordance with subsections (a) or (c), the local ordinance provides the criteria for approving and denying second-unit applications. In the absence of a local second-unit ordinance in accordance with subsection (a) or (c), the State standards contained in subsection (b) of Government Code Section 65852.2 establish the criteria for approving and denying second-unit applications. While the State standards, under subsection (b), do not necessarily apply to the preparation or update of a local ordinance, they are appropriate to use as a guideline.

Does a Locality Have Flexibility in Adopting a Local Second-Unit Ordinance?

Second-unit law was created and amended within the context of providing "...a minimum of limitation...", so localities "...may exercise the maximum degree of control over local zoning matters..." (Government Code 65800). Chapter 1062 requires localities to consider applications for the development of second-units ministerially with the intent to create second-units and not constrain their development. Second-unit law provides local flexibility to manage the opportunity for creating second-units. For example, Government Code Section 65852.2(a)(1) provides that:

65852.2.(a)(1) Any local agency may, by ordinance, provide for the creation of second units in single-family and multifamily residential zones. The ordinance may do any of the following:

- (A) Designate areas within the jurisdiction of the local agency where second units may be permitted. The designation of areas may be based on criteria that may include, but are not limited to, the adequacy of water and sewer services and the impact of second units on traffic flow.*
- (B) Impose standards on second units that include, but are not limited to, parking, height, setback, lot coverage, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.*
- (C) Provide that second units do not exceed the allowable density for the lot upon which the second unit is located, and that second units are a residential use that is consistent with the existing general plan and zoning designation for the lot.*

A local government may apply quantifiable, fixed and objective standards, such as height, setback, and lot coverage requirements so the second-unit will be compatible with other structures in the neighborhood. A local government may designate areas appropriate for second-units based on criteria such as the adequacy of water and sewer services and the impact of second-units on traffic flow. At the same time, a locality must adopt an ordinance with the intent of facilitating the development of second-units in appropriate residential zones without arbitrary, excessive, or burdensome provisions and requirements.

Under limited circumstances, a locality may prohibit the development of second-units in single-family or multifamily zones (Government Code Section 65852.2(c)). This prohibition may only be enacted if a locality adopts formal written findings based on substantial evidence identifying the adverse impact of second-units on the public health, safety, and welfare and acknowledging such action may limit housing opportunities in the region (Section 65852.2(c)). Prior to making findings of specific adverse impact, the agency should explore feasible alternatives to mitigate and avoid the impact. Written findings should also acknowledge efforts to adopt an ordinance consistent with the intent of second-unit law.

A local government may also establish reasonable minimum and maximum unit size requirements for both attached and detached second-units according to Government Code Section 65852.2(d). Minimum and maximum unit sizes should be reasonable and should not arbitrarily and excessively restrict the development of second-units. For example, a maximum unit size of 400 square feet might be unduly restrictive on minimum lot sizes of 7,000 square feet, barring unusual circumstances, and would restrict the development of second-units. Minimum unit sizes should also uphold health and safety standards.

Also, localities should ensure parking requirements are consistent with standards set forth in subsection (e). This subsection limits parking requirements to one parking space per unit or bedroom, unless a locality makes specific findings.

When Does Chapter 1062 Take Effect for Second-Unit Law?

Government Code Section 65852.2(a)(3) requires where a local agency has a local ordinance in accordance with subsections (a) or (c), an application for a second-unit permit is to be considered ministerially without discretionary review or public hearing on or after *July 1, 2003*. Local jurisdictions without an ordinance must utilize the State second-unit standards set forth in Section 65852.2(b) and are required to ministerially consider second-unit applications after *January 1, 2003*.

Chapter 1062 does not necessarily require a local agency to adopt or amend a second-unit ordinance (Section 65852.2(a)(3)). If a locality has a second-unit ordinance in accordance with subsections (a) or (c) of second-unit law, an application should be considered ministerially. For example, if a locality has an ordinance with development standards in accordance with the intent of second-unit law and subsection (a) and requires a conditional use permit, the locality should consider a second-unit application ministerially according to the adopted development standards

and any provisions of the local ordinance which are in conflict with second-unit law, such as a conditional use permit, should be considered null and void. However, if a locality has a second-unit ordinance that does not meet the intent and subsections (a) or (c), the locality is required to ministerially consider a second-unit application in accordance with the State standards in subsection (b).

What is Ministerial Review?

Chapter 1062 requires development applications for second-units to be "...considered ministerially without discretionary review or a hearing..." or, in the case where there is no local ordinance in compliance with subsections (a) or (c), a local government must "...accept the application and approve or disapprove the application ministerially without discretionary review..." In order for an application to be considered ministerially, the process must apply predictable, objective, fixed, quantifiable and clear standards. These standards must be administratively applied to the application and not subject to discretionary decision-making by a legislative body (For clarification see the attached definition of ministerial under California Environmental Quality Act (CEQA) Guidelines, Section 15369.). The definition is generally accepted and was prepared pursuant to Public Resources Code.

An application should not be subject to excessively burdensome conditions of approval, should not be subject to a public hearing or public comment and should not be subject to any discretionary decision-making process. There should be no local legislative, quasi-legislative or discretionary consideration of the application, except provisions for authorizing an administrative appeal of a decision (see Appeal discussion below).

The intent of Chapter 1062 is to improve certainty and predictability in the approval process. Where special use or variances must apply, the locality should grant the variance or special use permit without a public hearing for legislative, quasi-legislative or discretionary consideration, as authorized by Government Code Section 65901. An application for consideration by a board of zoning adjustments or zoning administrator should apply a limited and fixed set of clear, predictable and objective standards without the application of discretionary conditions or public comment.

Chapter 1062 does not affect local government measures to keep the public apprised of pending applications and the status of the decision-making process. A local government should handle public noticing in the same manner as other ministerial actions. For example, if a local government allows new construction of a single-family residence by right or ministerially and public notice is not given for these applications, then a local government should employ the same procedures for second-unit applications. The appropriate point for public comment is the discretionary action adopting or amending a second-unit ordinance.

As explicitly stated in the provisions of 65852.2(a), a locality may require second-units to comply with development standards such as height, setback and architectural review. At the same time, architectural review should be handled in a ministerial fashion without discretionary public hearings or review. Architectural review in a ministerial fashion includes architectural standards and design guidelines with clear, fixed and objective standards. These standards should provide a

predictable concept of appropriate second-unit development. For example, the compatibility of the materials with the existing structure, exterior color, subordinate bulk or compatible exterior surface texture are architectural standards that can be applied in a ministerial manner, especially with the aid of design review guidelines. Architectural review standards should not impede the creation of second-units and should not detrimentally affect the feasibility or affordability of second-units.

Can a Locality Accept Appeals If a Second-unit Application Is Denied?

A locality can provide an appeal process for applicants whose second-unit proposal is denied. The appeal process should maintain predictable and fixed approval standards, consistent with the intent of Chapter 1062. Accordingly, an appeal should not include a public hearing with public comment as part of a discretionary decision. The appeal process should be handled in a ministerial and administrative manner and should be limited in scope, only considering the proposal's compliance with the objective standards of the second-unit ordinance.

Can a Locality Consider an Additional Process to Consider Second Units if the Standards Established by Chapter 1062 Have Been Met?

If a local ordinance is consistent with subdivisions (a) and (c-g) of second-unit law and consistent with the intent of the law, a local government could also adopt an ancillary set of broader standards under which second-units might be allowed under a discretionary review process as exceptions to existing zoning. While the statute does not preclude a broader and more flexible set of standards, localities must be very careful that any criteria or process for a secondary set of standards is only ancillary to the ministerial consideration required by Chapter 1062. Typical exceptions to zoning could be handled administratively or quasi-judicially.

Homeowners in the community are entitled to have a realistic opportunity to create second-units. If the locality fails to provide an adequate ministerial process pursuant to subdivision (a) and (c-g), applications for second-units should be subject to the State standards of subdivision (b) of Section 65852.2.

Is a Locality Required to Allow Second-Units in Multifamily Zones?

While second-units may be allowed in both single- and multi-family zones (Sections 65852.2(a)(1) and (b)(1)(B)), nothing in the statute requires more than one second-unit to be permitted on a single parcel. The State standards specifically require that the lot contain an existing single-family dwelling (Section 65852.2(b)(1)(C)) and localities could adopt a similar requirement. Alternatively localities could permit second-units on parcels containing, for example, a duplex. The guiding principle for the local ordinance should be to avoid provisions that are "...so arbitrary, excessive or burdensome so as to unreasonably restrict the ability of homeowners to create second-units in zones where they are authorized by local ordinance." (Section 65852.150). For example, second-units should not be arbitrarily excluded from appropriate geographic areas.

Are Second-Units Exempt from Local Growth Control?

Yes. Government Code Section 65852.2(a)(2) states second-units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth. Second-units must be exempt from growth control measures regardless of whether the growth control has been

enacted by local initiative or the legislative body. Local governments should take steps to address any inconsistency between the second-unit mandate and local initiatives, ordinances, policies, programs or any other regulations to limit residential growth.

What Kind of Environmental Review is Required for Second-Units?

Second-units approved ministerially are statutorily exempt from CEQA pursuant to Section 15268 (Ministerial Projects) of the CEQA guidelines and Section 21080(b)(1) of the Public Resources Code. In addition, second-units can be categorically exempt from CEQA pursuant to Sections 15301 and 15303 of the CEQA guidelines, authority cited under Public Resources Code Section 21083 and 21087.

How Can a Locality Encourage Second-Units?

Local governments can encourage second-unit development through a variety of mechanisms. For example, a locality could develop information packets to market second-unit construction. A packet could include materials for a second-unit application, explain the application process, and describe incentives to promote their development. A locality could also advertise second-unit development opportunities to homeowners on the community's web page, at community and senior centers, in community newsletters, and in local utility bills, etc. Some local governments establish and maintain a second-unit specialist in the current planning division to assist in processing and approving second-units. A local government can also establish flexible zoning requirements, development standards, processing and fee incentives that facilitate the creation of second-units (Government Code Section 65852.2(g)). Incentives include reduced parking requirements near transit nodes, tandem parking requirements, pre-approved building plans or design prototypes, prioritized processing, fee waivers, fee deferrals, reduced impact fees, reduced water and sewer connection fees, setback reductions and streamlined architectural review. For example, the City of Santa Cruz established pre-approved design prototypes to encourage and stimulate the development of second-units.

Localities can also monitor the effectiveness of ordinances, programs and policies encouraging the creation of second-unit development. Some localities monitor implementation of second-unit strategies through the annual general plan progress report (Government Code Section 65400). Evaluating the effectiveness of a second-unit ordinance can assist the local government in ~~determining appropriate measures to improve usefulness and further facilitate the development of housing affordable to lower- and moderate-income families.~~

See the second-unit bibliography in the Resources section for additional resources on the development of second-units.

Can a Locality Have Occupancy Requirements on Second-Units?

Requirements restricting the occupancy of a second-unit may be susceptible to legal challenge. In a 1984 decision, the Superior Court (Hubbart vs. County of Fresno, Superior Ct. No. 309140-2, 10/3/84), voided a Fresno County zoning ordinance which required that occupancy of a second-unit be limited to persons related to the main unit's owner. The Court stated that the ordinance violated the plaintiff's right to privacy guaranteed by Article I, Section I of the California Constitution.

In a 2001 decision (*Coalition Advocating Legal Housing Options v. City of Santa Monica*), a second-unit ordinance preventing non-dependent adult children or relatives, as well as unrelated persons while permitting dependents and caregivers, was declared unconstitutional under the right to privacy and equal protection clause of the California Constitution.

A local ordinance could include income restrictions on the occupancy of a second-unit to ensure the creation of housing affordable to low- and moderate-income households. A local ordinance could also require one of the dwellings on the property to be owner-occupied. However, an ordinance with these restrictions and requirements should be developed in a manner that encourages the creation of second-units as opposed to restricting the development of second-units.

Does Second-Unit Law Apply to Charter Cities and Counties?

Yes. Charter cities and counties must particularly give way to State general laws such as second-unit law when there are matters of Statewide concern (*Coalition Advocating Legal Housing Options v. City of Santa Monica* (2001) 105 Cal. Rptr. 2d 802), as stated by the Legislature in Government Code Sections 65580, 65852.150 and 65852.2(i)(2). Further, second-unit law explicitly applies to "local agencies" which are defined as general law or charter (Government Code Section 65852.2(i)(2)).

Does Second-Unit Law Apply to Localities in the Coastal Zone?

Yes. The California Coastal Act was enacted to preserve our natural coastal resources for existing and future Californians. While second-units utilize existing built areas and usually have minimal environmental impact, the need for second-units should be balanced against the need to preserve our unique coastal resources. For these reasons, second-unit law shall not supersede, alter or lessen the effect or application of the California Coastal Act (Division 20 of the Public Resources Code), except that local governments shall not be required to hold public hearings for coastal development permit (CDP) applications for second-units (Government Code 65852.2(j)). As stated in correspondence, dated January 13, 2003 from the California Coastal Commission to all coastal communities, local governments in the coastal zone should amend their Local Coastal Program (LCP) to not require a public hearing in the consideration of second-unit applications. Further, local appeals should be handled in an administrative manner.

Should a Locality Submit Their Second-Unit Ordinances to HCD?

Yes. Government Code Section 65852.2(h) requires submittal of an ordinance adopted pursuant to subsection (a) and (c) to the State Department of Housing and Community Development (Department) within 60 days of adoption. The Department will establish a clearinghouse of local ordinances to assist local governments in developing effective and meaningful ordinances. The Department is also available to provide technical assistance in the preparation of second-unit ordinances. Local governments are encouraged to send electronic copies of their ordinance to the Department at pmcdouga@hcd.ca.gov.

Chapter 1062, Statutes of 2002
(Assembly Bill 1866)

B. CHANGES TO GOVERNMENT CODE SECTION 65852.2

Government Code Section 65852.2 was amended by Chapter 1062 (AB 1866) as follows:

Government Code Section 65852.2 (additions or changes in italics/underlined and deletions indicated by asterisks with substantive changes italicized in parentheses)

65852.2.(a) (1) Any local agency may, by ordinance, provide for the creation of second-units in single-family and multifamily residential zones. The ordinance may do any of the following:

***** (A) Designate areas within the jurisdiction of the local agency where second units may be permitted. The designation of areas may be based on criteria, *that* may include, but are not limited to, the adequacy of water and sewer services and the impact of second units on traffic flow.

***** (B) Impose standards on second units *that* include, but are not limited to, parking, height, setback, lot coverage, architectural review, ***** maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

***** (C) Provide that second units do not exceed the allowable density for the lot upon which the second unit is located, and that second units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

***** *(Provisions to establish a process for the issuance of conditional use permits deleted)*

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. Nothing in this paragraph may be construed to require a local government to adopt or amend an ordinance for the creation of second units. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of second units.

(b) (1) When a local agency which has not adopted an ordinance governing second units in accordance with subdivision (a) or (c) receives its first application on or after July 1, 1983, for a ***** (conditional use deleted) permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it adopts an ordinance in accordance with subdivision (a) or (c) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall grant a variance or special use ***** (conditional use deleted) permit for the creation of a second unit if the second unit complies with all of the following:

(A) The unit is not intended for sale and may be rented.

(B) The lot is zoned for single-family or multifamily use.

(C) The lot contains an existing single-family dwelling.

(D) The second unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(E) The increased floor area of an attached second unit shall not exceed 30 percent of the existing living area.

(F) The total area of floorspace for a detached second unit shall not exceed 1,200 square feet.

(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.

(H) Local building code requirements which apply to detached dwellings, as appropriate.

(I) Approval by the local health officer where a private sewage disposal system is being used, if required.

(2) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(3) This subdivision establishes the maximum standards that local agencies shall use to evaluate proposed second units on lots zoned for residential use which contain an existing single-family dwelling.

No additional standards, other than those provided in this subdivision or subdivision (a), shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant.

(4) No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of second units if these provisions are consistent with the limitations of this subdivision.

(5) A second unit which conforms to the requirements of this subdivision shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use which is consistent with the existing general plan and zoning designations for the lot. The second units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(c) No local agency shall adopt an ordinance which totally precludes second units within single-family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing second units within single-family and multifamily zoned areas justify adopting the ordinance.

(d) A local agency may establish minimum and maximum unit size requirements for both attached and detached second units. No minimum or maximum size for a second unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings which does not permit at least an efficiency unit to be constructed in compliance with local development standards.

(e) Parking requirements for second units shall not exceed one parking space per unit or per bedroom. Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the use of the second unit and are consistent with existing neighborhood standards applicable to existing dwellings. Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(f) Fees charged for the construction of second units shall be determined in accordance with Chapter 5 (commencing with Section 66000).

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of second units.

(h) Local agencies shall submit a copy of the ordinances adopted pursuant to subdivision (a) or (c) to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "Living area," means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Second unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. A second unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for second units.

Chapter 1062, Statutes of 2002 **(Assembly Bill 1866)**

C. OTHER PERTINENT CODE SECTIONS

Government Code Section 65901

(a) The board of zoning adjustment or zoning administrator shall hear and decide applications for conditional uses or other permits when the zoning ordinance provides therefore and establishes criteria for determining those matters, and applications for variances from the terms of the zoning ordinance. The board of zoning adjustment or the zoning administrator may also exercise any other powers granted by local ordinance, and may adopt all rules and procedures necessary or convenient for the conduct of the board's or administrator's business.

(b) In accordance with the requirements for variances specified in Section 65906, the legislative body of the city or county may, by ordinance, authorize the board of zoning adjustment or zoning administrator to decide applications for variance from the terms of the zoning ordinance without a public hearing on the application. That ordinance shall specify the kinds of variances which may be granted by the board of zoning adjustment or zoning administrator, and the extent of variation which the board of zoning adjustment or zoning administrator may allow.

Government Code Section 65906

Variances from the terms of the zoning ordinances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property. The provisions of this section shall not apply to conditional use permits.

CEQA Guidelines: Section 15369 Ministerial

"Ministerial" describes a governmental decision involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding

whether or how the project should be carried out. Common examples of ministerial permits include automobile registrations, dog licenses, and marriage licenses. A building permit is ministerial if the ordinance requiring the permit limits the public official to determining whether the zoning allows the structure to be built in the requested location, the structure would meet the strength requirements in the Uniform Building Code, and the applicant has paid his fee.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21080(b)(1), Public Resources Code; *Johnson v. State of California*, 69 Cal. 2d 782; *Day v. City of Glendale*, 51 Cal. App. 3d 817.

Discussion: This definition draws upon earlier judicial definitions of "ministerial" and discretionary governmental actions and provides examples. Neither term is technically precise.

Chapter 1062, Statutes of 2002 **(Assembly Bill 1866)**

D. RESOURCES AND CONTACTS

Second-Units Resource List (Arranged alphabetically by title)

Accessory Apartments: Are They A Realistic Alternative for Ageing in Place? -- [London, UK]: Taylor & Francis Group. *Housing Studies* - Vol. 16, No. 5, p. 637-650 (Sept. 10, 2001)
Chapman, Nancy J.; Howe, Deborah A (2001)

Abstract: The accessory apartment in North America - defined as the addition of a small, separate living unit within a detached single-family house - has been advocated as a housing alternative allowing older people to 'age in place'. Based on a survey of owners of accessory units built in Seattle, Washington State, that were developed since legalization in 1994 and a literature review, this research explores the extent to which accessory apartments are benefiting the elderly. Although only 14 percent of the owners and 11 percent of the tenants in Seattle were over 65, there is evidence that such apartments serve a higher proportion of older persons over time. Forty-three percent of the apartments were perceived to be accessible to people with disabilities. Advocates of older adults are advised to target middle-aged and young-old to encourage the development of accessory apartments. Age restrictions within zoning ordinances may be counterproductive by prohibiting their development by owners who have the energy and resources to undertake such a task.

Accessory Apartments in Single-Family Housing -- New Brunswick, NJ: Center for Urban Policy Research. *Gellen, Martin (1985)*-Monograph includes bibliographical references and index. Introduction - "This book examines accessory apartment conversions as an emerging trend in American housing. It also assesses their potential as an instrument of local and national housing policy. As the reproduction cost of housing has increased, consumers have begun to make more intensive use of existing dwellings. Accessory apartment conversions represent one form of this response..." (p. xiii)

Accessory Rental Units in the Portland Area: A Guide for Design, Development and Management/Institute of Portland Metropolitan Studies--Portland, OR: Portland State University, School of Urban and Public Affairs. *Seltzer, Ethan; Perry, Theodis (1995)*

Introduction - "...Since we are long past the era when government could be looked to for the provision of large numbers of affordable housing units, we need to collectively explore new or alternative methods that augment the efforts that government bodies will be making. Hence the purpose for this publication. One of the fastest ways to double the housing supply would be to allow every single-family house to serve as a duplex. Surely not all homeowners would be interested. However, for those that are, the rules ought to be clear and the goal of creating an additional unit achievable."

Accessory Units Resource Guide: The State of the Art -- Los Angeles, CA: Hare Planning & Design, 1993. *National Resource and Policy Center on Housing & Long Term Care (1993)*

Full text also available at: <http://www.aoa.gov/Housing/accunits.html>

"What are Accessory Units? The term 'accessory unit' is a general term used to refer to separate units typically created in the surplus space within a single family home. Accessory units include accessory apartments, accessory cottages, and elder cottage housing opportunity housing." - (p. 2)

Aging and Smart Growth: Building Aging Sensitive Communities/Funders' Network for Smart Growth and Livable Communities -- Miami, FL: Collins Center for Public Policy (Funders Network Translation Paper; no. 7). *Howe, Debra (2001)*

Full text also available at: <http://www.publichealthgrandrounds.unc.edu/urban/agingpaper.pdf>

Abstract: This report posits that the sprawling, automobile-dominated landscape so prevalent throughout the United States seriously limits the continued mobility and independence of older people, a reality that is of enormous consequence to the aging experience. In the years ahead, the growing number of seniors, a result of the aging of baby boomers, stands to overwhelm the system of care relied on by most seniors—family members, friends, and the social service system. The report underscores the importance of transforming our communities so that they are aging-sensitive, making it possible for people to maintain their health and independence even as needs change. Leadership is needed to support planning processes and implementation efforts that improve the interface between the aging experience and the built environment. Public education, training, research, and investment are necessary components of the action agenda that must be put into place if elders are to be full participants in—and not cut off from—our society in the coming decades.

Allowing Accessory Apartments: Key Issues for Local Officials / U.S. Dept. of Housing and Urban Development -- Washington, DC: HUD - Office of Policy Development and Research (Report no. HUD-PDR-747). *Hodges, Samuel J.; Goldman, Ellis G. (1983)*

Introduction – “A combination of factors, including smaller households, sharply rising housing costs, and general economic conditions has led to a growing interest in the creation of accessory apartments in single-family homes. Accessory apartments are self-contained dwelling units created from existing space, including separate kitchen and bath facilities and a separate entrance.” (p. 3).

Alternative Housing Arrangements: A Selected Information Guide / U.S. Dept. of Housing and Urban Development--Washington, DC: HUD-Office of Policy Development and Research. *Hare, Patrick (1985)*

Introduction - "Alternative living arrangements is the collective name for shared housing, household matching services, accessory apartments, and ECHO housing or granny flats -- a new name for old ideas with new relevance. As the demographics in the United States change, these forms of housing can become attractive options for the growing numbers of single persons, small families, and older persons seeking housing to fit their needs and their budgets..." (p. 1).

A Cottage for Sale: Low-Cost 'Granny Flats' Combine Proximity with Privacy. *The Washington Post* - 118, 330 - Tues. ed., col. 1, p.WH9- *Hamilton, M. (1996 Oct 31)*

Abstract: "This might offer an opportunity for people to take care of their older relatives without huge expenses," said George Gaberlavage, a senior analyst in the American Association of Retired Persons Public Policy Institute. "What if you could put one of these housing units on your land and it was tastefully done and the community was assured that it's going to be for a relative and not for

rental purposes? It might be a great way of helping families." [Marlys] Marshall had a unit installed in her garage that allows her mother and father to live nearby. Her mother became disabled after falling and breaking a hip in 1991. Marshall's father was able to care for his wife until last March, when spinal degeneration left him confined to a wheelchair...

E.C.H.O. Housing: A Review of Zoning Issues and Other Considerations -- Washington, DC: American Association of Retired Persons - Report includes bibliographical references. *Hare, Patrick H.; Hollis, Linda E. (1983)*

Introduction - "This booklet represents a review of the technical zoning issues raised by Elder Cottage Housing Opportunity (ECHO) units, small temporary units placed in side or rear yards to enable adult children to take care of aging parents..." (p. 4).

Everything's Relative. Builder - Vol. 22, no. 13 - p. 200(1) *Weber, C. (1999, October)*

Abstract: Planned community development Amelia Park in Amelia Island, FL, combines conventional land planning and architecture inspired by history. The popularity of the development reflects in the fact that more than 50% of its units have already been sold. All Amelia Park homes including the townhouse models have a standard detached rear-loaded garage. However, the granny flats above are zoned as rental units and can be used for home offices, studios or extra living space.

Great Expectations. Builder - Vol. 23, no. 7 - p. 124-134 *Weber, C. (2000, June)*

Abstract: A booming economy and buyers with more sophisticated tastes have compelled the home building industry to provide innovative plans and design details usually reserved only for custom houses. Demographic shifts are creating new family situations and a need for niched products to accommodate those lifestyles. One solution to maintaining household peace is providing what used to be called a granny flat or in-law suite. Today's updated version of this old-fashioned idea is a flexible bonus space with a separate entrance that can perform multiple functions. Most households now have 2 computers, and people from 8 to 80 need home space to work, surf, and play. In smaller square footages, Internet alcoves are sufficient.

How to Make Housing Affordable: Let People Subdivide Their Homes. U.S. News & World Report - Vol. 121, no. 26 - p. 51-(2) *Maass, P. (1996, Dec 30)*

Abstract: The high cost of housing can drive people to poverty as they pay more than half of their gross income for a roof over their heads. Zoning laws in many cities should be changed to allow people to build accessory apartments to lower costs for themselves as well as others and provide a form of security.

Installations of Accessory Units In Communities Where They Are Legal -- Washington, DC: Hare Planning & Design. *Hare Planning & Design (1990)*

Introduction: Accessory units as used here includes both accessory apartments and accessory cottages. Accessory apartments are complete, separate living units installed in the surplus space in single family homes. The potential of accessory apartments to provide housing stems from the fact that the baby boom has been followed by an empty nester boom, or more technically, by underutilization of single family housing stock.

New Urban and Standard Suburban Subdivisions: Evaluating Psychological and Social Goals / American Planning Association -- Chicago, IL: APA, 2001. Article includes bibliographical references. **Journal of the American Planning Association - Vol. 67, no.4, Autumn 2001 (p. 402-419)** *Brown, Barbara B.; Cropper, Vivian L. (2001)*

"Residents of both subdivisions were interviewed about their sense of community, neighborliness, neighborhood uses, attitudes toward diverse neighborhoods, and support of distinctive New Urbanist residential design strategies: accessory apartments, reconfigured house/garage siting, and narrow alleys behind homes." - (p. [1]).

Second Units -- Sacramento, CA: The Dept. - Division of Housing Policy Development. June 1995 reprint of December 1990 technical assistance paper. *California. Dept. of Housing and Community Development (1995)*

"Second units, also referred to as 'in-law apartments', 'granny flats', or 'accessory apartments', may offer an additional source of affordable housing to homeowner and the community. By promoting the development of second units, a community may ease a rental housing deficit, enable homeowners with declining incomes to supplement their incomes, and make more economical use of land and existing infrastructure." - (Cover).

Second Units: An Emerging Housing Resource -- San Francisco, CA: People for Open Space (POS Housing/Greenbelt Program technical report; no. 2-E). Report includes bibliographical references. *Verrips, Bert (1983)*

Summary: The conversion of existing single-family dwellings to add secondary units is a potentially effective, environmentally sensitive, and economically feasible response to the Bay Area's serious housing problem. However, because of resident concerns with the impacts of second units on existing neighborhoods, the development of such units is either illegal or severely restricted in most communities. The purpose of this report is to evaluate the costs and benefits of second units, and consider what regulations might be appropriate to respond to the impacts of second units while still encouraging their development.-(p. iii).

Secondary Units (Accessory Apartments and ECHO Housing: A Step-by-step Program Development Guide -- Albany, NY: Rural Aging Services Partnerships (R.A.S.P. Resource manual; no. 6). *Pollak, Patricia B. (1986)*

"Installing an accessory apartment in a single-family home can provide an older homeowner with a source of income. In addition, tenants can often provide assistance with home maintenance and other chores. The presence of a tenant can also add a sense of security for an older homeowner. Yet privacy and independence need not be sacrificed. For the community, accessory apartments represent an increased supply of small apartments created by more intensively using existing housing resources."- (p. 5).

Small Solutions: Second Units as Affordable Housing: The Evaluation of The Double Unit Opportunity Program -- San Francisco, CA: The Fund. *San Francisco Development Fund (1988)*

For many California residents, suitable housing at an affordable level is simply unavailable. One potential source of affordable rental housing is to use under-utilized space in single-family neighborhoods to create second units. These small dwelling units, also known as accessory apartments, in-law apartments, or granny flats, involve no land acquisition costs and minimal new infrastructure." - (p. 1).

Two-By-Two: A Status Report on Accessory Apartments in the Bay Area -- Chicago, IL: American Planning Association. *Planning - Vol. 54, no. 11 - p. 22-23 Lawrence, J.; Watson, L. (1988, November)*

"After three years of experience with accessory apartments, or "second units" as they are called in the Bay Area, the San Francisco Development Fund has concluded that this is an innovation that works." - (p. 22).

Your New Neighbor: Mom - Instead of Scattering, More Extended Families are Living in the Same Town... or on the Same Block: June Fletcher Reports on 'Granny Flats,' In-laws Next Door and Big Brother Down The Street. *Wall Street Journal - (Eastern ed.) Fri. ed., col. 2, W1-Fletcher, J. (2002, Dec 20)*

Abstract: Well, sometimes. At first, Jo Ann and John Wydra were delighted when his sister, Betty O'Connor, decided to move in next door to their Huntley, Ill., home. They even put her up for a couple of months, until she got settled. But then she started going through their messy closets and "straightening up" Mrs. Wydra's exuberant cottage-style garden (her own flowers are all lined up in neat rows). "She's a perfectionist; we're not," says Mrs. Wydra, whose husband is now joking about putting in an electric fence. All this togetherness is a big change from the years when generations tended to move farther apart. But with the nation's retired population growing sharply, more older parents started moving into the same neighborhood as the kids. Now these multigenerational communities are moving to a new level as more families pull together in slow times.

Tentative List of Contacts

The Department is in the process of creating a list of organizations and local governments to assist in the implementation of Chapter 1062. The following list consists of a few local governments that have adopted second unit ordinance to meet the intent of Chapter 1062, including submittal to the Department. If you have any suggestions for potential organization or local governments to be added, please contact Paul Mc Dougall at (916) 322-7995.

City of Claremont	City of Healdsburg	City of Livermore
City of Pleasanton	Sacramento County	Town of San Anselmo
City of Santa Ana	City of Santa Rosa	City of Santee
City of Saratoga	City of Larkspur	

ATTACHMENT 2

Government Code Section 65583.1

A Portion of State Housing Element Law

Chapter 1062, Statutes of 2002

(Assembly Bill 1866)

A. IMPLEMENTATION DISCUSSION FOR GOVERNMENT CODE SECTION 65583.1

Introduction

Chapter 1062, Statutes of 2002 (AB 1866), clarified how second-units can be counted toward the adequate sites requirements in housing element law.

A housing element must identify adequate sites with zoning and development standards for a variety of housing types to meet a locality's share of the regional housing need in total and by income group (Government Code Section 65583(c)(1)). Local governments employ many techniques to identify adequate sites, including an inventory of vacant and underutilized land with a variety of zoning and development standards, upzoning, rezoning and mixed-use zoning. Chapter 1062 clarifies existing law and practice for local government's to identify the realistic capacity of new second-unit development to meet a portion of the adequate sites requirement.

In essence, local governments may count the *realistic* potential for new second-units *within the planning period of the element* considering the following factors: (1) the number of second units developed in the prior planning period; (2) an estimate of potential increase due to new policies, programs and incentives that encourage the development of second-units; and (3) other relevant factors.

The following is a discussion of the new legislation to assist localities in carrying out the provisions of Chapter 1062 (AB 1866). For an identification of the text of AB 1866 and changes to Government Code Section 65583.1, see the second section of this attachment, titled "Changes to Government Code Section 65583.1".

Resources and Incentives

The statute enables existing and proposed policies and programs, including incentives and regulatory relief, to support a local government's estimate of the realistic capacity of second-unit development in the planning period as part of the adequate sites requirement. Policies and programs encouraging the development of second-units can help to achieve realistic capacity of second-units in the planning period (see Attachment 1 for a discussion of ways to encourage the development of second-units).

The Need for Second-Units

In considering the need for second-units, a local government should evaluate household characteristics such as tenure, family type, household sizes, and other factors in relation to the types of units (i.e., number of bedrooms and minimum unit size requirements) allowed under the second-unit ordinance.

Other Relevant Factors

To demonstrate the realistic capacity for second-units to fulfill a portion of the adequate sites requirement, local governments should discuss and analyze other relevant factors that affect the potential for second-units in the planning period. For example, a housing element should provide an analysis of the anticipated affordability of second-units. The purpose of this analysis is to determine the housing need by income group that could be accommodated through second-unit development. Second-units are not required to be deed restricted for certain income groups.

The anticipated affordability of second-units can be determined in a number of ways. For example, a community could survey existing second-units for their rents and include other factors such as square footage, number of bedrooms, amenities, age of the structure and general location. The survey could be supplemented with analysis that describes the general range of rents and an estimate of rents for new second-units based on the variables within the survey. Another method could examine market rates for reasonably comparable rental properties to determine an average price per square foot in the community. This price can be applied to anticipated sizes for second-units to estimate the anticipated affordability of second-units.

Another relevant factor that should be analyzed is the impact of development standards in the second-unit ordinance (e.g. impact on the cost and supply of second-units). An analysis should address development standards (i.e., heights, setbacks, minimum unit sizes, lot coverage, parking standards, etc.), what zones allow second-units, architectural review standards, fees and exactions, any other components of the ordinance potentially impacting or constraining the development of second-units.

Finally, a community should analyze the extent to which physical and environmental constraints and infrastructure capacity influence its ability to accommodate the proposed capacity for second-units in the planning period.

Tracking Second Units

A community should track second-unit construction to monitor the effectiveness of their efforts to promote second-units and to facilitate the next housing element update. The first step in tracking second-units is to ensure that second-units are being counted as they are constructed. Most localities would count second-units as part of normal functions for building permit data. In any case, a locality should have some function that records the number of second-units built and an estimate of affordability at the time of occupancy, where feasible. Consistently maintained records will reveal trends in second-unit construction that may support a locality's efforts to count realistic capacity for second-units or may identify limitations that should be addressed to better promote additional second unit development.

In addition, a locality could annually summarize the number of second-units built; by which income group they are estimated to be affordable, as part of the annual general plan progress report (Government Code Section 65400). An annual summary will ensure a complete record and facilitate future updates of the housing element.

Chapter 1062, Statutes of 2002 (Assembly Bill 1866)

B. CHANGES TO GOVERNMENT CODE SECTION 65583.1

Government Code Section 65583.1 was amended by Chapter 1062 (AB 1866) as follows (additions or changes in italics/underlined and deletions indicated by asterisks):

65583.1. (a) The Department of Housing and Community Development, in evaluating a proposed or adopted housing element for *compliance* with state law, may allow a city or county to identify adequate sites, as required pursuant to Section 65583, by a variety of methods, including, but not limited to, redesignation of property to a more intense land use category and increasing the density allowed within one or more categories. *The department may also allow a city or county to identify sites for second units based on the number of second units developed in the prior housing element planning period whether or not the units are permitted by right, the need for these units in the community, the resources or incentives available for their development, and any other relevant factors, as determined by the department.* Nothing in this section reduces the responsibility of a city or county to identify, by income category, the total number of sites for residential development as required by this article.

(b) *Omitted – Chapter 1062 did not have changes to this subsection*

Any city, city and county, or county using this subdivision shall address the progress in meeting this section in the reports provided pursuant to paragraph (1) of subdivision (b) of Section 65400.

(c) *Omitted – Chapter 1062 did not have major changes to this subsection, only minor clean up*

RESOLUTION NO. 2009-4

A RESOLUTION OF THE CITY OF REEDLEY PLANNING COMMISSION RECOMMENDING APPROVAL OF ZONING ORDINANCE AMENDMENT NO. 2009-1 AMENDING SECTIONS 10-6B-3, 10-6C-3, 10-6B-2A, 10-6B-5C, AND 10-6C-2A OF THE CITY OF REEDLEY MUNICIPAL CODE AND ADDING SECTION 6D TO CHAPTER 6 OF TITLE 10 OF THE REEDLEY MUNICIPAL CODE.

WHEREAS, the City of Reedley Planning Commission, at the regular meeting of August 6, 2009, opened a public hearing to consider an ordinance amending Sections 10-6B-3, 10-6C-3, 10-6B-2A, 10-6B-5C, and 10-6C-2A of the City of Reedley Municipal Code and adding Section 6D to Chapter 6 of Title 10, see attached Exhibit "A" of the Reedley Municipal Code, to amend regulations pertaining to the construction of second dwelling units in the City of Reedley; and,

WHEREAS, the City of Reedley Planning Commission finds that the proposed amendments to the Zoning Ordinance, Title 10, of the City of Reedley Municipal Code are necessary to protect the public health, safety, and general welfare of the City of Reedley and its citizens; and

WHEREAS, the City of Reedley Planning Commission finds that the proposed amendments to the Zoning Ordinance, Title 10, of the City of Reedley Municipal Code establishes development standards and a requirement for a covenant to entered into between the City and the property owner which would restrict residency of one of the units to the owner of record; and

WHEREAS, the City of Reedley Planning Commission finds that the proposed amendments to the Zoning Ordinance, Title 10, of the City of Reedley Municipal Code will establish standards and regulations that are consistent with Section 65852.2 of the California Government Code relating to second dwelling units; and

WHEREAS, the City of Reedley Planning Commission finds that the proposed amendments to the Zoning Ordinance, Title 10, of the City of Reedley Municipal Code will provide an option for affordable housing in the City of Reedley.

NOW, THEREFORE, BE IT RESOLVED by the City of Reedley Planning Commission that Zoning Ordinance Amendment No. 2009-1 is hereby recommended for approval.

This foregoing resolution is hereby approved this 6th day of August 2009, by the following

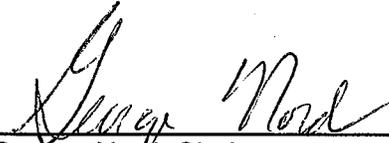
vote:

AYES: Clements, Chavez, and Nord.

NOES: None.

ABSTAIN: None.

ABSENT: Barker and Cisneros.



George Nord, Chairman
City of Reedley Planning Commission

ATTEST:



David Brletic, Secretary

NOTICE OF EXEMPTION

To: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

Victor E. Salazar, County Clerk
County of Fresno
2221 Kern Street
Fresno, CA 93721-2600

From: David Brletic, City Planner
City of Reedley
1733 Ninth Street
Reedley, CA 93654

Project Title: Zoning Ordinance Amendment No. 2009-1

Project Location - Specific: City-wide

Project Location - City: Reedley

Project Location - County: Fresno

Description of Nature, Purpose, and Beneficiaries of Project: A zoning ordinance amendment amending Sections 10-6B-3, 10-6C-3, 10-6B-2A, and 10-6C-2A of the Reedley Municipal Code and adding Section 6-D to Chapter 6 of Title 10 of the Reedley Municipal Code relating to second units.

Name of Public Agency Approving Project: City of Reedley

Name of Person or Agency Carrying Out Project: City of Reedley Planning Department

Exempt Status (check one)

- Ministerial (Section 21080(b)(1); 15268;
 Declared Emergency (Section 21080(b)(3); 15269(a);
 Emergency Project (Section 21080(b)(4); 15269(b)(c);
 Categorical Exemption. State type and section number: Article 19, Section 15305, Class 5
 Statutory Exemptions. State code number: 15282

Reasons why project is exempt: Section 15282, Other Statutory Exemptions. (h) The adoption of an ordinance regarding second units in a single-family or multiple-family residential zone by a city or county to implement the provisions of Section 65852-1 and 65822.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code.

Lead Agency

Contact Person: David Brletic

Area Code/Telephone/Extension: (559) 637-4200, Ext. 222

David Brletic
David Brletic
Signature

July 22, 2009
Date

City Planner
Title

Signed by Lead Agency

Signed by Applicant

Date received for filing at OPR:

ORDINANCE NO. 2009-05

AN ORDINANCE AMENDMENT OF THE CITY COUNCIL OF THE CITY OF REEDLEY APPROVING ZONING ORDINANCE AMENDMENT APPLICATION NO. 2009-1 AMENDING SECTIONS 10-6B-3, 10-6C-3, 10-6B-2A, 10-6B-5C, AND 10-6C-2A OF THE REEDLEY MUNICIPAL CODE AND ADDING SECTION 6D TO CHAPTER 6 OF TITLE 10 OF THE REEDLEY MUNICIPAL CODE RELATING TO SECOND UNITS.

WHEREAS, a public hearing by the City of Reedley Planning Commission was held on August 6 2009; and

WHEREAS, the City of Reedley Planning Commission recommends approval of Zoning Ordinance Amendment No. 2009-1 through adoption of Planning Commission Resolution No. 2009-4.

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

SECTION 1. Section 10-6B-3 of the Reedley Municipal Code is hereby amended by repealing all of subsection (G) (“Second dwelling units subject to the following requirements...”) and by renumbering the remaining subsections (H) (“Bed and breakfast inns in accordance with the provisions of Section 10-13-4 of this Title”) to become new subsection (G) and (I) (“Large family daycare home...”) to become new subsection (H).

SECTION 2. Section 10-6C-3 of the Reedley Municipal Code is hereby amended by repealing all of subsection (G) (“Second dwelling units subject to the following requirements...”) and by renumbering subsection (H) (“Two-family, three-family, and multi-family dwellings...”) to become new subsection (G).

SECTION 3. Section 10-6B-2A of the Reedley Municipal Code is hereby amended by adding a new subsection A.10 to read as follows:

“10. Second units subject to the provisions of section 6D of this Chapter.”

SECTION 4. Section 10-6C-2A of the Reedley Municipal Code is hereby amended by adding a new subsection A.10 to read as follows:

“10. Second units subject to the provisions of section 6D of this Chapter.”

SECTION 5. Section 6D is hereby added to Chapter 6 of Title 10 of the Reedley Municipal Code (relating to second units) to read as follows:

“CHAPTER 6
RESIDENTIAL DISTRICTS

ARTICLE D. SECOND UNITS

SECTION.

10-6D-1: Purpose
10-6D-2: Applicability

- 10-6D-3: Permit Required
- 10-6D-4: General Requirements
- 10-6D-5: Development Standards
- 10-6D-6: Development Fees

10-6D-1: **PURPOSE.**

- A. This chapter is intended to implement Government Code Section 65852.2, which mandates that the City permit second units in residential zoning districts and which provides that the City may impose certain regulations on the development of second units.
- B. The City recognizes opportunities to implement certain policies and programs of the City housing element of the general plan by providing for and regulating second units.
- C. Implementation of this article is meant to expand housing opportunities for very low, low, and moderate income and/or elderly households by increasing the number of rental units available within existing neighborhoods. Second units are intended to provide livable housing at lower cost while providing greater security, companionship, and family support for the occupants.
- D. As mandated in Section 65852.2 of the Government Code, second units that comply with this chapter are considered not to exceed the density limits prescribed within this title for residential zoning districts.
- E. For purposes of this article, and as otherwise used in this Title 10, "second unit" shall mean an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. A second unit also includes the following: an efficiency unit, as defined in Section 17958.1 of Health and Safety Code, and a manufactured home, as defined in Section 18007 of the Health and Safety Code.

10-6D-2: **APPLICABILITY.** Where Permitted. Second units shall be allowed in the R and RM zoning districts.

10-6D-3: **PERMIT REQUIRED.** A site plan application in accordance with Section 10-19-2 shall be submitted to and approved by the community development director or his/her designee, prior to issuance of a building permit for a second unit.

10-6D-4: **GENERAL REQUIREMENTS.**

- A. No Subdivision of Property. No subdivision of property shall be allowed where a second unit has been established unless the subdivision meets all requirements of the City's zoning and subdivision regulations (Titles 10 and 11 of this Code). Nothing in this section shall prohibit joint ownership of the property where a secondary dwelling unit has been established.
- B. Constructive Notice. The property owner shall record an instrument, on a form approved by the City Attorney, to provide constructive notice to all future owners of the property of the second unit use restrictions, including the restrictions on subdivision that affect the property. Said instrument shall be recorded in the office of the county recorder prior to

issuance of a building permit for a second unit. Said instrument shall run with the land and be coterminous in tenure with the life of the second dwelling unit. The instrument shall also refer to the requirement that an owner of the property must reside in either the second unit or in the principal dwelling located on the property.

- C. Water and Sewer Service. Second units shall be served by City water and sanitary sewer systems.
- D. Garage Conversions. Garages may be converted to second units provided that:
 - 1. Replacement covered off-street parking which conforms to section 10-12-2 and to the underlying zoning district regulations (e.g., setbacks) is provided for the primary dwelling;
 - 2. Off-street parking for the second unit is provided in accordance with this section; and
 - 3. Converted garages meet all building code requirements for a dwelling unit.
- E. Guest House. A second unit may be developed on a lot containing a guest house (separate living quarters without kitchen facilities). A guest house may be converted to a second unit, provided that it complies with the regulations set forth in this chapter and with the regulations for the underlying zoning district.
- F. Recreational Vehicles, Campers, and Travel Trailers. Recreational vehicles, campers, and travel trailers may not be used as second units.
- G. Non-Conforming Use. Only one second unit shall be permitted on a lot. If a lot contains two single-family dwelling units that were legally-established as a non-conforming use, and were established prior to the effective date of the ordinance creating this chapter, a third dwelling unit, to be considered a second unit, shall not be permitted.
- H. Non-Conforming Primary Dwelling. If the primary dwelling is a non-conforming building as defined by section 10-15-7, an attached second unit shall not be permitted.
- I. Illegal Second Unit. The establishment or continuance of a second unit contrary to the provisions of this chapter is declared to be unlawful and shall constitute a misdemeanor and a public nuisance.

10-6D-5: **DEVELOPMENT STANDARDS.** Second units shall be subject to all development standards of the R or RM zoning district in which the property is located, except as modified below:

- A. Floor Area. The total floor area of an attached second unit shall not exceed thirty (30) percent of the total floor area of the existing dwelling unit area or, in the case of a detached unit, one thousand two hundred square feet. All development on a lot, including second units, must conform to the development standards of the underlying zoning district, including, but not limited to, setbacks, building separations, maximum lot coverage and grading limitations.
- B. Lot Coverage. The entire lot shall conform to the lot coverage limitation of the zoning district in which the property is located.

- C. **Height.** Attached second units shall conform to the height limits of the underlying zoning district.
- D. **Setbacks.** A second unit shall maintain the setbacks required in the underlying zoning district for a primary dwelling. Detached second units shall not be considered as detached accessory buildings for the purposes of determining setbacks.
Exceptions: (1) a second unit may be developed above an existing detached garage whose setbacks conform with those for detached accessory buildings; (2) a second unit may be developed above a new detached garage whose vehicle doors are set back five feet from an alley right-of-way.
- E. **Building Separations.** A minimum separation of ten feet shall be maintained between the primary dwelling and a detached second unit.
- F. **Off-Street Parking.**
1. Off-street parking for the primary dwelling shall conform to the current parking standards as set forth in section 10-12-2.
 2. Off-street parking for the second unit shall be provided as follows:
 - a. One additional off-street parking space, covered or uncovered, shall be provided for each studio or one-bedroom second dwelling unit; two additional off-street parking spaces, covered or uncovered, shall be provided for each second unit with two or more bedrooms.
 - b. The additional off-street parking spaces for second units must be on a paved surface; measure ten feet in width if covered, nine feet in width if uncovered, and twenty feet in depth; tandem spaces may be approved for second units; in the R zoning district, the total amount of paved area for parking and driveways shall not exceed the limits set forth in section 10-12-2.
 - c. Parking spaces for second units may not occupy driveways and back-up areas that serve garages for the primary dwelling, nor may they occupy circular drives or hammerhead turnarounds that serve the primary unit (which are intended to provide means by which vehicles can enter a street head-first).
 - d. Tandem parking for second units may be approved by the community development director.
 - e. Parking spaces for second units may not occupy areas for required rear and interior side yards.
 - f. Primary dwellings with three-car garages may allow one bay and the driveway space in front of the bay to be used for a second unit off-street parking.
 - g. If the lot takes access from a collector or arterial street, as designated in the circulation element of the general plan, parking for second units shall

not be designed so that vehicles can only back into the street; for this reason, second units may be permitted on any lots that take access from a collector or arterial street, provided safe street access can be provided..

h. For lots with frontage on only one street, the community development director or his/her designee may deny a site plan application that proposes the situations described below in order to provide access to parking for a second unit:

i. The total amount of paving for parking for both the primary and second unit would exceed seventy-five percent of the front yard setback;

ii. For lots with access to an alley, a proposal to add a new driveway into a collector street, as designated in the circulation element of the general plan; or

iii. For corner lots, a proposal to provide a new driveway that would create a public safety hazard to pedestrians or vehicles.

G. **Architectural Design.** The design of the second unit shall be compatible with the design and scale of the primary dwelling (using substantially the same landscaping, color, materials and design on the exterior), and shall otherwise be subject to the provisions of section 10-6C-11 of this Title.

H. **Attached Second Units.** If the second unit is attached to the primary dwelling, each shall be served by separate outside entrances. The interior wall(s) of an attached unit which separates it from the main unit shall be fire-rated according to the most recent uniform building code.

10-6D-6: **DEVELOPMENT FEES.** Since they may be rented, second units, whether attached or detached, shall be considered as multi-family units for purposes of determining City development impact fees.”

SECTION 6. Section 10-6B-5C of the Reedley Municipal Code is hereby amended to read as follows:

“C. **One Dwelling Unit Per Site:** Not more than one dwelling unit shall be allowed on each site except as may be permitted under section 6D of this Chapter.”

SECTION 7. Section 10-6C-2A-2 of the Reedley Municipal Code is hereby amended to read as follows:

“2. **Two-family, three-family and multi-family dwellings in the RM-3 and RM-2 districts.**”

SECTION 8. The City Clerk is hereby directed to cause a summary of this Ordinance to be published by one insertion in a newspaper of general circulation in the community at least five (5) days prior to adoption and again fifteen (15) days after its adoption. If a summary of the ordinance is published, then the City Clerk shall cause a certified copy of the full text of the proposed ordinance to be posted in the office of the City Clerk at least five days prior to the Council meeting at which the ordinance is adopted and again after the meeting at which the ordinance is adopted. The summary shall be approved by the City Attorney.

This Ordinance shall take effect and be in full force thirty (30) days from and after its adoption.

ATTEST:

I hereby certify that the foregoing Ordinance No. 2009-04 was introduced and given first reading by title only at a regular meeting of the City Council of the City of Reedley held on the 25th day of August, 2009, and was thereafter duly passed, approved, and adopted at a regular meeting of said City Council held on the 8th day of September, 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mary L. Fast, Mayor of the City of Reedley

ATTEST:

Kay L. Pierce, City Clerk



REPORT TO CITY COUNCIL

MEMORANDUM

AGENDA ITEM NO: 13

COUNCIL MEETING DATE: August 25, 2009

SUBJECT: Comprehensive Sewer Rate Study.

RECOMMENDATION:

Adopt Resolution No. 2009-061 retaining the services of HDR Engineering to perform a comprehensive sewer rate study for the purposes of establishing volumetric-based sewer rates for residential customers.

BACKGROUND:

The City of Reedley recently sent out a Request for Qualifications to Engineering firms for the purposes of providing a comprehensive sewer rate study. A key objective in conducting this study is for the City to explore moving to volumetric-based sewer rates for residential customers now that the water meters have been installed. The City received four responses back, however only two proposals were submitted by the deadline. FCS Group submitted a proposal for \$43,910. HDR Engineering Inc. submitted a proposal for \$38,940. Staff recommends retaining the services of HDR Engineering Inc. for the amount of \$38,940 to perform the comprehensive sewer rate study. The City has utilized the services of HDR Engineering in the past and is confident in HDR's ability to perform the comprehensive study.

FISCAL IMPACT:

Budgeted item: No
Expenditure: A onetime expenditure from the Sewer Professional Services account.
Fund Acct(s): 052-4510.3000

Prepared by: RRT Public Works Manager

Approved by: _____ City Manager

- Attachment(s):
1. Resolution No. 2009-061
 2. Request for Proposal
 3. HDR Sewer rate study proposal

Motion: _____
Second: _____

RESOLUTION NO. 2009 - 061

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REEDLEY
AUTHORIZING STAFF TO ENTER INTO A SERVICES AGREEMENT
WITH HDR ENGINEERING TO PERFORM A COMPREHENSIVE
SEWER RATE STUDY.**

WHEREAS, a comprehensive sewer rate study will provide the basis for evaluating the financial/funding requirements of the City's sewer enterprise fund (utility), while establishing rates that are equitable and cost-based; and

WHEREAS, a key objective in conducting this study is for the City to explore moving to volumetric-based sewer rates for residential customers; and

WHEREAS, the City Council deems it in the public interest to have said rate study performed to establish a volumetric-based rate in the interest of fairness to the citizens of Reedley; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Reedley hereby authorizes the City Manager to enter into a services agreement with HDR Engineering to perform said rate study for the City of Reedley's sewer utility for an amount not to exceed \$38,940 for the purposes of establishing a volumetric-based rate.

The foregoing resolution is hereby approved this 25th day of August 2009, by the following vote:

AYES:

NOES:

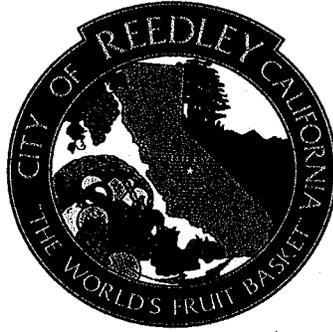
ABSTAIN:

ABSENT:

Mary L. Fast, Mayor

ATTEST:

Kay L. Pierce, City Clerk



**City of Reedley
Request for Qualifications
for a
Comprehensive Sewer Rate Study**

**Responses to this Request for Proposals must be received by the City
(see address below) no later than 4:30 p.m. on August 17, 2009.**
Proposals received after this time will not be considered. Questions regarding this
request may be addressed to Russ Robertson at 559-637-4200, ext. 214.

Submit your proposal to:
**Russ Robertson, Public Works Manager
City of Reedley
1733 Ninth Street
Reedley, California 93654**

PURPOSE

The City of Reedley Public Works Department is currently seeking Statement of Qualifications for conducting a comprehensive sewer rate study. This comprehensive study will provide the basis for evaluating the financial/funding requirements of the City's sewer enterprise fund (utility), while establishing rates that are equitable and cost-based. This study will eliminate the current flat rate for sewer services and establish a new rate based on water consumption via the City's newly installed water meters.

The City will select one (1) firm to perform the work.

CONTENT OF SUBMITTALS

Submittals shall be limited to a total of five (5) two sided pages (excluding front and back covers). Three (3) hard copies of the consultant's proposal shall be submitted. The format shall be as follows:

- A letter of interest signed by a company principal with a statement of availability to complete the work.
- Content of proposal that address the City's selection criteria.
- References including names and telephone numbers of current and previous clients with similar projects and/or on-call contracts.
- Billing rates for listed personnel.
- **A not-to-exceed amount for the work.**
- Detail of firm's insurance coverage's and limitations of indemnification, plus any disagreement with the City's (PSA) Professional Services Agreement, copy attached.
- Time frame in which the work is to be completed.

TIMELINE FOR PROPOSALS

The deadline for submission of qualifications is 4:30 p.m., Monday, August 17, 2009. Late proposals will not be considered. If you have questions, please contact Russ Robertson, Public Works Manager, by phone at 559-637-4200 ext. 214 or by e-mail at russ.robertson@reedley.ca.gov.

You are invited to submit your qualifications by Mail or Deliver to:

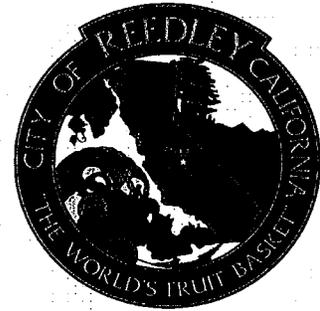
City of Reedley/ Sewer Rate Study
Attn: Russ Robertson, Public Works Manager
1733 Ninth Street
Reedley, CA 93654

DISCLAIMER

The City of Reedley reserves the right to extend the time allotted for this request for qualifications, to examine verbally the respondent in person, and to request a best and final offer, should the City deem that it is in the City's best interest to do so.

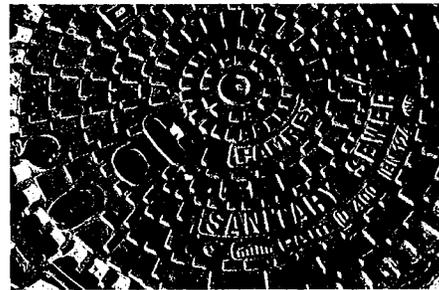
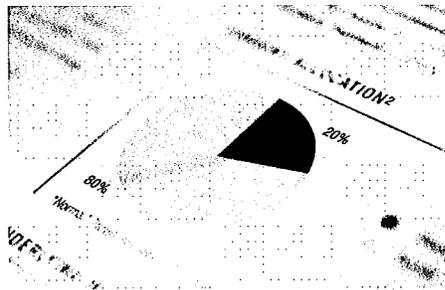
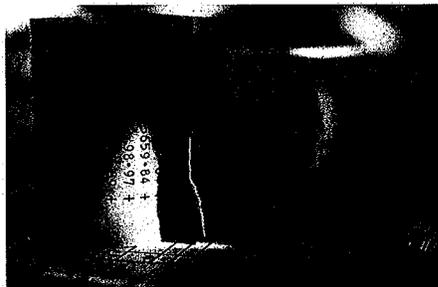
This RFQ does not commit the City to award a contract, or to pay any costs incurred in the preparation of any proposal. The City reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified consultant, or to cancel this RFQ in part or in its entirety.

City of Reedley



**Proposal to Conduct a
Comprehensive Sewer Rate Study**

August 2009



Prepared by
HDR Engineering, Inc.



ONE COMPANY | *Many Solutions*SM

August 5, 2009

Mr. Russ Robertson
Public Works Manager
City of Reedley - Public Works Department
1733 Ninth Street
Reedley, California 93654

Subject: Proposal to Provide a Comprehensive Sewer Rate Study

Dear Mr. Robertson:

HDR Engineering, Inc. (HDR) is pleased to provide a proposal to the City of Reedley, Public Works Department (City) to provide a comprehensive sewer rate study. This study is designed to review the adequacy and equity of the City's retail sewer rates. A key objective in conducting this study is for the City to explore moving to volumetric-based sewer rates for your residential customers.

HDR is highly qualified to perform this work. We have recently performed comprehensive sewer rate studies for a number of California utilities, among them are the City of Folsom, the City of Pleasanton and the Dublin San Ramon Services District. HDR has also worked extensively with the City on water rate issues and is intimately familiar with the City's customer base, along with its accounting, budgeting and billing records.

HDR has provided a detailed proposal which conforms to the City's Request for Qualifications (RFQ) and includes a scope of services, a project time schedule, project team members, client references and a not to exceed project fee. HDR is willing to modify our proposal to meet the specific goals and objectives of the City in conducting this study.

We look forward to discussing our proposal with you. We are prepared to begin working on this immediately to meet the project time schedule included herein. Should you have any questions about our approach to this project or any information contained herein, please call me directly. Thank you again for the opportunity to propose on this interesting project.

Sincerely yours,
HDR Engineering, Inc.

Thomas E. Gould
Vice President

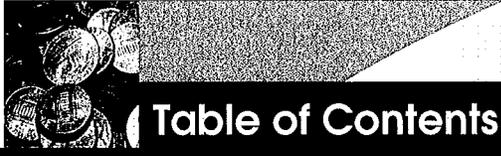


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Section 1

Project Approach and Scope of Services

1.1 Introduction

HDR Engineering, Inc. (HDR) proposes to provide a comprehensive sewer rate study to the City of Reedley – Public Works Department (City). A comprehensive sewer rate study provides the basis for evaluating the financial/funding requirements of the City's sewer enterprise fund (utility), while establishing rates that are equitable and cost-based.

1.2 Goals and Objectives for the Study

Determining the goals and objectives for the study is an important starting point. By gaining an understanding of these goals and objectives, the scope of services can be tailored to meet the City's needs. Our understanding of the goals and objectives for the study are follows:

- Examine the City's sewer rates utilizing "generally accepted" rate making methodologies.
- Develop a revenue requirement analysis to determine the appropriate funding levels that fully support operation and maintenance, replacement, and capital infrastructure.
- Review the City's financial planning criteria and establish rate levels sufficient to meet the City's SRF and/or minimum bond coverage ratio of 1.25.
- Develop a cost allocation methodology (cost of service analysis) to equitably allocate the cost of providing sewer services.
- Design final proposed rates based upon the findings of the revenue requirement and cost of service analysis. Review rate alternatives for residential customers based upon volumetric billing (metered water consumption).
- Provide at least two options for automatic escalation of rates for inflation (i.e. "indexing" of rates or CPI adjustments).
- Provide an effective written and oral presentation of the results of this study.
- Develop a user friendly computer rate model that is flexible and easy to use and update. This model should be capable of being updated with actual cost data and information for the future annual reviews of sewer rates.
- Work closely with the City management and staff, and as a team, maximize the value of this study to the City.

Given these goals and objectives, a scope of services has been developed to meet the City's needs.

1.3 Scope of Services

A comprehensive sewer rate study is generally comprised of three interrelated analyses; a revenue requirement analysis, a cost of service analysis and the design of rates. The scope of services developed for the City's sewer rate study contains these three analytical elements.

Task 1—Initial Project (Kick-Off) Meeting

Task Objective: *Bring the HDR project team, City management and staff together, at the start of the project, to make certain all parties have a mutual understanding of the goals, objectives, issues and concerns related to the study.*

The initial project (kick-off) meeting allows both parties to discuss the overall goals and objectives for this study, while at the same time discussing any issues and concerns that either party may have. To help minimize overall project costs and fees, it is proposed that a conference call be held for the initial project meeting.

Expected City Staff Support for Task 1:

- Have their key management/project team members attend the initial project meeting (conference call).

Deliverables as a Result of Task 1—Initial Project Kick-off Meeting.

- Identification of objectives, issues and concerns by both parties.

Task 2—Data Collection

Task Objective: *Review and assess the City's existing data and information, and provide a written data request detailing the data required to complete the study.*

HDR will provide a written data request to the City detailing the data and information needed for the study. The data and information requested for this study should be, for the most part, readily available information (e.g. financial, statistical, customer, etc.). Where the data is not readily available, or will require significant effort to collect, HDR and the City will determine the “sensitivity” or “importance” of the data required and whether alternative data sources are available.

Expected City Staff Support for Task 2:

- Gather the data requested in the written data request provided by HDR. (Note: typically requires 20 – 40 hours of total staff time to provide.)

Deliverables as a Result of Task 2—Data Collection.

- An initial written data request to the City.
- Identification of any data constraints.

Task 3—Revenue Requirement Analysis

Task Objective: *Using a “generally-accepted” rate setting methodology, develop the sewer revenue requirements for a projected five-year period. If available, the analysis should utilize any sewer capital infrastructure planning documents (e.g. Facility Master Plan, etc.), while establishing adequate funds for operating and capital needs. If necessary, a plan to transition rates to cost-based levels will be developed.*

The revenue requirement analysis reviews the various revenues and expenses for the sewer utility. This task considers the prudent and proper funding for O&M and capital expenditures and determines the need for any rate adjustments over the time period selected. The analytical steps to be followed in this study include:

STEP 1 – SELECTION OF A TEST PERIOD – A “test period” refers to the time period being reviewed, which in this case is a projected five-year time period (e.g. 2010 – 2014).

STEP 2 – METHOD OF ACCUMULATING COSTS – The City utilizes the “cash basis” methodology for accumulating revenue requirements. This “generally accepted” methodology is comprised of

O&M expenses, taxes, debt service and capital improvements funded from rates.

STEP 3 – ACCUMULATION OF REVENUES AND EXPENSES – Once the test period and method of accumulating costs has been determined, HDR in conjunction with City staff will develop the test period revenue requirements. Revenue requirements are composed of operational and capital expenses. The operational costs are generally projected from historical or budgeted costs, using assumed escalation factors, and adjusted for any known changes in operations (e.g. additional personnel, growth/expansion, etc.)

The starting point for projecting capital costs (expenditures) will be the City's capital improvement plans or other relevant planning/budgeting documents. As a part of the study, HDR will explore the City's various funding sources for the capital projects and develop a financial plan.

In summary, given a better understanding of the overall magnitude of the needed capital projects, a final financing plan can be developed for the City. At the same time, if a rate transition plan is needed, it will be developed.

Expected City Staff Support Task 3:

- Provide “as needed” assistance to explain the City's data and information as it relates to developing the revenue requirements.
- Provide “as needed” data refinements or additional data needs as determined during the process of developing the revenue requirements.
- Conference call to review the draft revenue requirement analysis, the overall revenue requirement methodology and confirm all model assumptions and key inputs.

Deliverables as a Result of Task 3 – Revenue Requirement Analysis.

- A projected sewer revenue requirement analysis for a projected five-year period that considers the necessary operating and capital needs of the utility.
- A capital financing plan within the revenue requirement analysis, utilizing the City's comprehensive plans or capital budget, which attempts to maximize capital expenditures, while minimizing the impacts to customers over time.
- If needed, a transition plan to “phase in” any needed rate adjustments.
- Recommendations regarding key financial indicators (debt service coverage, capital replacement, reserve levels, etc.).

Task 4—Cost of Service Analysis

Task Objective: *Develop an average embedded cost of service study to equitably allocate the revenue requirements of the sewer system. The cost of service methodology will utilize “generally accepted” methodologies to allocate costs.*

Given the results of the revenue requirements, the City's sewer revenue requirements will be allocated to the various customer classes of service using an average embedded cost of service methodology. A brief overview of the major steps to be undertaken in the cost of service analysis is noted below.

STEP 1 – SELECTION OF THE METHODOLOGY – Similar to the development of the revenue requirements, the cost of service will allocate the “cash basis” revenue requirements.

STEP 2 – SELECTION OF TEST PERIOD – It is assumed that the 2010 revenue requirements will be allocated.

STEP 3 – FUNCTIONALIZATION AND CLASSIFICATION OF EXPENSES – Functionalization refers to the arrangement of cost data into its basic cost categories (e.g. personnel, materials and supplies,

etc.). This task is simplified greatly through the City's use of a uniform system of accounts. Given functionalized costs, the costs are then classified to their various cost components (e.g. volume, strength, etc.). Classification will be based upon generally accepted methods.

STEP 4 – DETERMINATION OF CLASSES OF SERVICE – HDR will review the City's customer classes of service (e.g. residential, non-residential, etc.) for purposes of cost allocation and rate setting.

STEP 5 – ALLOCATION OF EXPENSES – Once the classes of service have been determined, the process of developing allocation factors is undertaken. In developing the allocation factors, HDR will develop factors that are "fair and equitable" to all customers, and rely upon City and City-specific data where available. Allocation factors are typically developed for volume-related costs, strength-related costs (BOD and TSS) and customer-related costs.

STEP 6 – SUMMARY OF THE COST OF SERVICE – The summary page for the cost of service study compares the difference between the current level of rate revenues received from each class of service, and the allocated cost of service for each class.

Expected City Staff Support for Task 4:

- Review the findings and results of the cost of service analysis and to review the overall methodology and key assumptions of the cost of service.
- Provide any "as needed" data refinements or additional data needs as determined during the process of developing the cost of service analysis.

Deliverables as a Result of Task 4 – Cost of Service Analysis.

- A "fair and equitable" allocation of the revenue requirements to the various classes of service which reflects the characteristics and costs of the City's sewer system and its customers.
- A summary of the average unit costs (cost-based rates) for the various customer classes of service.

Task 5—Rate Design Analysis

Task Objective: *Utilize the cost information developed as a part of the previous tasks and develop sewer rate designs for possible adoption by the City.*

A starting point for the rate design process is understanding the rate design goals and objectives of the City. Understanding the City's rate design objectives will assist HDR in the development of any needed rate design alternatives. At the present time, the City utilizes a flat rate approach for certain customers and the City desires to explore volume-based alternatives for all customers. There are a number of issues to consider in developing volume-based rates for residential customers. First, while metered water consumption is used for billing purposes, it may not be a perfect surrogate for contributed wastewater discharges. That is, a gallon of water into a home is not a gallon of wastewater out. For example, summer consumption contains significant amounts of usage that is irrigation related and does not make its way to the sewer collection system and eventually to the treatment plant. Many utilities consider the establishment of a billing cap based upon average winter water use to fairly reflect these types of issues. As a part of this study, HDR will explore the different approaches to billing on a volume basis and provide a recommendation to the City.

For the other customer classes of service, HDR will develop rate designs that either follow the City's existing approach, or modifies it to be more contemporary in form or structure. For each rate design developed, a simple comparison between the present rate and the proposed rate will be provided. These bill comparisons are useful for understanding the potential impacts to customers at varying levels of consumptive use.

The City has also requested at least two (2) options for the automatic adjustment of sewer rates based upon a consumer price index or other mechanism. This concept is called "indexing" of rates and as a part of the rate process, HDR will develop at least two specific options (methodologies) that may be used to index the City's sewer rates.

Expected City Staff Support for Task 5:

- Discuss with HDR the City's rate design goals and objectives
- Review rate design alternatives for appropriateness.

Deliverables as a Result of Task 5 – Rate Design Analysis.

- Review of the City's current sewer rates and development of various rate design alternatives.
- Simple rate (bill) comparisons between the present and proposed rates.
- At least two (2) options for the indexing of the City's sewer rates.

Task 6—Written Reports

Task Objective: *Provide a written report to summarize the findings, conclusions, and recommendations of the sewer rate study.*

Upon completion of the rate analysis, HDR will develop a draft written report of the rate study. The written reports are intended to be comprehensive in nature and document all of the activities undertaken as a part of the project, along with our findings, conclusions and recommendations. Ten (10) copies and a PDF file of the final report will be provided to the City.

Expected City Staff Support for Task 6:

- Review and comment on the draft written reports

Deliverables as a Result of Task 6 – Written Reports:

- A draft and final written report for the water and wastewater rate studies
- A PDF file of the final report.

Task 7—Public Presentation

Task Objective: *Provide effective public presentations of the findings, results and recommendations of the study.*

For this study it has been assumed that one (1) public presentation before the City Council will be required. The public presentation will be a summary of the findings, conclusions and recommendations of the study.

Expected City Staff Support for this Task:

- Review and comment on any proposed handouts for public meetings
- Provide copies of any handout materials for the meetings.

Deliverables as a Result of Task 7 –Public Presentation.

- Development of all handout materials for the public meeting.
- One (1) public presentation.

Task 8—Computer Models

Task Objective: *Provide a copy of all models developed as a part of this study.*

All models developed as a part of this study will be provided to the City at the end of the study. This model is non-proprietary. No user manual or training in the use of the model has been included within this scope of services. Should these services be needed, they may be added to the existing scope of service or contracted for at a later date.

Expected City Staff Support for Task 8:

- None

Deliverables as a Result of Task 8 – Computer Models.

- A copy of all models developed as a part of the City’s study.

This concludes the discussion of the project scope of services. Any additional services undertaken will be mutually agreed upon between the City and HDR and provided on a time and material basis.

1.4 Proposed Project Time Schedule

A rate study of this complexity generally requires 8 to 16 weeks to complete. The City desires to have this sewer rate study project completed as soon as possible. Once the data is received from the City, HDR believes that it can complete the study within 60 to 90 days. The time schedule as shown assumes a completion date in mid-December, or approximately 60 days from the

Task	Description	Sept.	Oct.	Nov.	Dec.	Jan.
1	Initial Kick-Off Meeting	■				
2	Data Collection	■	■			
3	Revenue Requirement Analysis		■	■		
4	Cost of Service Analysis			■	■	
5	Rate Design				■	
6	Written Reports				■	■
7	Public Presentations					◆
8	Computer Models		■	■	■	

◆ = City Council Meeting

date that the data is received from the City. It appears unlikely that the City will be able to implement revised sewer rates by January 1, 2010 given the minimum 45-day notification requirements of Proposition 218. HDR is willing to work with the City to refine this time schedule to meet the City’s needs.



Section 2

Project Personnel

2.1 Introduction

A key component of any rate study is the project team members assigned to the project. For the City's study, the project team members assigned to this study have extensive experience in financial planning and rate setting and have worked with the City in the past on water financial planning and rate issues. Their knowledge and experience with the City's water utility and rate study will be invaluable to this study.

2.2 Project Personnel

Provided below is an overview of the individuals to be assigned to the City's project and their qualifications.

Project Manager – Tom Gould, Vice President - Tom will be the Project Manager for the City's sewer rate study. He is a nationally recognized expert in the areas of water and sewer cost of service and rate setting, and is the National Technical Director of Finance and Rates for HDR. Tom has worked with a number of California utilities on financial and rate issues. Among these are the Cities of Folsom, Stockton, Santa Cruz, Pleasanton, and Fresno, along with the Dublin San Ramon Services District. Over the last few years, Tom has worked extensively with the City and most recently he was the Project Manager for the City's comprehensive water rate study.



Kristina Larkey, Financial Analyst - Ms. Kristina Larkey, a Financial Analyst with HDR will provide technical and modeling assistance in the development of the rate analysis. Kristina has worked on a number of complex rate analyses, and most recently she provided the technical analysis and computer modeling on the City's comprehensive water rate study.

HDR has purposely maintained a small project team to provide these services in an efficient and cost effective manner. Should additional personnel or expertise be required, HDR has a number of other financial/rate experts that may assist in this project.



Section 3

Client References

2.1 Introduction

A brief sampling of projects and clients that may be similar to the City's needs is provided below. While no two clients or projects are ever identical, this abbreviated list of comparable projects provides evidence for our claim of technical and professional expertise in this area.

2.2 Client References

HDR has worked extensively with the District for a number of years. Initially, HDR conducted a comprehensive water and sewer rate study and system development charge analysis for the District. At that time, the District was experiencing significant growth and had extensive capital facilities plans. Given that, a major component of the study was developing financial policies to address these capital planning issues and the development of cost-based system development charges for each utility. In developing the system development charges, HDR revised the District's methodology to be in conformance with AB 1600 and create a clear nexus between new development and capacity expansion. For the rate studies, HDR developed water and sewer rate models for the District that were designed based upon their specific chart of accounts and flow of funds between replacement related capital and growth-related capital projects. HDR worked extensively with the District Board of Directors to discuss the various policy issues and recommendations of the study. Most recently, HDR worked with the District to move to conservation-based water rates that meet the California Urban Water Conservation Council (CUWCC) Best Management Practice No. 11. HDR has recently been retained by the District to complete a regional sewer rate study for the District.

Dublin San Ramon Services District

7051 Dublin Blvd.
Dublin, California 94568

Ms. Lori Rose
Finance Officer
(925) 875-2270

City of Folsom

50 Natoma Street
Folsom, California 95630

Mr. Todd Eising, P.E.
Project Manager
(916) 355-3502

HDR has worked with the City for a number of years and was originally retained by the City of Folsom to provide a comprehensive water and sewer rate study and connection fee analysis. A major focus was on the water utility and establishing metered rates for a previously un-metered residential area of the City (Ashland). At the same time, the City did not have financial rate setting policies in place and as a result the water and sewer rates were under-funding the renewal and replacement capital projects. The study also created an improved policy concerning the use of system development fees and their application against debt service. While the City's historical approach minimizes rates in the short-term, the City was nearing build-out and expected the fees to decrease significantly in the future. Given that, HDR developed a financial plan to transition the rates to more cost-based levels. A significant element of the study was the public outreach element of the study as it related to the implementation of the rates and the requirements under Proposition 218. HDR assisted with a number of community meetings and City Council meetings. As a part of the study, HDR

developed cost-based impact fees for the City for the water and sewer utility. In 2008, HDR updated this same water and sewer rate study, and at the current time, HDR is working with the City on the development of metered rates for the City's entire residential customer base and the development of conservation-oriented water rates that conform to the California Urban Water Conservation Council (CUWCC) Best Management Practice No. 11.

HDR conducted a comprehensive local sewer rate study for the City. A major part of the study was addressing the issue of long-term renewal and replacement funding. The City had recently conducted an asset management study and determined the need for a funding/rate strategy designed for the long-term. At the same time, HDR conducted a cost of service analysis for the local sewer collection system (treatment is provided by a regional provider). The results of the cost of service indicated that some adjustments between customer classes of service would be appropriate. As a result, a revised schedule of local rates was developed to be more closely cost-based and equitable between the various types of customers served by the City.

City of Pleasanton

123 Main Street
Pleasanton, CA 94566

Mr. Steve Cusenza, P.E.
Project Manager
(925) 931-5507



Section 4

Billing Rates, Proposed Fees and Other Issues

4.1 Hourly Billing Rates

The following hourly billing rates were used to establish the project fees for this study.

<u>Individual</u>	<u>Hourly Rate</u>
Tom Gould, Project Manager	\$250.00/hour
Kristina Larkey	100.00/hour
Others - Project Clerical Support	90.00/hour

HDR has purposely maintained a small project team to provide these services in the most time efficient and cost effective manner. Should other HDR individuals be required for this project, they will be billed at their standard hourly billing rate. Should additional services be requested by the City, the hourly billing rates shown above will apply. These additional services will be provided on a time and material basis.

4.2 Proposed Fees

Based upon the previously presented scope of services, an estimated project fee was developed. Presented below is a summary of the proposed fees by task.

City of Reedley		
Summary of the Fees for the		
Comprehensive Sewer Rate Study		Total
Labor:		
Task 1:	Initial Project Meeting	\$1,580
Task 2:	Data Collection	1,390
Task 3:	Revenue Requirement Analysis	9,360
Task 4:	Cost of Service Analysis	9,360
Task 5:	Rate Design Analysis	5,980
Task 6:	Written Reports	4,560
Task 7:	Public Presentations	2,790
Task 8:	Computer Models	<u>1,050</u>
Total Labor -		\$36,070
Expenses:		
Total Expenses		<u>\$2,870</u>
Grand Total "Not to Exceed" Fees		<u>\$38,940</u>

A more detailed fee proposal is attached on the following page which details the labor by task and by individual along with a detailed breakdown of the estimated expenses.

**City of Reedley
Comprehensive Sewer Rate Study**

Task	Task Description	Tom Gould	Kristina Larkey	Admin Assistance	Total Project
	Hourly Billing Rates	\$250.00	\$100.00	\$90.00	
1	Initial Project Meeting				
	Hours -	4	4	2	10
	Labor Cost	\$1,000	\$400	\$180	\$1,580
2	Data Collection				
	Hours -	2	8	1	11
	Labor Cost	\$500	\$800	\$90	\$1,390
3	Revenue Requirement Analysis				
	Hours -	12	60	4	76
	Labor Cost	\$3,000	\$6,000	\$360	\$9,360
4	Cost of Service Analysis				
	Hours -	12	60	4	76
	Labor Cost	\$3,000	\$6,000	\$360	\$9,360
5	Rate Design Analysis				
	Hours -	12	28	2	42
	Labor Cost	\$3,000	\$2,800	\$180	\$5,980
6	Written Reports				
	Hours -	12	12	4	28
	Labor Cost	\$3,000	\$1,200	\$360	\$4,560
7	Public Presentation (1)				
	Hours -	10	2	1	13
	Labor Cost	\$2,500	\$200	\$90	\$2,790
8	Computer Model				
	Hours -	1	8	0	9
	Labor Cost	\$250	\$800	\$0	\$1,050
	GRAND TOTAL				
	Hours -	65	182	18	265
	Labor Cost	\$16,250	\$18,200	\$1,620	\$36,070
	Expenses				
	Airfare -				
	Public Presentatios (1 meeting- 1 @ \$400 Round trip PP)				400
	Hotel (2 nights @ \$125/Night)				250
	Car Rental (2 days @ \$85)				170
	Mileage/Airport Parking				100
	Technology Charge				1,100
	Meals				100
	Miscellaneous (phone, copies, fax, etc.)				750
	Total Expenses				\$2,870
	Grand Total Project Fee Estimate				\$38,940

Should the City request additional services beyond those identified within the proposed scope of services, those additional services will be provided on a time and materials basis or at a cost agreed to by both parties in advance of completion of any additional work.

4.3 Method of Billing

For this study, HDR proposes that the City be billed on a fixed fee, lump sum basis. The total estimated fee of \$38,940 will be divided into five equal payments of \$7,788.00 and be billed on a monthly basis. The final payment would be made by the City when the final report is delivered to the City. The City will not unreasonably withhold the final payment from HDR.

Along with each monthly invoice, the City's Project Manager will receive an update of the various aspects of the study undertaken during the prior month and any issues or concerns related to the study.

4.4 HDR's Insurance Coverage

As a professional engineering firm, HDR maintains a number of different types of insurance at industry accepted coverages. HDR will maintain the following insurance coverage during the performance of HDR services on the City's project: Worker's Compensation insurance as required by law; Employer's Liability insurance; Commercial General Liability (combined single limit) for personal and property damage; and, Automobile Liability insurance (combined single limit) for bodily injury and property damage covering all vehicles, owned and non-owned. If selected to perform this study, HDR will provide proof of insurance.

4.5 Exceptions to the City's Professional Services Agreement (PSA)

The City provided as a part of their RFQ a Professional Services Agreement (PSA) and requested a listing of any exceptions. HDR would note that even with these exceptions, we are confident that the City and HDR can reach a mutually acceptable agreement to conduct this study. Provide below are the exceptions noted at this time for possible discussion and modification at the time the final PSA is developed.

- Section VII - In this section, "warrants" should be changed to "represents" and "warranty" should be changed to "representation."
- Section XI. - Under Section A add: . . . papers and documents, identified as deliverables in the Scope of Services and . . .
- Section XI - At the end of Section B add: . . . any legal proceedings; or (4) was in the possession of the CONSULTANT prior to performing services under this Agreement.
- Section XII - In Section A remove: ~~consequential damages arising directly out of . . .~~ Consequential damages generally involve a product or construction, which is not relevant to this rate study. Insert in its place: to the extent caused by . . . On the last sentence, strike: ~~these arise out of . . .~~ and replace with: . . . caused by . . .
- Section XII - In Section B, strike the following . . . ~~consequential damages . . . arising out of or in connection~~ and insert in its place: to the extent caused by . . . In the last sentence of this section, strike: ~~these which arise out of . . .~~ and replace with: caused by . . .
- Section XII - In Part C, Subsection 2, strike: ~~Independent Contractor's Liability (if applicable).~~