



AGENDA VALLEJO CITY COUNCIL JULY 17, 2007

MAYOR
Anthony Intintoli, Jr.

CITY COUNCIL
Gary Cloutier, Vice Mayor
Gerald Davis
Tom Bartee
Hermie Sunga
Stephanie Gomes
Tony Pearsall

City Hall
555 Santa Clara Street
Vallejo, CA 94590

This AGENDA contains a brief general description of each item to be considered. The posting of the recommended actions does not indicate what action may be taken. If comments come to the City Council without prior notice and are not listed on the AGENDA, no specific answers or response should be expected at this meeting per State law.

Those wishing to address the Council on any matter for which another opportunity to speak is not provided on the AGENDA but which is within the jurisdiction of the Council to resolve may come forward to the podium during the "COMMUNITY FORUM" portion of the AGENDA. Those wishing to speak on a "PUBLIC HEARING" matter will be called forward at the appropriate time during the public hearing consideration.

Copies of written documentation relating to each item of business on the AGENDA are on file in the Office of the City Clerk and are available for public inspection. Information may be obtained by calling (707) 648-4527, TDD (707) 649-3562, or at our web site: <http://www.ci.vallejo.ca.us/>



Vallejo City Council Chambers is ADA compliant. Devices for the hearing impaired are available from the City Clerk. Requests for disability related modifications or accommodations, aids or services may be made by a person with a disability to the City Clerk's office no less than 72 hours prior to the meeting as required by Section 202 of the Americans with Disabilities Act of 1990 and the federal rules and regulations adopted in implementation thereof.

NOTICE: Members of the public shall have the opportunity to address the City Council concerning any item listed on the notice before or during consideration of that item. No other items may be discussed at this special meeting.

VALLEJO CITY COUNCIL **SPECIAL MEETING** **5:30 P.M. -- CITY COUNCIL CHAMBERS**

A. ECONOMIC DEVELOPMENT COMMISSION INTERVIEWS

VALLEJO CITY COUNCIL **SPECIAL MEETING -- CLOSED SESSION** **6:15 P.M. -- CITY COUNCIL CHAMBERS**

B. CONFERENCE WITH LEGAL COUNSEL - PENDING LITIGATION: LUMSEY, et al. v. TRAVEL INN, et al., SOLANO COUNTY SUPERIOR COURT, CASE NO. FCS023582, PURSUANT TO GOVERNMENT CODE SECTION 54956.9 (a).

VALLEJO CITY COUNCIL
REGULAR MEETING
7:00 P.M. -- CITY COUNCIL CHAMBERS

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. PRESENTATIONS AND COMMENDATIONS
 - A. PRESENTATION OF ARTWORK DONATED BY PHILIPPINES SPEAKER OF THE HOUSE OF CONGRESS, JOSE deVENICIA, PRESENTED BY VALLEJO BUSINESS ALLIANCE OF THE CHAMBER OF COMMERCE
 - B. PRESENTATION OF RECOGNITION TO VALLEJO POLICE DEPARTMENT FOR TOBACCO STING OPERATION BY LORETTA HUDDART-WOLFE OF SOLANO COUNTY HEALTH AND SOCIAL SERVICES

5. PUBLIC COMMENT REGARDING CONSENT CALENDAR ITEMS

Members of the public wishing to address the Council on Consent Calendar Items are requested to submit a completed speaker card to the City Clerk. Each speaker is limited to three minutes pursuant to Vallejo Municipal Code Section 2.02.310. Requests for removal of Consent Items received from the public are subject to approval by a majority vote of the Council. Items removed from the Consent Calendar will be heard immediately after approval of the Consent Calendar and Agenda.

6. CONSENT CALENDAR AND APPROVAL OF AGENDA

All matters are approved under one motion unless requested to be removed for discussion by a Councilmember, City Manager, or member of the public subject to a majority vote of the Council.

- A. APPROVAL OF MINUTES OF THE JUNE 26, 2007 MEETING
PROPOSED ACTION: Approve the minutes.
- B. FINAL READING OF AN ORDINANCE ADOPTING THE MARE ISLAND SPECIFIC PLAN, AS AMENDED, AS THE MARE ISLAND MASTER PLAN
PROPOSED ACTION: Adopt the Ordinance.
- C. FINAL READING OF AN ORDINANCE AMENDING CHAPER 16.38 OF THE VALLEJO MUNICIPAL CODE "ARCHITECTURAL HERITAGE AND HISTORIC PRESERVATION"
PROPOSED ACTION: Adopt the Ordinance.

- D. APPROVAL OF A RESOLUTION ESTABLISHING NEW RATES AT THE VALLEJO MUNICIPAL MARINA EFFECTIVE AUGUST 1, 2007, PROVIDING AUTHORIZATION FOR FUTURE RATE INCREASES, APPROVAL OF FEE WAIVERS TO BENEFIT THE CITIZENS OF VALLEJO OR BERTH RENTERS AND PROVISIONS FOR INCENTIVES TO INCREASE OCCUPANCY

PROPOSED ACTION: Staff recommends approving a resolution: 1) rescinding Resolution No. 06-247; 2) establishing new rates and fees at the Vallejo Municipal Marina for Fiscal Year 2007/2008; 3) providing authorization to the City Manager to increase rates over the next five (5) years; 4) authorizing the City Manager, or his designated representative, to waive berthing fees; and 5) authorizing the City Manager, or his designated representative to offer promotional discounts or incentives to increase occupancy/revenue.

7. PUBLIC HEARINGS

- A. CONSIDERATION OF AN APPEAL OF THE PLANNING COMMISSION'S DENIAL OF USE PERMIT #07-0002 FOR A TOWING SERVICE/AUTO STORAGE YARD AT 107 COUCH STREET

On April 16, 2007, the Planning Commission considered Use Permit application #07-0002 for a towing service/auto storage yard at 107 Couch Street, submitted by Arrow Tow Service. The Planning Division staff had recommended that the proposed project be conditionally approved provided the site and associated use was adequately screened from public view. The Planning Commission unanimously denied the proposal based on their determination that the proposed use was inconsistent with efforts to beautify Sonoma Boulevard and that the proposed use was incompatible with other uses in the immediate area.

On April 23, 2007, Timothy Jones filed an appeal of the Planning Commission's denial of Use Permit #07-0002, but also modified his project proposal to attempt to address some of the Planning Commission concerns expressed for the project. On June 18, 2007, the Planning Commission voted 5-2 not to rehear the applicant's modified proposal.

PROPOSED ACTION: Staff recommends that the City Council grant the appeal of Use Permit #07-0002 subject to the revised staff conditions of approval and require the applicant to revise the plans as recommended in the staff report.

8. POLICY ITEMS

- A. CONSIDERATION OF SECURITY ALARM ORDINANCE

The City's existing alarm ordinance does not provide for the imposition of penalties until four false alarms have been reported. As such, there is little incentive to reduce false alarms and the Police Department responds to over 6,500 such incidents each year. False alarm responses waste the equivalent time of two police officers.

PROPOSED ACTION: Adopt the resolution holding the proposed ordinance updating security alarm standards and establishing an effective penalty system to reduce false alarms on first reading.

- B. CONSIDERATION OF A RESOLUTION HOLDING ON FIRST READING AN ORDINANCE RELATING TO CAMPING ON PUBLIC AND PRIVATE PROPERTY AND THE STORAGE OF PERSONAL PROPERTY ON PUBLIC AND PRIVATE PROPERTY

The City Council directed staff to prepare an ordinance regulating camping on public and private property at their regularly scheduled meeting on May 22, 2007. As a result, an appropriate ordinance has been prepared for Council consideration.

PROPOSED ACTION: Adopt a resolution holding the proposed ordinance regulating camping on public and private property and the storage of personal property on public and private property on first reading.

9. ADMINISTRATIVE ITEMS

- A. MOTION TO RECONSIDER PLANNED DEVELOPMENT (UNIT PLAN) 06-0018, 1757 DURROW COURT, VALLEJO, AT THE REQUEST OF COUNCILMEMBER SUNGA

On May 22, 2007, the Vallejo City Council considered an appeal from a Planning Commission's decision granting unit plan approval for an 11,754 custom single family home at 1757 Durrow Court. After the hearing, the Council voted to uphold the appeal, and modify the decision of the Planning Commission regarding the unit plan by a vote of 5-2. Pursuant to Vallejo Municipal Code section 2.02.650, Councilmember Sunga requests that a motion to reconsider the denial of Unit Plan 06-0018 be voted on by the Council.

PROPOSED ACTION: Determine whether Unit Plan 06-0018 should be considered at a future time. If the Council votes to grant the motion to reconsider, such matter will be placed on a future agenda, and the statutory notice to interested parties shall be provided.

- B. CONSIDERATION OF A RESOLUTION HOLDING ON A FIRST READING AN ORDINANCE AMENDING CHAPTERS 7.40 THROUGH 7.52 OF THE VALLEJO MUNICIPAL CODE

On September 12, 2006, the City Council awarded a franchise to Vallejo Garbage Service to extend the curbside recycling franchise through June 30, 2017, and authorized the City Manager to sign a Revised and Restated Franchise Agreement for Collection and Disposal of Solid Waste and Recyclables with Vallejo Garbage Service. That action made it necessary to amend the Vallejo Municipal Code to ensure that the franchise agreement and City's Municipal Code are consistent. At that time as automated collection service was not scheduled to begin until July 2007, the necessary changes to the Municipal Code related to the new service were not made. Staff informed Council that it would be necessary to return at a later date to make these changes and they are now being presented to City Council for consideration.

PROPOSED ACTION: Adopt the resolution holding on the first reading an Ordinance amending Chapters 7.40 through 7.52 of the Vallejo Municipal Code.

10. APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

A. APPOINTMENT TO ECONOMIC DEVELOPMENT COMMISSION

Council interviewed applicants for the Economic Development Commission earlier this evening.

PROPOSED ACTION: Appoint one member to the Economic Development Commission.

11. WRITTEN COMMUNICATIONS

Correspondence addressed to the City Council or a majority thereof, and not added to the agenda by the Mayor or a Council member in the manner prescribed in Government Code, Section 54954.2, will be filed unless referred to the City Manager for a response. Such correspondence is available for public inspection at the City Clerk's office during regular business hours.

12. CITY MANAGER'S REPORT

13. CITY ATTORNEY'S REPORT

14. COMMUNITY FORUM

Anyone wishing to address the Council on any matter for which another opportunity to speak is not provided on the agenda, and which is within the jurisdiction of the Council to resolve, is requested to submit a completed speaker card to the City Clerk. When called upon, each speaker should step to the podium, state his /her name, and address for the record. Each speaker is limited to three minutes pursuant to Vallejo Municipal Code Section 2.20.300.

15. REPORT OF THE PRESIDING OFFICER AND MEMBERS OF THE CITY COUNCIL

16. CLOSED SESSION: *May recess to consider matters of pending litigation (GC 54956.9), personnel (GC 54957), labor relations (GC 54957.6), and real property negotiations (GC 54956.8). Records are not available for public inspection.*

17. ADJOURNMENT

VALLEJO CITY COUNCIL
MINUTES

JUNE 26, 2007

1. CALL TO ORDER

A regular meeting of the Vallejo City Council was held on the above date in the Council Chambers of the Vallejo City Hall. The meeting was called to order at 7:00 p.m. by Mayor Anthony J. Intintoli, Jr.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Present: Mayor Intintoli, Vice Mayor Cloutier, Councilmembers Bartee, Davis, Gomes, Pearsall and Sunga

Absent: None

Staff: City Manager Joseph Tanner
City Attorney Fred Soley
Acting City Clerk Mary Ellsworth

4. PRESENTATIONS AND COMMENDATIONS - NONE

5. PUBLIC COMMENT REGARDING CONSENT CALENDAR ITEMS

6. CONSENT CALENDAR AND APPROVAL OF AGENDA

Mayor Intintoli requested that Item 6-E, Approval of a resolution accepting the Quarterly Ridgecrest Report be removed from the agenda.

Mayor Intintoli noted that Councilmember Sunga requested to comment on Consent Items 6-C, concerning the authorization of a consultant services agreement with Armenta Management for grant writing services; and 6-J, concerning the authorization of a consultant services agreement the Crossroads Software, Inc., for a Traffic Collision Reporting System.

Councilmember Sunga questioned why consultants needed to be hired for these services and asked if there was someone on staff that could perform these duties.

City Manager Joseph Tanner replied that we do not have the staff to perform the grant writing. The consultant has been very successful in obtaining over two million dollars in grants. Staff anticipates that he will obtain at least one million dollars in the next year. The consultant does not get a percentage of grants received.

Concerning the Crossroads Software contract, Councilmember Sunga asked if staff could perform part of the services. Mr. Tanner referred the question to the Police Department staff that was not available at this time. The item was removed to be heard as Administration Item 12-C, to allow time for the Police personnel to arrive.

Hearing no further additions, corrections or deletions, the agenda was approved as amended and the following minutes and resolutions were offered by Vice Mayor Cloutier:

APPROVED MINUTES OF THE MAY 22, 2007 COUNCIL MEETING

RESOLUTION NO. 07-156 N.C. ACCEPTING THE RESIGNATION OF CARMEN MASON BROWN FROM THE HUMAN RELATIONS COMMISSION, AND PATRICE HALL FROM THE ECONOMIC DEVELOPMENT COMMISSION

RESOLUTION NO. 07-157 N.C. AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR GRANT WRITING SERVICES WITH ARMENTA MANAGEMENT CONSULTING FOR FISCAL YEAR 2007-2008

RESOLUTION NO. 07-158 N.C. AUTHORIZING THE CITY MANAGER TO SIGN A SCOPE OF WORK AND FINANCIAL PLAN FOR THE PREDATOR MANAGEMENT PROGRAM ON MARE ISLAND

APPROVAL OF A RESOLUTION ACCEPTING THE QUARTERLY RIDGECREST REPORT
(This item was removed from the agenda.)

RESOLUTION 07-159 N.C. AUTHORIZING THE CITY MANAGER TO AMEND THE CURRENT AGREEMENT WITH VALLEJO CITIZENS TRANSIT CORPORATION BY EXTENDING THE TERM FOR AN ADDITIONAL SIX MONTH PERIOD, AND ADDING TWO ADDITIONAL THREE MONTH OPTIONS TO BE EXERCISED AT THE DISCRETION OF THE CITY MANAGER.

RESOLUTION NO. 07-160 N.C. AUTHORIZING THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT TO THE AGREEMENT WITH WINZLER & KELLY CONSULTING ENGINEERS FOR THE DESIGN OF THE FERRY MAINTENANCE FACILITY

RESOLUTION NO. 07-161 N.C. OF THE CITY COUNCIL OF THE CITY OF VALLEJO ESTABLISHING THE FISCAL YEAR 2007-2008 GANN APPROPRIATIONS LIMIT AT \$93,437,171 AND CERTIFYING THAT FISCAL YEAR 2007-2008 APPROPRIATIONS THAT ARE SUBJECT TO THE LIMIT DO NOT EXCEED THE APPROPRIATIONS LIMIT

RESOLUTION NO. 07-162 N.C. ACCEPTING THE BAY AREA SUPER URBAN AREA SECURITY INITIATIVE CITIZEN PREPAREDNESS GRANT IN THE AMOUNT OF \$35,000 AND AMENDING THE FIRE DEPARTMENT BUDGET FOR FISCAL YEAR 2006-2007 IN THE AMOUNT OF \$35,000 FOR THE PURCHASE OF EQUIPMENT, MATERIALS AND SUPPLIES FOR THE CITIZEN PREPAREDNESS TRAINING PROGRAM

A resolution authorizing the City Manager or his Designee to execute a Consultant Services Agreement with Crossroads Software, Inc. for a traffic collision reporting system

This Item was moved to Administrative Items 12-C.

RESOLUTION NO. 07-164 N.C. APPROVAL OF AN AGREEMENT BETWEEN THE CITY OF VALLEJO, GREATER VALLEJO RECREATION DISTRICT AND BELVEDERE HOMES, LLC, REGARDING THE DEVELOPMENT OF NORTHGATE NEIGHBORHOOD PARK

The resolutions and minutes were approved by the following vote:

AYES:	Mayor Intintoli, Vice Mayor Cloutier, Councilmembers Bartee, Davis, Gomes, Pearsall and Sunga
NOES:	None
ABSENT:	None
ABSTAINING:	None

7. PUBLIC HEARINGS

A. CONSIDERATION OF A RESOLUTION ADOPTING NEW BUILDING AND DEVELOPMENT PROCESSING FEES

The City Council reviewed new proposed building and development processing fees and Code Enforcement Fees during a study session on June 12, 2007. Formal action approving new fees is proposed in tonight's action.

Craig Whittom, Assistant City Manager/Community Development, explained the Development Services initiatives, which include a single point of entry, website improvements, reducing backlog, and performance standards. He reported that the approximate current recovery rates are: Planning, 58 percent of costs; Building, 80 percent; Code Enforcement, 22 percent; Engineering, 42 percent. He reviewed the issues raised at the study session such as refining other city comparisons due to concern that the new fees would be the highest in the bay area; consider phasing in fee increases; reconsider the five acres or less for planning subsidies, and explore assessing higher penalties for Code Enforcement repeat offenders.

Mr. Whittom reported that three cities have updated their fees recently; three are using very old fees, but updates are under way and four continue to use fees more than five years old. The Consultant's report updated to note: Planning – Vallejo is highest in 2 of 7 test categories; Engineering – Vallejo is highest in 2 of 6; and Building, Vallejo is highest in 1 of 2. Mr. Whittom also addressed the recommended Fee Subsidies.

Mr. Whittom noted that questions were received from the Chamber of Commerce concerning what specific measures have been implemented or explored to improve the efficiency and cost effectiveness of the current system; and how do the fees compare to other cities. Mr. Whittom stated that Vallejo is at the high end of the range. Staff believes that full-cost recovery is important and in light of the improvements that are being made to the process, that the fees will not be a disincentive to those interested in Vallejo. The Chamber also addressed the concept of a special revenue fund which would be keeping all of the fee revenue in a segregated fund from the General Fund. Staff believes this is a good idea and has committed to bring this back to the Council at the mid-year budget review.

Mayor Intintoli opened the public hearing.

Speakers: Verna Mustico, Vallejo Chamber of Commerce, highlighted the concerns of the Chamber of Commerce, namely, what specific measures have been implemented to improve the efficiency and cost effectiveness of the current system; the cost analysis study that indicates in the report from PRM that Vallejo full cost fees are substantially higher for Use Permit and Variance review than other cities in Solano County.

Marti Brown spoke in favor of the increase in the fees.

Mayor Intintoli closed the public hearing.

RESOLUTION NO. 07-165 N.C. offered by Mayor Intintoli approving the new Code Enforcement Division fees and charges effective on July 1, 2007, and the Planning Division, Building Division and Engineering Division fees and charges effective on September 1, 2007.

The resolution was adopted by the following vote:

AYES: Mayor Intintoli, Vice Mayor Cloutier, Councilmembers Barte, Davis, Gomes, Pearsall and Sunga

NOES: None
ABSENT: None
ABSTAINING: None

8. RECESS TO JOINT SPECIAL MEETING WITH THE REDEVELOPMENT AGENCY

B. APPROVAL OF FISCAL YEAR 2007-2008 BUDGET FOR THE CITY OF VALLEJO AND THE REDEVELOPMENT AGENCY OF THE CITY OF VALLEJO

The City Council has received the Proposed Fiscal Year 2007-08 Budget on May 8, 2007 and has conducted workshops on June 5, 7, and 14 to hear presentations by staff and to ask questions of each City department regarding proposed programs for the upcoming fiscal year. Tonight, the City Council will conduct a public hearing to receive additional input. Following the public hearing, the City Council will consider a resolution to formally adopt the Fiscal Year 2007-08 Budget.

Community Redevelopment Law requires that the governing board of the Redevelopment Agency adopt an annual budget containing specific information, including all activities to be financed by the Low and Moderate Income Housing Fund.

Mayor Intintoli reported for the record that an email was received from James Moore concerning various matters on the budget.

Robert Stout, Finance Director, presented a summary of the 2007/2008 budget as follows: Total expenditures \$258.6 million; General Fund 85.8 million; Enterprise funds \$64.3 million; Community Development \$41.6 million; Public Works \$13.5 million; other programs (Debt Service and Capital) \$53.4 million. He explained why the General Fund is in "crisis"; addressed new information to be analyzed and provided statistical information on the history and projection of the General Fund.

Mr. Stout stated that he has responded to questions and concerns of Councilmembers, the public and the media regarding an article in the Times Herald on June 2, 2007 relating to IAFF concerns. He addressed each of the concerns which included allegations about the \$15 million available at June 30, 2006; the use of the \$4 million in projected reserves; "unrestricted reserves" could wipe out deficits; FY 2006 "Transfers to Transportation"; FY 2006 \$1.7 million transfer to risk management; "untold millions" in property assets; and double industry standards of reserves. Mr. Stout stressed that when money is in a fund, it is restricted for uses of that fund even when the balance sheet does not indicate the funds as restricted. These funds cannot be used for salaries. He addressed why layoffs are necessary, how the budget was balanced, and service impacts relating to police and fire layoffs.

Mr. Stout addressed Community Based Organizations and stated that the following agencies are contracted responsibilities for services: Greater Vallejo Recreation district, Library, Solano County animal Control, Humane Society and Meals on Wheels. Staff is recommending that the community Organizations receive the following funding: Convention & Visitors Bureau, \$67,000; Florence Douglas Senior Center \$47,880; Community Arts Foundation \$45,500; Police Athletic League, \$13,000; Naval & Historical Museum, \$21,140; and Youth and Family Services, \$4,000, totaling \$198,720.

Mr. Stout stated that some of the major issues the City is facing are arbitration, the continuation of a slow economy and retiree medical costs. There are no proposed changes at this time in the General Fund budget that was presented in May. Staff expects to be able to present Council with updated figures on a quarterly basis. He described the changes staff has made to the Marina Fund and the Transportation funds. He explained the activity in the Redevelopment

Agency and Economic Development which included moving the Economic Development portion into the General Fund. Redevelopment Agency staff is working on a funding plan to assure the budget is balance in the future.

Staff is recommending that the Council adopt the budget for the City and the Redevelopment Agency. Staff suggests returning to the Council in September with the results of arbitration, at which time staff hopes to have final figures for fiscal year 2006-2007, and they will have revised revenue and expenditure estimates for fiscal year 2007-2008, and will address any necessary changes at that time.

Mr. Tanner stated that the citizens received a political flyer in the mail this week accusing the City of hiding 15 million dollars. He stated that to dispel the myth, he will be asking the Chamber of Commerce and the Vallejo Times Herald's Chief Financial Officer or their auditor to establish a committee of certified public accountants to review the City's books. He stated that the City is not committing a "shell game" and he wants to prove this.

Mayor Intintoli opened the public hearing.

The following individuals spoke in support of Public Safety, against any layoffs, and in opposition to the budget as presented:

Jennie Angulo, Citizen, Registered Nurse; Cheryl Thompson, Owner, Carpets Plus; Darren Rae Jones, Bruce Gourley, Building Trades; Donald Davis, Hank Howard, C4CC; Cynthia Pilgrim; Eric Strom Hugh Marquez, Brett Nelson, M.D. South Solano County Medical Director; Mike Kollar, PAL; Julie Bauer; Rod Cameron, Plumbers Union; John Stevens, Dyhanne Strohmeyer; John Sturdee, Fairfield Firefighter; Cliff Campbell, Vallejo Firefighters; Mark Sharpe, Captain, Fire Department; Joe Athey, K. T. Walker, Old Town Neighborhood; Marsolete Ridgell-Grimes, Darrell Edwards, Jon Riley, Vice President, Firefighters Local #1186, Carlos Carlucci, Hami Ramani.

The following speakers spoke in support of the proposed budget:

W. C. (Bill) Haines, Marina Tower Tenant, Katy Miessner, Marc Garman, Rick Mariani, James Moore, Diana Lange, David Doswell, Marti Brown, Joanne Schivley

Mr. Stout reiterated Ms. Schivley's remarks that the interest earned on the money is restricted to the funds that have the money to invest and that's where it goes.

Mayor Intintoli stated that if Council does not adopt the budget tonight, the City will be bankrupt. He stated that he has always made decisions based upon what he thought was right with the information he had when he made the decision. His information tonight is that the City does not have the money to pay the nine percent raise that is due July 1, and continue to have the same number of people on staff. His responsibility tonight is to adopt a budget that is balanced, and offered the budget given to the Council by staff.

Vice Mayor Cloutier stated that the City spends five percent of the \$85 million budget on public works which is much lower than other comparable cities. We only spend five percent of our General Fund budget on administrative staff—Economic Development (the engine that creates revenue in the community) Community Development, and City Attorney. This is the staff that can generate revenue and make the quality of life better in this community. Until the numbers get better, we will not move forward as a city. He stated that the City is still spending \$64 million of an \$85 million budget to arrest criminals, put out fires and deliver emergency services to our citizens. He will vote for the budget tonight.

Councilmember Davis explained the misinformation Council received in the past concerning the union contracts. He addressed alternatives which included raising taxes which would include a two-thirds vote of the people, and arbitration. He stated that he is hopeful there can be an agreement reached even as the arbitration is continuing. He will vote for the budget—he has to protect and represent the citizens of Vallejo who elected him to office. He hopes we can work together to reach an agreeable solution.

Councilmember Gomes stated that she will not tie the hands of future Council as this Council's hands were tied tonight. She stated that she has studied this issue for many hours over the past year—this has been a very painful process—she does not want to cut firefighters or police officers but it is time to get the City's budget under control. She will support the budget tonight.

Councilmember Gomes asked Mr. Tanner if, since the budget will be reviewed in September, can we fully fund the Community Based Organizations over the next two months, and depending on the outcome of arbitration and what our budget situation is in September, if we have to, make the cuts at that time—we would be prorating it. Mr. Tanner replied yes, this can be done. Hearing that, Councilmember Gomes offered that as part of the resolution.

Councilmember Pearsall addressed a history of the budget situation dating back to 1993, quoting from a letter written in 1993 by J. D. Miller, a member of the Citizens Budget Advisory Committee, which stated that the City of Vallejo was spending more money than it earned; an article in the Vallejo paper in 2003, which asked why the City Council had not attempted to freeze all City employees' salaries at current levels until the fiscal status was determined; and finally an article in the Opinions of the People on June 25 which asked "who will be in control of the City's finances in future years". He noted the pattern developed over the past 15 years. He referred to the request Mr. Tanner made to the Union Presidents asking them to forego their pay raises for two months and when the arbitration was settled the raises would be retroactive to July 1 should that be necessary. There was no response. Councilmember Pearsall offered to give up nine percent of his retirement and donate it to the Community Based Organizations if the public safety unions will give up their nine percent raise, and IBEW give up their raise.

Councilmember Bartee stated that he does not believe arbitration is the right way to go about the situation. The solution lies in face to face negotiation, not in the court room. He stated that the idea of a balanced budget is "smoke and Mirrors" and he cannot realistically believe that this "let's hope" budget has any significant possibility of being achieved and he cannot vote for a budget that is not balanced. He appreciates Councilmember Gomes concept of trying to support the Community Based Organizations and Councilmember Pearsall's offer to donate part of his salary. He does not see the value in trying to pull \$90,000 from these organizations when he believes the money could be found someplace. He thinks it's shameful that we are "playing this game." He knows that we all need to come to the table in good faith—that Police and Fire need to make some kind of concessions. Although he will not be supporting the adoption of the budget, if it does go forward, he would like the Community Based Organizations to be funded rather than just for two months.

Councilmember Sunga stated that he agrees with everything that has been said. The budget before Council tonight is predicated on the fact that the City will get a favorable ruling on arbitrations. It does not provide for an alternate plan. He does not believe this is the proper way to prepare a balanced budget. He stated that in order to make informed decisions, he needs answers, and he has not received answers to questions he asked and noted the topics that he expected answers to. He questioned how much money would be saved with the layoffs, noting the cost of implementing the layoffs which includes leave and other benefits. He stated he cannot make an informed decision for the citizens of Vallejo because City Management did not have the courtesy to answer his questions either verbally or in writing. Ignoring his request

for information is totally irresponsible. He cannot vote blindly and he will not vote without having the facts and knowing the truth. Therefore, he cannot vote for the budget tonight.

Councilmember Gomes agrees that this is a "let's hope" budget. She stated that the Councilmember's hands are tied—they have no choice—the only alternate plan is bankruptcy because there is no more money. Councilmember Gomes asked Mr. Tanner if he could find the \$125,000 for the Community Based Organizations. Mr. Tanner replied that he and Mr. Stout have reviewed the budget and as of this evening he did not have an identifiable source of revenue to fully fund the CBOs. However, they are continuing to try to find the funds.

Craig Whittom, Assistant City Manager-Community Development, stated that what is recommended in the staff report which will address getting the City through to September is the CBOs be funded at the level recommended fully by August 1 so they would receive a reduced payment by August 1. Staff would be back to Council before September 30 with information on possible other funding sources to fully fund them at the 2006-2007 level.

Councilmember Gomes withdrew her amendment. She stated that although she is very unhappy about the financial situation of the City, it is her fiscal responsibility to adopt the budget tonight.

Councilmember Bartee stated that the fact that labor unions have not come forth to negotiate in good faith is not correct. He addressed former Interim City Manager Thompson's negotiations.

All Councilmembers expressed appreciation to the Firefighters and Police Officers.

RESOLUTION NO. 07-:166 N.C. offered by Mayor Intintoli approving the Budget for Fiscal Year 2007-2008 for the City of Vallejo.

The resolution was adopted by the following vote:

AYES:	Mayor Intintoli, Vice Mayor Cloutier, Councilmembers Bartee, Davis, Gomes, Pearsall
NOES:	Councilmembers Bartee and Sunga
ABSENT:	None
ABSTAINING:	None

Redevelopment Agency:

RESOLUTION NO. 07-17 offered by Chairman Intintoli approving the Fiscal Year 2007-2008 Budget for the Redevelopment Agency of the City of Vallejo.

The resolution was adopted by the following vote:

AYES:	Chairman Intintoli, Vice Chairman Cloutier, Members Bartee, Davis, Gomes, Pearsall and Sunga
NOES:	None
ABSENT:	None
ABSTAINING:	None

9. RECONVENE CITY COUNCIL MEETING

The Council recessed from 10:52 to 11:00 p.m. Upon reconvening, all Councilmembers were present.

10. PUBLIC HEARINGS (Continued)

C. CONSIDERATION OF RESOLUTION CONFIRMING AND LEVYING
ASSESSMENTS AGAINST PROPERTIES FOR UNPAID GARBAGE BILLS

On June 8, 2007, the notice of public hearing required by Vallejo Municipal Code section 7.48.090 was mailed out to 4,242 delinquent garbage service customers for the time period of April 1, 2006 to March 31, 2007.

The City Council will conduct a public hearing to consider the report and assessment list concerning unpaid garbage bills for the time period of April 1, 2006 to March 31, 2007 and hear any protests or objections to said report and list. Upon the conclusion of the hearing, the Council will make such corrections or modifications in any proposed assessment which it deems to be excessive or otherwise incorrect after which such assessment shall be confirmed by Council resolution.

Upon confirmation, unless said assessment are paid by July 15, 2007, the City Manager will be authorized and directed to have said assessments placed on the 2007-2008 Solano County property tax rolls for the properties described and/or file appropriate liens for said properties.

Nimat Shakoor Grantham, Code Enforcement Manager, stated that the City facilitates the handling of the liens and explained the process for the delinquent assessments.

Peter Freisen, Vallejo Garbage Service, explained Vallejo Garbage Services process involving the delinquent garbage bills. He stated that as of 5 p.m. today, there are 3,445 unpaid accounts totaling \$886,000. If, by July 15, that amount has not changed, the City of Vallejo will receive \$170,000 in additional fees that are attached to the unpaid balance. Between now and July 16, with the paid assessments, the amount will be approximately \$550,000 in unpaid bills with the amount to the City of approximately \$150,000.

Mayor Intintoli opened the public hearing. There was one speaker card submitted by Steven Childs; however, Mr. Childs was not in attendance. Mayor Intintoli closed the public hearing.

RESOLUTION NO. 07167 N.C. offered by Mayor Intintoli confirming and levying assessments against properties for unpaid garbage bills.

AYES: Mayor Intintoli, Vice Mayor Cloutier, Councilmembers Bartee,
Bartee, Davis, Gomes, Pearsall and Sunga
NOES: None
ABSENT: None
ABSTAINING: None

11. POLICY ITEMS – NONE

12. ADMINISTRATIVE ITEMS

A. CONSIDERATION OF RESOLUTION OF INTENTION TO AMEND TITLE 7 OF THE
VALLEJO MUNICIPAL CODE TO ADD CHAPTER 7.81 (SECURITY ALARM
SYSTEMS)

The City's existing alarm ordinance does not provide for the imposition of penalties until four false alarms have been reported. As such, there is little incentive to reduce false alarms and the Police Department responds to over 6,000 such incidents each year. False alarm responses waste the equivalent time of two police officers. The Police Department is proposing

two alternative ordinances – verified response or penalty assessment --to reduce the number of false alarms and offset the cost of false alarm responses.

Robert Nichelini, Police Chief, presented the staff report. He stated that he believes the false alarms are increasing—in 2006 there were over 6,700 false alarms. He stated that he prefers the verified response option which means that the police do not respond to alarms unless the alarm company determines that there is criminal activity in progress. This option is strongly opposed by the alarm companies.

Chief Nichelini stated that staff proposes to provide a free, two-hour training on how to use the alarm system. For those who complete the training a certificate of completion will be provided and in lieu of paying the penalty they can submit the certificate and get a fee waiver. The training will also be available on line. Either option will produce sufficient revenue in the first year to allow staff to keep two officers that would be eliminated as a result of the budget crisis.

The following people addressed the alarm ordinance and spoke in support of the penalty assessment option: Tom Rood, President, East Bay Alarm Association, Roberta Morgan, Morgan Alarm, John Sargent, President, California Alarm Association. Joanne Schivley stated that the abusers should be the people who pay for the services. There should be one free false alarm and the penalty should be "meaningful": \$250.00 for the first offense after the free one, \$500.00 for the second, and \$750.00 for the third and upward. If the fine is not paid, there will be no response from the Police Department until the fine is paid. An appeal process could be established for people on fixed incomes.

Burky Worel, Retired Police Officer, questioned how the penalty would be collected if the person did not pay. He asked that the section concerning the penalty for panic alarms be reconsidered noting that the \$200 penalty is high since mostly senior citizens use the panic alarm.

Chief Nichelini responded to a question of Vice Mayor Cloutier concerning the discrepancy between the staff report and the speaker's remarks regarding the decrease/increase in crime using the penalty system. Vice Mayor Cloutier stated that it appears the verified response is clearly the desired alternative.

In response to a question of Councilmember Sunga concerning how long the first false alarm training certificate was good for, Chief Nichelini explained how the penalty option would work, stating that the first thing the Police Department would do would be a public relations campaign to inform the community that the ordinance has been adopted and have a 30 day grace period before implementing the penalties.

Councilmember Sunga asked if monitored alarms would be covered by this ordinance. Chief Nichelini replied that all alarms would be covered. Councilmember Sunga stated that he agrees with Mr. Worel about the panic alarm and questioned why the penalty is \$200 instead of \$100 which is what is charged on the others. Chief Nichelini replied that the panic alarm receives a much higher level of response and presents a much more hazardous situation. He further stated that there is no registration--it is the person who occupies the premises or the owner at the time of the alarm who will receive the fine. They have eliminated all permits and/or registration.

Chief Nichelini stated that he believes the actual revenue will be much higher. If people don't pay, the matter will be sent to collections and if necessary, the property will be liened. He went on to say that Council could select the penalty option and see how it works and staff will bring the matter back to Council in one year with the results. At that time, if it has not had a significant effect on the total number of false alarms, the verified response option could be considered.

At the request of Councilmember Gomes, Chief Nichelini clarified the verified response option. Councilmember Gomes suggested the cost of collection be included in the penalty. Chief Nichelini replied that staff will take the suggestion into consideration and will bring the ordinance back with modified fees.

Councilmember Bartee questioned the recommendation to provide a preferential rate for senior citizens for the panic alarm. Chief Nichelini replied that panic button alarms are primarily from businesses, not residences. A reduced fee for seniors would make the collections more difficult and he doesn't think it is a good idea. They could offer the alarm use training program to the seniors through the Senior Center.

Councilmember Bartee asked if there was more information on the comments regarding Richmond and other communities who use the verified system. Chief Nichelini stated that the report completed on verified response program cited successful verified response programs in several U.S. cities including Las Vegas, NV and Salt Lake City, UT. The only one he is familiar with in California is in Fremont. The Chief in that city informed Chief Nichelini that everyone is fine with it.

RESOLUTION NO. 07-168 N.C. offered by Councilmember Pearsall to initiate an amendment to Title 7 of the Vallejo Municipal Code to add Chapter 7.81 regulating security alarm systems implementing a penalty assessment requirement.

The resolution was adopted by the following vote:

AYES:	Mayor Intintoli, Vice Mayor Cloutier, Councilmembers Bartee, Bartee, Davis, Gomes, Pearsall and Sunga
NOES:	None
ABSENT:	None
ABSTAINING:	None

6.J A RESOLUTION AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE A CONSULTANT SERVICES AGREEMENT WITH CROSSROADS SOFTWARE, INC., FOR A TRAFFIC COLLISION REPORTING SYSTEM

Councilmember Sunga asked if the staff was capable of providing the services for part of the study rather than hiring a consultant and if so would the City be able to be reimbursed from OTS. Chief Nichelini explained the services provided and stated that if we were to use internal staff they would have to be trained in the program which would cost money, and we would have to return that portion of the grant to the granting authority.

RESOLUTION NO. 07-163 N.C. offered by Councilmember Sunga authorizing the City Manager or his Designee to execute a Consultant Services Agreement with Crossroads Software, Inc. for a traffic collision reporting system.

The resolution was adopted by the following vote:

AYES:	Mayor Intintoli, Vice Mayor Cloutier, Councilmembers Bartee, Davis, Gomes, Pearsall and Sunga
NOES:	None
ABSENT:	None
ABSTAINING:	None

B. SECOND AND FINAL READING OF ORDINANCE AMENDING ORDINANCE NO. 1553 N.C., 2D ADOPTING THE AMENDED DOWNTOWN SPECIFIC PLAN AS THE MASTER

PLAN AND INCORPORATING TEMPORALRY LAND USE REGULATIONS FOR
SPECIFIED NON-RETAIL USES OCCUPYING THE GROUND FLOOR ALONG THE
GEORGIA STREET CORRIDOR

Councilmember Bartee was recused due to a conflict of interest.

ORDINANCE NO. 1591 N.C. (2D) offered by Mayor Intintoli amending Ordinance No. 1553 N.C. 2d, adopting the amended Downtown Specific Plan as the Master Plan and incorporating temporary land use regulations for specified non-retail uses occupying the ground floor along the Georgia Street Corridor.

The resolution was adopted by the following vote:

AYES:	Mayor Intintoli, Vice Mayor Cloutier, Councilmembers Davis, Gomes, Pearsall and Sunga
NOES:	None
ABSENT:	None
ABSTAINING:	Councilmember Bartee

13. APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES - NONE
14. WRITTEN COMMUNICATIONS - None
15. CITY MANAGER'S REPORT - None
16. CITY ATTORNEY'S REPORT - None
17. COMMUNITY FORUM

Hank Howard asked about the advancement of additional funds to the redevelopment funds which were not included in the financial statement. He asked for clarification on this matter. He asked for an internal management document of what the deficiencies were. He would like a full understanding of where the money is.

18. REPORT OF THE PRESIDING OFFICER AND MEMBERS OF THE CITY COUNCIL - None
19. CLOSED SESSION – None
20. ADJOURNMENT

The meeting adjourned at 11:50 p.m.

ANTHONY J. INTINTOLI, JR., MAYOR

ATTEST: _____
MARY ELLSWORTH, ACTING CITY CLERK

EXHIBIT A

ORDINANCE NO. N.C. (2d)

AN ORDINANCE OF THE CITY OF VALLEJO ADOPTING
THE MARE ISLAND SPECIFIC PLAN, AS AMENDED, AS THE
MARE ISLAND PLANNED DEVELOPMENT MASTER PLAN

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

SECTION 1. Findings and Determination.

The City Council hereby finds and determines as follows:

1. Pursuant to Ordinance No. 1381 N.C. (2d), the City Council shall adopt a master plan upon the determination that the master plan meets the requirements of the ordinance.
2. The Mare Island Specific Plan, as adopted by City Council as Ordinance No. 1416 N.C. (2d), and as amended by City Council as Ordinance 1562 N.C. (2d), meets the requirements of the Ordinance No. 1381 N.C., as amended by Specific Plan Amendment #98-01C shall serve as the Mare Island Specific Plan / Planned Development Master Plan, and shall be referred to as the Mare Island Specific Plan/ Planned Development Master Plan.
3. The City Council has adopted the Specific Plan Amendment #98-01C, concurrent with this action, and with the appropriate findings articulated in the accompanying resolution, including, including adoption of the Addendum to the Subsequent Environmental Impact Report.
4. The Mare Island Specific Plan / Planned Development Master Plan furthers the stated purpose of the MUPD, Mixed Use Planned. Development, District since it will facilitate the development and redevelopment of land, the former Mare Island Naval Shipyard.
5. The Mare Island Specific Plan / Planned Development Master Plan is in conformity with public convenience, the general welfare and good land use practice by converting and reusing the former Mare Island Naval Shipyard for industrial, commercial, residential, open space, recreation, cultural and institutional uses for the benefit of the greater Vallejo community, as discussed in the City Council staff report dated March 1, 1999, in the City Council staff report relative to Specific Plan Amendment #98-01B dated November 29, 2005, and in the City Council staff report relative to Specific Plan Amendment #98-01C dated July 10, 2007.
6. The Mare Island Specific Plan / Planned Development Master Plan incorporates

the mitigation measures identified in the Final Environmental Impact Statement / Environmental Impact Report for the Disposal and Reuse of Mare Island Naval Shipyard and mitigation measures in the Final Subsequent Environment Impact Report for the 2005 Mare Island Specific Plan Amended and Restated and will not be detrimental to health, safety and general welfare, as discussed in the City Council staff report dated March 1, 1999 and in the City Council staff report relative to 2005 Specific Plan Amended and Restated #98-01B dated November 29, 2005.

7. The Mare Island Specific Plan / Planned Development Master Plan will not adversely affect the orderly development or the preservation of property values since the conversion and reuse of the Mare Island Naval Shipyard will result in new economic development opportunities for the greater Vallejo community, as discussed in the City Council staff report dated March 1, 1999, in the City Council staff report relative to Specific Plan Amendment #98-01B dated November 29, 2005, and in the City Council staff report relative to Specific Plan Amendment #98-01C dated July 10, 2007.

SECTION 2. Adoption of Master Plan.

The City Council adopts the Mare Island Specific Plan as amended by Specific Plan Amendment #98-01C as the Mare Island Planned Development Master Plan.

SECTION 3. Severability.

If any section, subsection, sentence, clause, phrase or work of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

SECTION 4. Effective Date.

This ordinance shall take effect and be in full force and effect from and after thirty (30) days after its final passage.

[DRAFT] ORDINANCE NO. () N.C. (2d)

AN ORDINANCE OF THE CITY OF VALLEJO AMENDING CHAPTER 16.38 OF
THE VALLEJO MUNICIPAL CODE- "ARCHITECTURAL HERITAGE AND
HISTORIC PRESERVATION"

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

SECTION 1. Section 16.38.030 of the Vallejo Municipal Code is hereby amended and shall read as follows:

"§16.38.030 Sources of Regulatory Authority for Contributing Resources on Mare Island.

The purpose of sections 16.38.30 through 16.38.32 is to establish the sources of regulatory authority which set forth the standards, procedures and regulations for contributing resources on the former Mare Island Naval Shipyard (Mare Island). The sources listed in this section are in addition to any other applicable local, state or federal law which may apply.

SECTION 2. Section 16.38.031 of the Vallejo Municipal Code is hereby amended and shall read as follows:

§16.38.031 Development Review within the Mare Island Historic District

All new construction, demolition, alteration and relocation of contributing resources, including but not limited to landscaping, signage, and fencing within the Mare Island Historic District, as defined in the Mare Island Specific Plan, shall be subject to the standards, regulations and procedures as contained in the following documents:

- 1) The Mare Island Specific Plan/Master Plan, and all of its appendices, particularly:
 - a) Appendix B.1 Mare Island Historic District Project Guidelines.

SECTION 3. Section 16.38.032 of the Vallejo Municipal Code is hereby amended and shall read as follows:

§16.38.032 Designation of landmarks

Additional contributing resources including previously unevaluated or undiscovered resources may be designated as city landmarks by the commission

pursuant to Part III of this chapter. Such previously unevaluated or undiscovered resources may be potentially eligible for listing in the California Register of Historical Resources. ”

SECTION 4. Sections 16.38.033 through 16.38.049 are hereby repealed.

SECTION 5. SEVERABILITY

If any section, subsection, sentence, clause, phrase or work of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

SECTION 6. EFFECTIVE DATE

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

(Provided in Section 6.0 of the Historic Project Guidelines.)



CONSENT D

Agenda Item No.

COUNCIL COMMUNICATION

Date: July 17, 2007

TO: Honorable Mayor and Members of the City Council

FROM: Gary A. Leach, Public Works Director

SUBJECT: CONSIDERATION OF A RESOLUTION ESTABLISHING NEW RATES AT THE VALLEJO MUNICIPAL MARINA FOR FISCAL YEAR 07/08, EFFECTIVE AUGUST 1, 2007, PROVIDING AUTHORIZATION FOR FUTURE RATE INCREASES, APPROVAL OF FEE WAIVERS TO BENEFIT THE CITIZENS OF VALLEJO AND THE BERTH RENTERS AND PROVISIONS FOR INCENTIVES TO INCREASE REVENUES

BACKGROUND

The Vallejo Marina has operated in a deficit mode for some time as sufficient revenues have not been generated to pay all of the Marina's operating expenses and the debt service obligations. Staff has continually explored alternatives to improve this situation to include negotiations with ALMAR/Pacific Marina Development, Inc. to determine if it would be appropriate to engage this company to lease the Marina and/or manage the Marina operations. At this point, the lease option does not appear to be a viable solution to the Marina's financial problems. An item will be brought forward to the City Council, within the next sixty (60) days, requesting authorization to complete the evaluation process of the management agreement concept.

Dredging expenses are a key component in the operational costs of the Marina. Therefore, a contract was awarded in FY 06/07, to Moffatt & Nichol to evaluate the Marina's future dredging needs. As a result of this contract, a report was prepared in February 2007 titled, "Report on Maintenance Dredging Needs Vallejo Marina". This report outlined sedimentation rates and indicated that the estimated annual costs to perform the recommended maintenance dredging would range between \$455,000 and \$600,000 per year, dependant on the scenario selected to perform this service. Staff has been meeting with interest groups to determine the most economical method of performing this service and is continuing to investigate potential revenue sources to satisfy this need.

The Vallejo Marina continues to use what is considered a "flat rate", or simple dollar per lineal foot method for setting berth rates. While an alternate method of calculating rates is available based on area calculation, it is much more complex and not being proposed to be implemented, at this time. The current berth rates were established under



Resolution No. 06-247 for Fiscal Year (FY) 06/07. Staff has continued to review the Marina financial situation and is recommending that Resolution No. 06-247 be rescinded and that berth rates be increased approximately four percent (4%) for FY 07/08.

The proposed rate increase will result in the South Basin Open Berths (concrete berths) going from \$7.76 per ft. per month to \$8.10 per ft. per month; the North Basin Open Berths going from \$6.33 per ft. per month to \$6.60 per ft. per month; and the North Basin Covered Berths going from \$8.20 per ft. per month to \$8.50 per ft. per month. Therefore, the average Vallejo Marina's open berth rate would be \$7.35 per ft per month as compared to the average open berth rate of a publicly owned and operated bay area marina of \$7.11 per ft. per month while the median open berth rate of all bay area marina's is \$7.52, as reported in the annual Coyote Point Marina berth rate survey.

Staff conveyed these proposed rate increases to the Marina Advisory Committee for comments on May 3, 2007. No objections to this recommendation were raised, at that time.

Staff is also recommending that the City Manager be authorized to increase any/all Marina rates for the next five (5) years, effective each July 1st hereafter, by not more than the higher of four percent (4%) or the percentage change in the Consumer Price Index for all Urban Consumers for San Francisco-Oakland-San Jose, measured from April to April and rounded up or down to the nearest dollar. Implementation of these future rate increases will take into consideration actual Marina costs as well as potential impacts on its marketability.

The occupancy level of the Marina has a direct impact on the overall revenue of this facility. Therefore, staff feels that promotional discounts or incentives are a vital tool in increasing occupancy and revenue. Additionally, staff feels that in some instances waiving berth fees to governmental agencies or community organizations can benefit the citizens of Vallejo and/or the berth renters and that when properly applied will not adversely impact marina operations. It should be noted that both of these recommendations are contained in the existing fee schedule.

Fiscal Impact

The Marina operating budget for Fiscal Year (FY) 07/08 is considered a breakeven budget with the exception of providing funding for the required annual costs necessary to perform the programs cyclical dredging services. This budget will be balanced at this level due to transfers in from the State Lands Fund and this proposed 4% berth rate increase. The proposed rate increases will generate a projected increase in overall



berthing revenue of approximately \$55,000 or four percent (4%). Therefore, we are not projecting a need for a General Fund subsidy to the Marina Fund in FY 07/08.

RECOMMENDATION

Staff recommends that authorization be given to increase berth rates in FY 07/08 and to provide authorization to increase any/all Marina rates over the next five (5) years as defined in this staff report. Staff is also recommending that the City Manager be authorized to continue to have the authority to waive fees under certain circumstances, and that his designated representative be authorized to offer promotional discounts/incentives as deemed appropriate to increase occupancy/revenues.

ENVIRONMENTAL REVIEW

Section 15273 of Title 14 of the California Code of Regulations states that the California Environmental Quality Act (CEQA) does not apply to the establishment or approval of rates, tolls, fares or other charges, including fees, when the City Council makes a finding that the rate, toll, fare or fee is for the purpose of meeting operating expenses or meeting financial reserve needs and requirements.

ALTERNATIVES CONSIDERED

As noted earlier in this staff report, the City entered into negotiations with ALMAR/Pacific Marina Development, Inc. to determine if it would be appropriate to engage this company to lease the Marina as opposed to operating this Marina with in-house forces. At this point, the lease option does not appear to be a viable solution to the Marina's financial problems. Although, staff will be recommending that authorization be give to complete the evaluation process of a management agreement concept.

Increase of the rates in an amount higher than four percent (4%) were considered although, it was determined that, at this point, increases above four percent (4%) could have an adverse impact on the overall occupancy of the berths which in turn would have a negative impact on the Marina revenues.

PROPOSED ACTION

Approve the resolution: 1) rescinding Resolution No. 06-247; 2) establishing new rates and fees at the Vallejo Municipal Marina for FY 07/08; 3) providing authorization to the City Manager to increasing rates over the next five (5) years; 4) authorizing the City Manager, or his designated representative, to waive berthing fees and; 5) authorizing



the City Manager, or his designated representative to offer promotional discounts or incentives to increase occupancy/revenue.

DOCUMENTS AVAILABLE FOR REVIEW

A resolution:

- a. Rescinding Resolution No. 06-247;
- b. Establishing new rates and fees at the Vallejo Municipal Marina for FY 07/08 effective August 1, 2007;
- c. Providing authorization to the City Manager to increasing rates over the next five (5) years;
- d. Authorizing the City Manager, or his designated representative, to waive berthing fees; and
- e. Authorizing the City Manager, or his designated representative to offer promotional discounts or incentives to increase occupancy.

CONTACT PERSON

Gary A. Leach, Public Works Director
648-4315
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John Cerini, Maintenance Superintendent
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Jim Haussener, Marina Manager
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JULY 17, 2007
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RESOLUTION NO. 07-____ N.C.

BE IT RESOLVED by the Council of the City of Vallejo as follows:

WHEREAS, staff has determined that there are not sufficient revenues being generated to pay for marina operating, dredging, and debt service expenses; and

WHEREAS, the future financial security of the Marina is dependent upon establishing an equitable rate structure that insures its competitiveness with other bay area marinas.

NOW, THEREFORE, BE IT FOUND AND DETERMINED that the increases in Marina fees is for the purpose of meeting operating and debt service expenses and for creating a reserve fund for future dredging needs of the marina harbors and is exempt from the California Environmental Quality Act pursuant to section 15273 of Title 14 of the California Code of Regulations.

NOW, THEREFORE, BE IT RESOLVED, that the Vallejo City Council hereby rescinds Resolution No. 06-247 effective August 1, 2007; and

BE IT FURTHER RESOLVED that the Vallejo City Council hereby establishes the rates and fees at the Vallejo Municipal Marina, for Fiscal Year 07/08, effective August 1, 2007 as follows:

Berthing Fees

Open Berth, South Basin	\$8.10 per berth ft. per month
Open Berth, North Basin	\$6.60 per berth ft. per month
Covered Berth, North Basin	\$8.50 per berth ft. per month
Rowboat Berth	\$27.50 per month
Multi-Hull Rate (Side Tie)	Berth Rate + 10%
Charter Services	Berth Rate + 20%
Live-aboard Fee	\$200 per month

Guest Berthing Fees

Day Use	No Charge
Up to 30'	\$20.00 per night
Between 30' and 49'	\$30.00 per night
50' and Over	\$40.00 per night

Miscellaneous Fees and Services

Jib Crane	\$70 per hour, \$70 minimum
De-Watering	\$70 per hour, \$70 minimum

Boat Towing	\$70 per hour, \$70 minimum
Holding Tank Pump Out	
Recreational Vessel	No Charge
Commercial Vessel	\$70 per hour, \$35 minimum
Dock Box Rental	\$3.80 per month
Telephone Line Installation	\$70 per hour, \$70 minimum
Dry Storage	\$125.00 per month
Live-aboard Fee for the 3rd & 4th person	\$25.00 per person per month
Security/Performance Deposit	Equal to one month's berth rent upon entry
Monthly Berther Key Deposit	\$15.00 per key
Guest Berther Key Deposit	\$20.00 per key
Vendor Key Rental	\$50.00 per year
Wharfage Fee	\$1.00 per person per round trip
Delinquent Rental Charge	\$105.00 per month for each month the rent is delinquent by 60 days.

BE IT FURTHER RESOLVED, that the City Manager is authorized to increase the above rates, for the next five (5) years, effective each July 1st hereafter, by not more than the higher of four percent (4%) or the percentage change in the Consumer Price Index for all Urban Consumers for San Francisco-Oakland-San Jose, measured from April to April, and rounded up or down to the nearest dollar.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to waive berthing fees to governmental agencies and community organizations, provided the following criteria is met:

- Fee exempt berthing is available on a space available basis only.
- No more than one percent (1%) of the total berths within the Vallejo Municipal Marina shall be allowed for fee exempt berthing.
- Fee exempt berthing shall not be authorized in covered or other premium berths.
- When the City Manager or his designated representative has determined that a governmental agency or community organization benefits the citizens of Vallejo or benefits the berth renters and the marina and will not negatively impact marina operations.
- Berth assignment shall be as assigned by the Marina Manager.
- Groups or organizations must sign vessel berthing agreement and comply with all existing rules and regulations.
- Vessel must carry liability insurance in the amount of \$300,000 naming the City of Vallejo as an additional insured.
- Marina Manager must inspect vessel and certify that the vessel meets all rules and regulations in effect at the time of request.

BE IT FURTHER RESOLVED, that the City Manager, or his designated representative, is hereby authorized to offer promotional discounts or incentives for berth rentals for the purpose of increasing occupancy/revenues.

JULY 17, 2007

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COUNCIL COMMUNICATION

Date: July 17, 2007

TO: Mayor and Members of the City Council

FROM: Craig Whittom, Assistant City Manager/Community Development *W*
Brian Dolan, Development Services Director *BD*
Don Hazen, Planning Manager *DH*

SUBJECT: Appeal of Planning Commission denial of a Use Permit application for a towing service/auto storage yard at 107 Couch Street.

BACKGROUND & DISCUSSION

Planning Commission Action

On April 16, 2007, the Planning Commission considered Use Permit application #07-0002 for permanent use of a temporary towing service/auto storage yard at 107 Couch Street, submitted by Arrow Tow Service. The temporary administrative permit, issued January 3, 2007, expired on March 1, 2007, but staff has allowed the tow service/auto storage yard use to continue due to the pending status of the current application.

Staff recommended to the Commission that the project be approved subject to the following conditions:

1. Lighting be provided for the site
2. Screening of the site with an eight foot-high masonry wall with gate (or wood fence with stucco facing).
3. Landscaping and irrigation be installed along the perimeter of the site.

The Planning Commission unanimously denied the project based on the following findings:

1. The operation of a vehicle storage yard on an unusually visible site along Sonoma Boulevard is inconsistent with recent efforts to landscape and beautify Sonoma Boulevard
2. The City's desire for beautifying Sonoma Boulevard included recent requests of neighboring property owners of the site to landscape, beautify and invest resources into making Sonoma Boulevard an attractive business corridor.
3. The desired character along Sonoma Boulevard is one supportive of visible attractive and thriving businesses.

4. The proposed site is visible from both Sonoma Boulevard and Couch Street, and even with enhanced landscaping and fencing, the vehicle storage yard use is unattractive in that it is shielded on all sides by either a concrete fence or a redwood fence.
5. The operation of a vehicle storage yard is incompatible with the immediate area in that there are no other storage or vehicle storage facilities in the immediate area.
6. The characteristics of a vehicle storage yard could include the parking of thirty (or more) vehicles, some of which may be non-operational, some of which may have been involved in wrecks.

Appellant Statement. On April 23, 2007, the attorney's office representing the property owner and his tenant, Arrow Tow Service, filed an appeal of the Planning Commission's determination with the Planning Division and City Clerk's Office (see Exhibit C). The appellant seeks reversal of the Commission's findings based on the following:

- The Commission's findings were inconsistent with the law and the Municipal Code.
- The Commission's decision adversely affects both Joe Saqueton (property owner) and Arrow Tow Service.

Subsequent to the filing of their appeal, the applicant submitted modifications to their original proposal that the appellant believed could persuade the Council to support their project. Following is a list of the proposed changes:

1. The installation of one high pressure sodium lamp to light the area.
2. Imposition of reasonable height restrictions on all vehicles stored at the site.
3. The addition of a prohibition on motor homes stored on site.
4. Implementation of reasonable time restrictions on when site can be accessed to drop off or remove vehicles from the site.
5. Construction of an eight foot high redwood fence surrounding the property on all sides.
6. Prohibition of vehicles being repaired on site.
7. Planting of two trees of the Cypress variety on the right and left of the gate facing Couch Street.
8. Implementation of a five year sunset provision on the use permit.

Recognizing that the City Council would be hearing an appeal of a project description that was modified, staff recommended that the application be reheard by the Planning Commission.

On June 11, 2007, the Planning Division received a letter from the applicant's attorney waiving the right for an expedited appeal before the City Council contingent on a pending request for a rehearing of the tow yard application at the June 18th Planning Commission hearing (see Exhibit C).

On June 18, 2007, the Planning Commission voted 5-2 not to rehear the applicant's application proposal with condition of approval revisions. The Commission's denial was primarily based on the fact the proposed use for the site would not be desirable, no matter what mitigations were agreed upon by the applicant (see Exhibit D).

FISCAL IMPACT

The proposed construction associated with Unit Plan #06-0018 will facilitate development of a currently vacant parcel resulting in increased property taxes. All required impact fees would be paid upon issuance of a building permit.

RECOMMENDATION

Staff's recommendation to the Commission for project approval was based on the City's ability to impose stringent conditions that staff believed would mitigate any unsightliness, noise, traffic and other associated aspects of the proposed use from the adjacent Sonoma Boulevard commercial core.

Staff has reviewed the revised proposal and recommends the Council approve the Use Permit application with the following modifications to the applicant's proposed changes:

- Applicant voluntarily agrees to a three year sunset provision in lieu of the proposed five years
- "Reasonable height restriction" shall be eight feet maximum vehicle height
- "Reasonable time restrictions" for drop off and vehicle removal shall be from 8:00 a.m. to 9:00 p.m.
- The "eight foot high redwood fence surrounding the property on all sides" shall have a stucco finish
- The proposed "Cypress variety" trees shall be replaced with a street tree variety selected from the City's Recommend Street Tree list or other variety approved by staff

Staff also recommends adding the following additional conditions of approval:

- Based on consent from the applicant, the approval of towing service/storage yard use shall expire three years from the date of approval, at which time the use shall be vacated within 30 days, failure to vacate within the 30 day period will result in administrative citation of the property owner.

- In lieu of the requirement for five feet of perimeter landscaping, the applicant shall submit a landscape and irrigation plan illustrating boundary landscaping for a minimum of four feet and two city approved street trees within 30 days of project approval.
- The applicant shall complete all required improvements within 60 days of project approval. Failure to complete the improvements within the 60 day period shall result in expiration of the temporary administrative permit and administrative citations.
- A land use agreement acceptable to the City Attorney shall be recorded prior to issuance of permits which indicates the term of the use permit for which the property owner and tenant acknowledge for this use.

ALTERNATIVES CONSIDERED

1. The City Council could deny the appeal and uphold the decision of the Planning Commission.

If the Council chose this alternative, they would be denying the proposed tow service/auto storage yard use and the temporary permit issued for the site would be deemed expired and the use would be required to cease within thirty days of Council denial.

2. The City Council could grant the appeal and approve the project as proposed by the applicant, or grant permanent status of the use as was originally requested by the applicant.

ENVIRONMENTAL REVIEW

The project is exempt from the requirements per Class 32 "In Fill Development Projects," Section 15332 of the California Environmental Quality Act.

PROPOSED ACTION

Staff recommends that the City Council grant the appeal of Use Permit #07-0002 subject to the revised conditions of approval, heretofore referred to as Attachment 1 of Exhibit A.

DOCUMENTS ATTACHED

- Exhibit A: Resolution (appeal granted)
- Exhibit B: Alternative Resolution (appeal denied)
- Exhibit C: Appellant's statement, June 11th appeal waiver letter
- Exhibit D: April 16th, June 18th Planning Commission minutes
- Exhibit E: April 16th Planning Division staff report to the Planning Commission
- Exhibit F: Conflict of Interest map

CONTACT:

Don Hazen, Planning Manager
(707) 648-4326, dhazen@ci.vallejo.ca.us

Marcus Adams, Associate Planner
(707) 648-5392, marcusadams@ci.vallejo.ca.us

K:/citywide/public/ai/pl/arrowtow(107couchst)-report

RESOLUTION NO. _____ N.C.

A RESOLUTION GRANTING THE APPEAL OF USE PERMIT #07-0002

BE IT RESOLVED by the City Council of the City of Vallejo as follows:

WHEREAS, on April 16, 2007, the Planning Commission held a public hearing to consider Use Permit #07-0002 to allow operation of a towing service/auto storage yard at 107 Couch Street; and

WHEREAS, on April 16, 2007, on completion of the public hearing, the Planning Commission denied Use Permit #07-0002; and

WHEREAS, a timely appeal of the Planning Commission denial was filed with the City Clerk by Timothy Jones of Hillman, Lucas & Jones on April 23, 2007; and

WHEREAS, the City Council has reviewed the report provided to the Planning Commission on Use Permit #07-0002 and the minutes from the public hearing held on April 16, 2007 and June 18, 2007, and all other comments and information provided by the applicant; and

WHEREAS based upon submittal of a revised project proposal and written waiver of expedited appeal process on June 11, 2007 by the applicant, the Planning Commission considered a motion for a public rehearing of the project at which testimony and evidence, both written and oral, was presented; and

WHEREAS, on June 18, 2007, on completion of public testimony and evidence, both written and oral, the Planning Commission failed to adopt a motion to rehear Use Permit application #07-0004; and

WHEREAS, the City Council, on July 17, 2007, in the City Council Chambers of City Hall, 555 Santa Clara Street, held a public hearing to consider the appeal to the Planning Commission approval of Use Permit #07-0002 ; and

WHEREAS, all interested persons filed written comments with the City Clerk at or before the hearing, all persons desiring to be heard were given an opportunity to be heard in this matter, and all such verbal and written testimony was considered by the City Council.

NOW, THEREFORE, IT IS FOUND AND DETERMINED by the City Council of the City of Vallejo that after consideration of all the evidence in the record, including the staff report, written correspondence including the modified project proposed, and testimony, that:

1. The location, size, design and operating characteristics of the proposed conditional use will be compatible with adjacent uses, building or structures, with consideration given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities, to the harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity and physical character of surrounding streets; and to any other relevant impact of the proposed use;
2. The impacts, as described in the staff report and the location of the proposed conditional use are consistent with the City's General Plan.

BE IT FURTHER RESOLVED NOW, THEREFORE, BE IT RESOLVED that the City Council hereby grants the appeal of the Planning Commission's approval of Use Permit #07-0002 and approves the project subject to the attached conditions, herein referenced as Attachment A, attached to this resolution.

CONDITIONS OF APPROVAL
MAJOR USE PERMIT #07-0002
(APN# 0054-172-280)

CONDITION COMPLIANCE PRIOR TO BUILDING PERMIT ISSUANCE
(conditions in italics represent new or amended conditions):

Planning Division

1. Prior to building permit issuance, the applicant shall submit a numbered list to the Planning Division stating how all conditions of project approval will be satisfied.
2. Prior to building permit issuance, the applicant shall submit revised plans drawn by an experienced drafter or architect and landscape architect illustrating the following:
 - a) Lighting for the site as required by the Police Department. The plan shall illustrate the light standard (pole) and housing as well as proposed height and locations.
 - b) *A fencing plan which illustrates an eight foot high wood fence with stucco facing around the perimeter of the property.*
 - c) *A landscape and irrigation plan which illustrates two city approved street trees and four feet of boundary landscaping which shall serve to screen the site from public view. Plants shall be drought tolerant. If the applicant proposes not to install irrigation, he shall demonstrate by plant water needs and watering schedule how plants will be sufficiently irrigated, subject to Planning Division approval.*
3. *The approval of towing service/storage yard use shall expire three years from the date of approval, at which time the use shall be vacated within 30 days.*
4. *Prior to building permit issuance, the applicant shall submit a copy of a recorded land use agreement setting forth, on a form approved by the city attorney, the applicant's and City's understanding regarding the three-year length of the proposed use issued for operation of a towing service and storage yard at 107 Couch Street.*
5. *The applicant shall complete all required improvements within 60 days of project approval. Failure to complete the improvements within the 60 day period shall result in expiration of the temporary administrative permit and administrative citations.*
6. *Maximum storage shall not exceed 30 vehicles on the site.*
7. *No motor homes and/or recreational vehicles shall be stored on the site.*

8. *No vehicle repair shall be allowed on the site*
9. *Vehicles shall not exceed eight feet.*
10. *Vehicles shall be dropped off or removed from the site between the hours of 8:00 a.m. and 9:00 p.m.*
11. Construction-related activities shall be limited to between the hours of 7 a.m. and 6 p.m., Monday through Saturday. No construction is to occur on Sunday or federal holidays. Construction equipment noise levels shall not exceed the City's maximum allowable noise levels.

Public Works

1. Prior to building permit application, submit a numbered list to the Planning Division stating how each condition of project approval contained in this report will be satisfied. The list should be submitted to the project planner who will coordinate development of the project. (PW1)
2. Prior to building permit issuance, obtain an encroachment permit from Public Works for all work proposed within the public right-of-way. (PW11)
3. Prior to approval of construction plans, provide bonds and pay applicable fees. Bonding shall be provided to the City in the form of a "Performance Surety" and a separate "Labor and Materials Surety" in amounts stipulated by City ordinance. (PW15)
4. Submit a plan showing the following required improvements for review and approval:
 - a) Install minimum sixteen feet wide commercial standard drive approach fronting the property along Couch Street that is aligned with existing gate.
 - b) Place sixteen feet wide asphalt concrete from back of new driveway approach up to fifty feet deep into the lot.
 - c) Place minimum two inches of compacted aggregated base class II over the remainder of the lot.

Vallejo Sanitation and Flood Control District (VSFCD)

1. Prior to building permit issuance, a VSFCD Connection Permit is required. Pay all applicable review and connection fees.
2. Storm drain fees will apply if the lot is to be paved.

3. VSFCD request a minimum 10' wide access easement from Couch Street to the rear of the lot in order to access their pump station.

CONDITION COMPLIANCE PRIOR TO FINAL BUILDING INSPECTION:

Planning Division

1. Obtain an inspection from the Planning Division prior to occupancy/final building inspection. All inspections require a minimum 24-hour notice. Occupancy permits shall not be granted until all construction and landscaping is completed and finalized in accordance with the approved plans and required conditions of approval or a bond has been posted to cover all costs of the unfinished work as agreed to by the Planning Manager.

Public Works

1. Remove and replace broken curb, gutter and sidewalk fronting the property as determined in the field by City Engineer. (VMC, Section 10.04).
2. Install minimum sixteen feet wide commercial standard drive approach fronting the property along Couch Street that is aligned with existing gate.
3. Place sixteen feet wide asphalt concrete from back of new driveway approach up to fifty feet deep into the lot.
4. Place minimum two inches of compacted aggregated base class II over the remainder of the lot.
5. Prior to occupancy/final building inspection, install the improvements required by the Department of Public Works including but not limited to streets and utilities.

STANDARD CONDITIONS

Planning Division

1. Development sites shall be maintained weed free during construction.
2. Construction-related activities shall be limited to between the hours of 7 a.m. and 6 p.m., Monday through Saturday. No construction is to occur on Sunday or federal holidays. Construction equipment noise levels shall not exceed the City's maximum allowable noise levels.
3. Required landscaping shall be maintained in a neat, clean, and healthy condition. This shall include pruning, mowing of lawns, weeding, removal of litter,

fertilizing, replacement of plants when necessary, and the regular watering of all plantings.

Public Works

1. All public improvements shall be designed to City of Vallejo standards and to accepted engineering design standards. The City Engineer has all such standards on file and the Engineer's decision shall be final regarding the specific standards that shall apply. (PW2)
2. Entrances to any private project must be standard driveway approaches unless deviation is permitted by the City Engineer. (PW9)
3. Obtain a street excavation permit from Public Works prior to performing any work within City streets or rights-of-way, or prior to any cutting and restoration work in existing public streets for utility trenches. All work shall conform to City standards. (PW10)

Crime Prevention

1. Property should be marked on all four sides by signage noting No Trespassing and providing business name, business contact number, and Vallejo Police Dept. contact information (Non-Emergency Number, 648-4321), see provided example.
2. Property should be well lit in order to allow officers/citizens outside the fencing to see activity occurring inside the fenced area at night to help prevent vandalism/break-ins. Suggested lighting is Metal-Halide, however at the very least High Pressure Sodium should be utilized.
3. Fencing, lighting, and signage should be properly maintained.
4. Properly display business name and street address at entry/exit points. This information will show property ownership and allow for contact regarding issues.

GENERAL CONDITIONS

1. The applicant shall defend, indemnify, and hold harmless the City of Vallejo and its agents, officers, and employees from any claim, action, or proceeding against the City and its agents, officers, and employees to attack, set aside, void, or annul this approval by the City. The City may elect, at its discretion, to participate in the defense of any action.

K:/citywide/public/ai/pl/arrowtow(107couch-0002)-conditions

RESOLUTION NO. _____ N.C.

A RESOLUTION OF THE CITY COUNCIL DENYING THE APPEAL OF USE PERMIT #07-0002

BE IT RESOLVED by the City Council of the City of Vallejo as follows:

WHEREAS, on April 16, 2007, the Planning Commission held a public hearing to consider Use Permit #07-0002 to allow operation of a towing service/auto storage yard at 107 Couch Street; and

WHEREAS, on April 16, 2007, on completion of the public hearing, the Planning Commission denied Use Permit #07-0002; and

WHEREAS, a timely appeal of the Planning Commission denial was filed with the City Clerk by Timothy Jones of Hillman, Lucas & Jones on April 23, 2007; and

WHEREAS, the City Council has reviewed the report provided to the Planning Commission on Use Permit #07-0002 and the minutes from the public hearing held on April 16, 2007 and June 18, 2007, and all other comments and information provided by the applicant; and

WHEREAS based upon submittal of a revised project proposal and written waiver of expedited appeal process on June 11, 2007 by the applicant, the Planning Commission considered a motion for a public rehearing of the project at which testimony and evidence, both written and oral, was presented; and

WHEREAS, on June 18, 2007, on completion of public testimony and evidence, both written and oral, the Planning Commission failed to adopt a motion to rehear Use Permit application #07-0004; and

WHEREAS, the City Council, on July 17, 2007, in the City Council Chambers of City Hall, 555 Santa Clara Street, held a public hearing to consider the appeal to the Planning Commission approval of Use Permit #07-0002 ; and

WHEREAS, all interested persons filed written comments with the City Clerk at or before the hearing, all persons desiring to be heard were given an opportunity to be heard in this matter, and all such verbal and written testimony was considered by the City Council.

NOW, THEREFORE, IT IS FOUND AND DETERMINED by the City Council of the City of Vallejo that after consideration of all the evidence in the record, including the staff report, written correspondence, and testimony, that:

1. The operation of a vehicle storage yard on an unusually visible site along Sonoma Boulevard is inconsistent with recent efforts to landscape and beautify Sonoma Boulevard.
2. The desire to beautify Sonoma Boulevard including recent requests from the City to neighbors of this site to landscape, beautify and invest resources into making Sonoma Boulevard an attractive business corridor.
3. The desired character along Sonoma Boulevard is one supportive of visible attractive and thriving businesses.
4. The proposed site is visible from both Sonoma Boulevard and Couch Street, and even with enhanced landscaping and fencing, the vehicle storage yard use is unattractive in that it is shielded on all sides by either a concrete fence or a redwood fence to obscure from view the stored vehicles.
5. The operation of a vehicle storage yard is incompatible with the immediate area in that there are no other storage or vehicle storage facilities in the immediate area.
6. The characteristics of a vehicle storage yard could include the parking of thirty (or more) vehicles, some of which may be non-operational, some of which may have been involved in wrecks.

BE IT FURTHER RESOLVED NOW, THEREFORE, BE IT RESOLVED that the City Council hereby denies the appeal of the Planning Commission's decision denying Use Permit #07-0002.

Law Offices of
HILLMAN, LUCAS & JONES

RECEIVED

A Professional Corporation

F. Richard Lucas
M. Kendall Hillman
Matthew R. Lucas
Timothy M. Jones

2007 APR 23 PM 2: 53

OFFICE OF THE
CITY CLERK
CITY OF VALLEJO

One Harbor Center, Suite 220
Suisun City, California 94585
(707) 427-7377
Fax (707) 427-7370
TJones@HLJLaw.com

April 23, 2007

Allison Villarante
Vallejo City Clerk
555 Santa Clara Street
Vallejo, California 94590

Hand Delivered

Re: Notice of Appeal – Use Permit Application # 07-0002

To Whom It May Concern:

Our office represents Joe Saqueton and his tenant Arrow Tow Service. Please be informed of our clients' intent to appeal the Planning Commission's April 16, 2007, decision to deny Arrow Tow Service's application for Use Permit #07-0002, as governed by Section 16.82 of the Vallejo Municipal Code. Our clients' seek reversal of the Planning Commission decision based on our clients' belief that the Commission's findings were inconsistent with the law and the Municipal Code. The Planning Commission's decision adversely affects both Joe Saqueton and Arrow Tow Service as the decision prohibits our clients from using the property as a tow yard, and thereby affecting each economically.

This notice and appeal satisfies the requirements of Section 16.102.020 (A.) of the Vallejo Municipal Code.

Very truly yours,

HILLMAN, LUCAS & JONES



Timothy M. Jones

TMJ/jmc

Law Offices of
HILLMAN, LUCAS & JONES

A Professional Corporation

F. Richard Lucas
M. Kendall Hillman
Matthew R. Lucas
Timothy M. Jones

One Harbor Center, Suite 220
Suisun City, California 94585
(707) 427-7377
Fax (707) 427-7370
JCanning@HLJLaw.com

May 15, 2007

Marcus Adams
Staff Planner
555 Santa Clara Street
Vallejo, California 94590

Re: Appeal – Use Permit Application # 07-0002

Dear Mr. Adams:

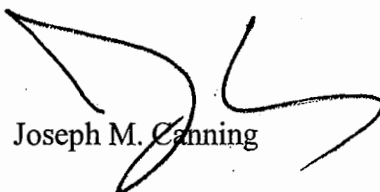
Thank you for your time in meeting with us to discuss our clients' appeal of the Planning Commission's April 16, 2007, decision. As per your request I am providing a list of proposed changes to the initial application our clients' submitted.

- One high pressure sodium lamp to light the area;
- Reasonable height restrictions on all vehicles stored at the site;
- No motor homes will be stored on site;
- Reasonable time restrictions on when site can be accessed to drop off or remove vehicles from the site;
- An eight foot high redwood fence will surround the property on all sides;
- Vehicles will not be repaired on site;
- Two trees of the Cypress variety will be planted on the right and left of the gate facing Couch Street; and
- A five year sunset provision on the Use Permit.

All other provisions of the application are to remain the same unless otherwise outlined above. Again, thank you for your time and effort in assisting us with the matter. Feel free to call with any questions that you may have.

Very truly yours,

HILLMAN, LUCAS & JONES


Joseph M. Canning

Law Offices of
HILLMAN, LUCAS & JONES

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M. Kendall Hillman
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JCanning@HLJLaw.com

June 11, 2007

Marcus Adams
Staff Planner
555 Santa Clara Street
Vallejo, California 94590

Re: Waiver of Appeal – Use Permit Application # 07-0002

Dear Mr. Adams:

Mr. Joe Saqueton hereby waives his right to an expedited appeal before the Vallejo City Council regarding the Planning Commission's April 16, 2007, decision denying the application noted above pending a new hearing before the Planning Commission.

Again, thank you for your time and effort in assisting us with the matter. Feel free to call with any questions that you may have.

Very truly yours,

HILLMAN, LUCAS & JONES


Joseph M. Canning

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June 12, 2007

Marcus Adams
Staff Planner
555 Santa Clara Street
Vallejo, California 94590

Re: July 16, 2007, Meeting before the Vallejo City Planning Commission.


Dear Mr. Adams:

This letter is to confirm our attendance at the July 16, 2007, Planning Commission Meeting regarding Mr. Joe Saqueton's Application for Conditional Use Permit.

Feel free to call with any questions that you may have.

Very truly yours,

HILLMAN, LUCAS & JONES



Joseph M. Canning

- a. Specific Plan Amendment 98-01C and Code Text Amendment 06-0006 for Mare Island Specific Plan II and CTGA to Architectural Heritage & Historic Preservation Ordinance.
- b. Use Permit 05-0026 to restore abandoned commercial use in residential area and substitute another use. *(Consent)*
- c. Revision of Chapter 16.70 Screening and Landscaping Regulations. *Continued from the meeting of April 16, 2007.*
- d. Site Development 07-0002 appeal of a telecommunication facility located in the Catalina Circle Neighborhood.

H. CITY ATTORNEY REPORT

None.

J. REPORT OF THE PRESIDING OFFICER AND COMMISSIONERS

Commissioner Salvadori: I would like to remind the Commission of something that I reported on at the last Commission meeting related to raising funds for the parade. I would challenged this Commission and other commissions as well as City department if they would or could get together and raise \$500 so we could be represented in that parade. I am willing to do that. If there are other Commissioners willing please talk to me. Thank you.

K. LIAISON REPORTS

1. Council Liaison to Planning Commission

None.

2. Planning Commission Liaison to City Council

None.

L. PUBLIC HEARINGS

1. **Code Text Amendment 06-0004** to revise the Vallejo Municipal Code, Chapter 16.70 Screening and Landscaping Regulations. Proposed CEQA Action: Exempt. *Continued from the meeting of February 5, 2007.*

Continued to the meeting of May 7, 2007.

2. **Major Conditional Use Permit 07-0002** for a tow storage yard located at 107 Couch Street. Proposed CEQA Action: Exempt.

Staff recommends **approval** based on the findings and conditions.

Marcus Adams: This regards Arrow Tow Service located at 107 Couch Street. It is at the intersection of Sonoma Blvd and Couch Street. *Marcus gave a short PowerPoint presentation.* Tonight on the dais you were given a memo from staff and a petition. The memo dealt with some condition changes which I will get into later. The petition was in opposition of the project from neighboring property owners. *Marcus showed pictures of the exterior and interior of Arrow Tow Service.* They are already operating at this location. They got a temporary Administrative Permit from staff back in January on the condition that they submit a formal application for permanent use at that location. That is what is before us tonight.

Marcus showed pictures of the adjacent properties. There was a paint and body shop to the south and a restaurant in front of the proposed site. There is a transmission shop to the east and to the west VSFCD pump station. There are some railroad tracks in between that and the site. Some of the issues are: site lighting. Crime prevention asks that the applicant provide light for crime prevention purposes. The applicant is going to ask relief from that lighting condition. He believes the lights on the adjacent lot could sufficiently light the site. The officer who imposed the condition is on vacation but another officer said that he did not believe these lights would be sufficient. He does agree that if the applicant could show that these lights are sufficient he would be willing to waive this condition. Staff feels the same way, if indeed the current lights satisfied the police department. The other issue is the VSFCD pump station. There is a representative from VSFCD here tonight who is going to speak so I will let him deal with the access issue. Briefly, currently VSFCD accesses their pump station from Sonoma Blvd. That access has been a temporary position. There is no time limit on how much longer CalTrans is going to let VSFCD use that access. It is VSFCD's desire that in order for them to continue to access this site they need access through the subject property. The final issue is the screening of the site. Staff reviewed this proposal very carefully because we realized that although it is zoned Intensive Use and is in an industrial district it is visible from several points and is in a commercial corridor that we hope to see improved. Zoning does allow for this use but staff takes particular interest in the screening. The current screening does not get the job done. The landscaping, of course, would take time to grow but the wall would immediately take care of the screening issues. Marcus showed a picture of the cyclone fence with slats from Couch Street and Sonoma Blvd. One other point that was brought to my attention, in the staff report I stated that in the 70s and 80s there was a car lot at the site. The car lot was approved but never built. Any questions?

Commissioner McConnell: One of the conditions submitted by the Police Department, condition 3, is that fencing shall not obstruct the view. If we require an 8' masonry wall how can we reconcile those two conditions?

Marcus Adams: In the memo that you received tonight that is the condition that I stated would be removed.

Commissioner McConnell: My recollection is that a couple years ago the City spent considerable time, money and effort on the beautification of Sonoma Blvd. How do we reconcile the beautification of Sonoma Blvd with what is a tow yard and storage facility on Sonoma Blvd?

Marcus Adams: The proposed wall and landscaping is how we are dealing with that issue. The landscaping we recommended goes far and beyond what would normally be required in the IU zone. Instead of two feet we asked for five feet. We asked for landscaping not only in the front but all the way around. The Code allows for a chain link fence with slats. We asked for the wall. We limit the size of the vehicles that can be stored there. Nothing can be beyond 8' tall. It is our contention that with these measures you can have a use there that is allowed in the best way possible without changing the zoning or denying a use that is allowed there.

Commissioner McConnell: Your recommendation is for a solid wall all the way around with gate openings. Yet we are going to require lighting to shine down into this lot.

Marcus Admas: My understanding is that they want light, because they will have access to this property, and if they have to go in they don't want it to be dark.

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April 16, 2007

Commissioner McConnell: Tow yards are required to take City tows in order to be on the City approved list. Yet one of our concerns has been that some of the tow yards have oversaturated their tow yards. This is not a particularly large lot. Shouldn't we be considering a limitation of the number of vehicles that can be stored at this facility, as well as other facilities in the City?

Marcus Adams: They state that they have a capacity for 30 vehicles. We can ask that the spaced be demarcated. If 30 is too many we could put a condition that limits the number of vehicles that can be stored.

Commissioner McConnell: I think we would need some information that would provide that kind of meaningful information in order to make a meaningful decision. Currently there are some RVs out there that you can certainly see over the top of the fence. That type of vehicle would no longer be permitted at that location?

Marcus Adams: They are over 8 feet tall and therefore would not be permitted.

Commissioner McConnell: The drainage out there, I believe your report recommends that there be storm drainage no matter what, right?

Marcus Adams: I would have to look that up but once again there is a VSFCO representative here tonight who could definitely respond to that question.

Commissioner McConnell: Where does runoff from that lot go?

Marcus Adams: I will let the VSFCO representative answer that question.

Commissioner McConnell: I am envisioning a rather elaborate drainage system out there to gather any hazardous runoff. That might be a prohibitive factor for a lot of this size. I would like to hear something about that as well. Finally there is an adjacent neighborhood and I think we would have to consider some sort of restrictions at to the timing of the place. Yet I know that these guys get called out at all hours of the day and night for tows. They have to tow the vehicles because the City requires they do and they want to stay on the tow list. We would need to limit them if they were approved at all. No vehicle entrance between 10 or 11 PM and 7 or 8 AM. I would like to hear some addressing of those concerns throughout the presentation.

Commissioner Turley: Is this a lot for placing vehicles that have a traffic ticket on them and the police order the vehicle picked up and towed into storage or are these inoperable vehicles?

Marcus Adams: From what I have seen it has been operable vehicles but I am sure the applicant can speak better to that question.

Commissioner Turley: Currently there are two RVs in there that are about 9 to 10 feet high. If this was approved those would be illegal and have to be removed, is that correct?

Marcus Adams: Correct.

Commissioner Turley: Will the curb and gutter be replaced?

Marcus Adams: That is a condition of approval, yes.

Vallejo Planning Commission Minutes
April 16, 2007

Commissioner Turley: Will an opening be prepared for an entrance and will the sidewalk be replaced with perhaps 6' concrete instead of 4 ½"?

Marcus Adams: I am not sure on the 4 ½ compared to 6 but they are going to have to replace that and a standard City driveway be installed.

Commissioner Turley: Alright. If this was on a back street somewhere I would not have much of a problem with this. But on Sonoma Blvd a lot of our visitors to Vallejo just might very well take Sonoma Blvd. I do not think this would make Vallejo more appealing. Number 10, second paragraph, you mention that staff did receive three inquiries. Two were with stated opposition. Two people, one a neighboring individual, stated that a towing yard which is visible from both Couch and Sonoma should not be the type of use that the City would allow on this site based on the operating characteristics of such a use. Number 12, third paragraph, staff has received comment is opposition of the project. After they get through using that lot they would be leaving a lot of toxic waste in the form of gas, oil and diesel. It would have to be removed probably very expensively.

Commissioner Salvadori: I did not see anywhere in the report a sunset clause or time limitation on this use at this location. Was that something that you discussed?

Marcus Adams: Myself and the Planning Manager did discuss this. I believe the City Attorney has a comment of the ability of staff to add a sunset clause.

Claudia Quintana: You cannot do that.

Commissioner Salvadori: So the choice of the Commission is to deny the application or to approve it in perpetuity.

Claudia Quintana: Yes. Use Permits run with the land. You approve a use permit and the conditions and they run with the land whether or not it is sold it would run with the land. You can reasonable limit the condition of use. You could put hours. I am not sure if the applicant might speak to his hours but you can reasonably set hours of operation.

Commissioner Salvadori: If the expectation is that the City would want to change the zoning in that area. If the use permit is approved at this point it is there for as long as it is an active use. You cannot change the zoning and disallow the use permit.

Claudia Quintana: You could ask for a rezoning.

Commissioner Salvadori: I could ask for it but there would be no way of preventing the use as long as it was in use.

Claudia Quintana: That is correct.

Commissioner Salvadori: My second question has to do with runoff. The plot plan calls for the retention of gravel and not being paved. If it were paved then at least there would be a better opportunity to collect runoff and mitigate any potential spills. There is no talk about requiring paving at this site.

Marcus Adams: Actually there is talk about requiring paving. Public Works asked for a minimum of 50 feet depth and 16 feet wide paving. They were more concerned with gravel on the street than with runoff. I ask that we listen closely tonight to our expert who is here to address that issue.

Vallejo Planning Commission Minutes
April 16, 2007

Commissioner Salvadori: Did you discuss the possibility of paving the entire lot.

Marcus Adams: I did discuss that with the owner but with the cost and so forth that is not something that he was amenable too.

Don Hazen: Condition 4C from Public Works is actually requiring that a 2" compact base be required on the remainder of the lot. Compact base is the minimum amount of pervious surface that you need to support the weight load of the vehicles. It is the next best thing to permanent paving. As the City's economic development efforts, over time, improve staff feels that ultimately there might be a higher and better use of this site. I think Public Works is taking that into consideration.

Commissioner Salvadori: I thank you for that. I think that is what the issue is coming down to for me. If there was a way to insure the City that there would be an opportunity for a better use in the foreseeable future then you can be a little more lenient in certain areas but the guidance given by the City Attorney basically is that this could be there 50 years from now upon acceptance of the use permit.

Don Hazen: With one caveat that the terms of the lease or something known between the owner and the tenant. We have to at some point allow for the fact that the free market will sometimes take care of those issues. From a City enforcement standpoint that is correct, a use permit as long as it is operating within compliance of the conditions cannot be revoked. The free market does sometimes have a way of solving those issues.

Commissioner Salvadori: Before someone from VSFCD comes up was there any discussion of any compensation for the property owner for the granting of this easement or is it just something that they would like to have?

Marcus Adams: With so many attorneys in the house I am a little nervous on answering that. But, yes.

Commissioner Salvadori: Thank you.

Commissioner Turley: In regard to the base that you mentioned, that would be very absorbent. Whatever hit that base would sure go right through it and into the sub-grade. The other thing that really bothers me a lot is that it is the same as someone wanting to build a house. Then they think gee maybe we should get a permit for this. Well someone is coming in here tonight to ask permission to store cars when the cars are already stored. That bothers me.

Don Hazen: We might ask our staff person from VSFCD to use this opportunity to possibly address the drainage issues if it would be helpful for the Commission.

Rolf Ohlemutz: I am the District Engineer at VSFCD. This is a permanent use permit for this particular property. When we built the pump station on City land adjacent to this property in the late stages of construction we ran into problems with CalTrans. They did not want our maintenance people to access this pump station from Sonoma Blvd. With the pump station already in place we went into some intense negotiations and came up with a temporary permit form CalTrans for access from Sonoma Blvd. We had to promise CalTrans that in the future we would pursue alternative access to this pump station. That would be through the applicants property. For that particular reason we put a double wide gate on the back fence of Mr. Saqueton's property. He was very cooperative through the entire process. He granted a temporary construction easement during construction. I assumed that our relations with Mr. Saqueton would stay good through this entire process. Due to the

temporary status of our permission from CalTrans to access from Sonoma Blvd and the permanent nature of the use permit I am obligate to be on record with a request that when we talk about the ultimate use of this property that we desire to purchase an easement through the property from Couch Street to the double gate in the back for access to our pump station. That access would have to be an all weather road and it would have to be open and accessible at all times.

With respect to the drainage issues there is pavement planned for this area. I would request the plans be sent to the District because we would have to charge a connection fee that is charged per square foot of impervious use. The applicant would have to prove that at some prior time there was pavement on the lot to get relief from the connection fee. In terms of the disposal of the drainage, I have not studied the application carefully, but the drainage could go to the curb on Couch Street or to the back to a ditch along the railroad. Disposing of the drainage would be no problem. We would request that there be some kind of filtering of runoff to prevent hazardous materials from getting into the storm drain facility and ultimately out into Austin Creek.

Chairperson Legalos: There have been a number of comments about the appearance of this facility from Sonoma Blvd., do you know of any plans to improve the looks of the pump station. It is not an attractive element. The masonry wall behind the pump station would only accentuate the presence of the pump station.

Rolf Ohlemutz: The pump station itself has been through a review by City staff. When we did the design we made sure that most of the features were below ground. What you see right now is what we intend to be there. I am not sure if the City would open up this case again.

Chairperson Legalos: The fences and landscaping are particularly unattractive. Is there any reason why the station could not be hidden from view entirely?

Marcus Adams: I am not sure about entirely. Rolf and I have worked closely on many projects. With the Commissions thoughts tonight I am sure we could work together to put some slats in the fence to try to soften that some. We would need to discuss the landscape further.

Rolf Ohlemutz: We would certainly work with you.

Chairperson Legalos: In my opinion the slats only accentuate the chain link and makes matters worse. If some landscaping could be done that would be a great improvement.

Commissioner Salvadori: I would like to go back and address the runoff issue. If this entire lot were paved you would recommend some type of filtering system. We would have to require that in the use permit. However, if a soft substrate is allowed then those chemicals would just soak into the ground and there would be some level of runoff but would there be no requirement for filtering?

Rolf Ohlemutz: That is correct. It would be the problem of the owners. If the contamination stays on site it would not be our concern.

Chairperson Legalos opened the Public Hearing.

Tim Jones: I am an attorney representing both the applicant and the land owner. I have a few comments that I want to clarify concerning the proposed use of this land. First of all, this is intended to be a tow yard. It is a tow yard primarily for operable

vehicles. The poor people who have tickets and had their vehicle towed or parking in a handicapped area and had their vehicles towed. There is no anticipation that those vehicles are going to be there for a long period of time. It certainly is not a place where vehicles are worked on. The application does not request that. The use permit would not include that. The concerns about chemicals coming out of these cars is no more serious than you would find in a parking lot or along the street curb where the cars park. I want to be sure that we separate a lot where there is a mechanic who strips cars apart as opposed to this lot which is for storing primarily cars that are in good working order and would not be presumed to put out any more chemical emissions than the average car. Obviously the overriding concern for both the applicant and the owner is the cost that are going to be incurred in allowing this project to move forward. We are talking about a parcel of land that at maximum can house thirty vehicles. This is not a high rent district nor is anyone building an expensive building here. The amount of money available for improvements is limited. If this project goes forward the amount of money that is available we want to use for the best purposes. I am not sure that a Cadillac fix can be afforded at this point. I would like to directly speak to Commissioner Salvadori and his concern with a sunset provision. This is designed by the applicant to be a temporary use. He is currently looking for a permanent position in which to house these vehicles. Given the right conditions for this use permit we are willing to stipulate to a reasonable sunset provision. This is something we can do voluntarily. That is certainly something that we are willing to offer up. There would be a reasonable period of time then this application would have to be rereviewed or sunset automatically. The biggest concern right now for the landlord and the applicant is the cost of building a 8' masonry wall around this entire lot. It is an incredible cost. Masonry and/or stucco is the most expensive form of construction. We understand the purpose behind this. We are sympathetic with the purpose but an 8' masonry wall that encloses a really large rectangular lot, I am not sure it is going to accomplish what staff is setting out for, that is to insulate the lot from outside view. It would create a concrete behemoth that would be used for tagging and even though the police concerns have been removed from the report they are certainly still there. No one can see inside this facility. In compromise we are willing to offer some sort of obscure fencing on the areas of the property that are of primary interest to staff and I believe that would be the area of the property that backs up against the pumping station that is visible from Sonoma Blvd but not from Couch St. Properties along Couch would suggest that the chain link fencing along with the vinyl slats might be adequate for that. It would be possible to install an obscure barrier by the pumping station that would completely shield the lot from view. That might be a lot more economical than asking that an 8' masonry wall be built around the entire project. If the lot is completely obscured from view I am not sure that lighting serves any purpose whatsoever. In any event we have no objection to installing lighting. I would suggest that that would be something that the applicant and landlord can work with staff to determine if the existing lighting is sufficient for the purpose, if it is not we don't have a problem with installing reasonable lighting. One of the other major concerns however, is landscaping and irrigation. There is no water hook up. The cost of hooking up to the water system in order to irrigate ground shrubbery is astronomical compared to the amount of rent that can be rendered from the lot. In mitigation, what we propose is planting two trees in the front of this lot. One on each side of the gate that is used to access the lot. Those trees would be of a variety that would be subject to negotiation between staff and the applicant. They can block, if not all, then a lot of the view. They can be supplemented by drought tolerant shrubbery. It is not the planting or the five feet back that is the problem it is the installation of the irrigation. That is because of the hook up requirements that that would entail. That is a major expense and we think we can work around it by using drought tolerant shrubbery and by using trees that do not need the irrigation. We are hoping that that will be sufficient mitigation, particularly on the Couch side of

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the street; on the side of the street with the round restaurant and on the other side where the auto body paint shop is located. Any questions?

Commissioner Turley: This yard is proposed for 30 vehicles, is that correct?

Tim Jones: Correct.

Commissioner Turley: Did you know before tonight that the Engineer with VSFCD wants an easement down the middle of that?

Tim Jones: Yes.

Commissioner Turley: With that easement would there still be room for 30 vehicles?

Tim Jones: No. The easement issue is really not on the table regarding the use permit because it is private property. The District can condemn and easement and certainly can take an easement, no question. If they do it would probably void the lease by the applicant. The value of that easement is the only thing that would potentially be in dispute but the VSFCD's ability to get that easement, when and if they need it is without question.

Commissioner Turley: With the easement how many cars could you park there?

Tim Jones: With that easement, the gate was put dead center, given the width of that double gate, if that is the size of the easement they want to take it would pretty much eliminate the ability to use that lot for parking cars. There would not be enough space left to make it worthwhile.

Commissioner Salvadori: Would there be anything that lot could be used for with the easement?

Tim Jones: With that easement possibly a drive through espresso stand. I don't know because it cuts the heart out of that property. There would not be much.

Commissioner Salvadori: To start with the types of cars that are likely to be towed here, the way you were describing them, would eliminate any cars that were damaged or in any kind of collision.

Tim Jones: I can't tell you that they would not be towed there. I can tell you that they would not be there for an inordinate amount of time. I can't limit what the applicant tows there as a tow truck driver but it would not be the intent to store long term any vehicles on this lot.

Commissioner Salvadori: My concern is the leaking of chemicals. They are more likely to come from vehicles that are damaged.

Tim Jones: From my years of working on cars, back when you could work on cars, I would agree with that statement. However, I think that the City Attorney would agree with me that if there were any chemical runoff, any contamination of the soil, the applicant and the land owner are both strictly liable for any damages that flow from that.

Commissioner Salvadori: That is true. You said that you could voluntarily request a sunset clause. Do you have any sense of what a reasonable time would be?

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Tim Jones: Given your comments I quickly asked the applicant and I threw out the number of ten years. He had no problem with that. We could certainly talk about that.

Commissioner Salvadori: OK. As you described the masonry fencing it sounded like it would be a nice looking touch. You are right you would be building, effectively, the walls to a castle. Have you any suggestions of a type of fencing that would be more reasonable, more economical, that would equivocally screen the site? Something that is not chain link.

Tim Jones: We had talked about installing redwood fencing. Cost is the overriding reason for that. Redwood is attractive. Most of us have it around our homes. It would obscure the view of what is behind it. It can be done economically. Also that fencing is way easier to remove when and if down the road there is another use put to this property that would require the changing of those fences. It is an easier material to work with and much less expensive.

Commissioner Salvadori: You would put a six foot redwood fence with a two foot decorative top on it and have eight feet.

Tim Jones: Yes but we think an eight foot fence is somewhat untenable given that the VMC generally does not allow a fence over six feet tall. We would rather have a restriction on the height of the vehicles to six feet than build an eight foot fence. An eight foot fence does add to the cost dramatically because nothing comes standard eight foot tall for a fence. Right now there are two motor homes parked there that are over eight feet tall. We are ok with limiting no recreational/motor home type vehicles in there that reach that height.

Commissioner Salvadori: If you limit it to six feet then you would not be able to put some of the SUVs in.

Tim Jones: That might be too much of a limitation.

Chairperson Legalos: You mentioned putting in some drought tolerant trees. How would you propose watering those during the first year or so. Even drought tolerant trees need care until they get established.

Tim Jones: Obviously if you need to plant trees and water them for the first year until the roots take hold potable water is going to have to be brought in to do that with. I do not know of another way to do it. However, that would be way cheaper than having to hook up to the City water system to irrigate a couple shrubs.

Chairperson Legalos: You would be willing to do that?

Tim Jones: Yes.

Chairperson Legalos closed the Public Hearing.

Commissioner Turley: I hate to get lengthy letters on our desk right at the start of the meeting because just simply cannot read them thoroughly. There is one here from Marie Saqueton who is the land owner and wants the project granted. She would like it put into the record.

Chairperson Legalos adjourned the meeting for five minutes to read the letter.

Letter submitted by Marie Saqueton: The access gate at our property located at 107 Couch Street will render said property unrentable and useless, because no tenant would want a dominant tenement to have free access to their business premises at anytime, for security reasons. It will also limit the usable space of the small lot, because the clearance that will be required for access will take most of the property area. Most importantly, the tenant will never be able to get a business liability insurance coverage with such an easement in place, allowing strangers free access to the premises at anytime without the knowledge of the business owner. In my 30 years experience as insurance broker, no standard or non-standard insurance carrier will underwrite such a high risk exposure. Therefore, with such an easement we will never get a tenant in that property and that would greatly deprive us of our planned retirement income. When we granted free usage of that property to the Vallejo Sanitation Engineer no easement gate was ever granted. Then suddenly it was installed without our knowledge. I don't know if this was done with malicious misrepresentation on their part or not.

As for any objection coming from the Nino Brothers, not to approve the use of this tenant, that is without merit because that is just out of spite and personal revenge against us, because they tried many times to buy that property but we would not sell to them. The reason is what they did to me and my real estate client a few years back which was underhanded, unethical and downright in bad taste.

You see, my husband and I formerly owned the whole three lots in that corner of Sonoma Blvd and Couch St. We sold the two front lots years ago to the operators of the restaurant, Mr. & Mrs. Jesus Magallanes. Unfortunately, the couple passed away and the children wanted their share of the inheritance. They hired Attorney Loren E. Straughn to handle the probate and they hired me to do the real estate listing. I am a licensed California Realtor. The listing period was from 5/1/03 to 11/1/03. The asking price was \$350,000 as given to me by the probate lawyer. I listed it in the Multiple Listing Service of the Bay Area Real Estate Information Service (BAREIS) to which I am a bonified member. All members of BAREIS have access to the information, including daily status updates, if it is sold, pending or withdrawn from the market. We are required by BAREIS to make updates within 48 hours or else pay a \$100 fine per day for non-compliance. This information is relevant to the action timing of the Ninos in acquiring the two lots on probate sale.

On June 13, 2003 I found a willing and able buyer by the name of Chong Ly and his wife, Meang Ly, who owned a Donut shop on Sonoma Blvd. They offered \$300,000 cash and I sent the offer to the probate lawyer. I was informed by the lawyer that all offers will be presented at the same time and after the published public notice of the probate sale is satisfied. I informed my clients about the probate process and they were willing to wait. I kept in touch with the lawyer's office the oldest beneficiary for updates. They gave me the impression that we will win the bid.

On July 2, 2003 we got the acceptance much to the delight of my clients. The probate lawyer said that we just have to wait for the court calendar hearing of the formal confirmation. We were informed that all inspections should be done by the clients and escrow should close no later than August 19, 2003, right after the confirmation. My clients were agreeable and we opened escrow with North American Title Co. in Vallejo, with the required deposit. The escrow officer was Leslie Cron (now Mrs. Stewart) and the escrow number was 56104-04218626. I did that as instructed by the office of the lawyer. According to the secretary of the lawyer, the beneficiaries were excited about the offer and would like to close escrow ASAP. I ordered all necessary inspections including natural hazards and environmental inspection which was done by LGS. I was acting as the buyers and

sellers agent so I had to protect both their interests. Both parties were aware of my dual representation from the very start.

The confirmation hearing was set for August 19, 2003 at 8:30 AM at the Hall of Justice in Fairfield. The lawyer told me that it was not necessary for me and the buyers to be present at the hearing because it was just a matter of court formality procedure. The Friday before that Monday hearing I received a call from a real estate agent by the name of Earl Trumble, who wanted to know if the property is still available. I told him no because it was already in escrow. He asked when it was closing. I said as soon as we get the formal confirmation from the probate court. He was so sweet on the phone, and even said, "By the way sweetie, when is the confirmation hearing?" I honestly answered, "on Monday." Knowing that this man is old and had been in the business for a long time I presumed that he would be ethical, professional and would adhere to the code ethics of realtors. Was I wrong about him.

The next thing I learned from the probate lawyer was that an offer came from the floor just before the Judge pounded his gavel to confirm. The offer came from the Nino Brothers just a few dollars over my client's offer. Earl Trumble was their agent. The Ninos had all the time to make an honest offer while the bidding was publicized, but no they waited until the last minute to steal the deal from under us with just a few dollars over our approved offer. I was so upset that I called Mr. Trumble and told him how unethical and unprofessional he was by taking advantage of my honesty. His reply was, "It's a dog eat dog world in this business and I had to act in the interests of my clients." My reply was, "I hope you can sleep well at night with a clear conscience, but from now on I will watch out for you. May God forgive you, and peace be with you."

I had to order cancellation of our escrow. My clients were refunded their deposit by the title company. That was a very sad awakening for me to know that there are still some business people who are devoid of decency, character and don't even know the meaning of goodwill.

Sometime last year, Earl Trumble finally realized that we still own the adjoining property to 105 Couch Street and we even have a recorded easement on that property for years. He started calling my real estate broker, Arnie Patton and wanted him to convince me to sell the lot to his clients. Mr. Patton knowing what Trumble and the Ninos did to me in the past, told him to call me directly, he never did. Then the Nino brothers started calling my husband asking to buy the lot, and they even came to see us in person many, many times. I told them how I felt in the way they acquired 105 Couch Street which left a bad taste in my mouth. They denied having to do with the probate sale and blamed it all to Earl Trumble. They even said a lot of bad things about Earl Trumble and his brother, but I knew they were just trying to get my sympathy. I told them that if I was a vindictive person, I would have reported Trumble to DRE for some disciplinary action on him, but I leave people like him to heaven, they will get their last judgment at the end. I was very adamant not to sell to the Ninos and my husband backed me up.

I later found out that the developer who had been talking to us about developing that corner, was the same guy that was dealing with the Ninos. My husband even went to the extent of offering the Ninos a large profit if they would sell in turn their parcel, so we can have the corner developed, but they refused. Our offer was even more generous than their offer for the lot. We really wanted to have that corner developed but bad blood was started by the underhanded action on the Nino brothers in the first place. We have been in numerous business ventures in Vallejo since 1965, and we have never encountered a bad experience such as this.

This is my honest and documented account of things.

Chairperson Legalos reconvened the meeting and reopened the Public Hearing.

Eddie Nino, 1357 Swinson Court, Vallejo: Me and my family own quite a few parcels around this particular property. The use on this property will impact our properties and also what the City would like to see on Sonoma Blvd within the next few years. I have talked to landowners adjacent to this parcel and everyone is objecting to this tow yard. I think it is an eyesore to Sonoma Blvd. It is going to effect all the businesses around. If you look closer at the way this thing is located it is almost at the entry level of Sonoma Blvd. From previously talking to City Planning and Public Works they want to enhance Sonoma Blvd. They wanted our participation in doing extra landscaping. Everyone was up for it. Everyone was willing to pay into putting some of the electrical underground. Now you are turning this place into a junkyard. Some of the cars on this lot have been there since January. The two mobile homes have been there since January. There is not even one car that is less than \$1000 to \$1500 bucks. There is definitely going to be chemical leakage. If there is not proper drainage it is going to affect our property. Some of this leakage is going to spill on our property. We want you to reconsider your decision and give a big thought about what they are trying to do here. I am for enhancing Vallejo and making Sonoma Blvd a better street. Why are we turning it into a junkyard? Thank you.

Chairperson Legalos reclosed the Public Hearing.

Commissioner Turley: A minute ago I was complaining about getting a two page letter on the desk tonight and we just don't have the time to read these things and understand completely what is going on. Now since I have said that I was just handed a seventeen page document about one of the projects we have tonight. I object to this because I want to do my best up here. I can't do my best unless I get all the information. I have a problem with things like that. In the last paragraph of the City of Vallejo memo dated April 16, 2007, the last paragraph, fencing should not be obstructed in such a way that prevents police officers or citizens noticing activity inside. The next page, second paragraph, says they have not obtained their permit yet and the improper maintenance and deteriorating condition of the yard is already visible. Such a tow yard should not be permitted on a main street. We were told by Public Works for the last few years that there is a major plan to landscape and enhance Sonoma Blvd and we were asked by Sammy Gonzalez in Public Works to participate. The environmental impacts of such a yard are severe. How long will the vehicles be there? I think the attorney said not very long. Yet, it seems that the vehicles that are there now have been there since January which, is four months back. I am not going to be able to support this tonight.

Commissioner Salvadori: There are still a lot of questions in my mind and at this point the overriding one is, and although it is not officially connected, I think by my comments already you know that I do not think this is the best use for this property. I was glad to hear the attorney for the applicant say that they would be willing to consider a sunset clause. If there is truly a belief that VSFCDC takes the easement necessary to access their pump station this use could not even exist on this lot. I really think that has to be addressed first. Why put the City in the situation that it has approved a use, which we may not agree is the best use, to find out it can't be used for that anyway. I would certainly like to see the applicant and VSFCDC come to some kind of agreement before we are put to the test of accepting this. In addition I would like to see a sunset clause accepted and made as part of the application. I would like to see a proposal of fencing. I do think that the applicant's

attorney did have a good point with regard to the masonry fencing. I am concerned that if it was only a six foot fence, and I do not agree that you wouldn't see a 6'8" SUV over the top of the fence whether it is from Sonoma or Couch St. There has to be some thought process into what that fence would be and how tall it would be in order to accommodate the use as well as the screening. The landscaping is another issue. I think there is plenty to keep talking about with regard to this lot. The first thing being whether or not it could truly be used in this fashion if it had an easement of the size that is being talked about. My position would be to move to continue this and allow the conversations to continue to provide something that is much more defined with a sunset clause, with reasonable expense in terms of fencing.

Don Hazen: I consultation with the City Attorney we would want to recommend that you actually delete the condition of VSFCDC that is requiring the easement as a condition of approval. The matter before you this evening really has no relationship with that easement. There are State laws that govern how governmental agencies can acquire easements if they need it. Really the issue before you this evening is a request for a use permit for a tow storage yard. That is a separate process the Commission does not need to get in the middle of. Our recommendation is to remove that as a condition. Commissioner Salvadori's concern that that might be a hang up in the project we would just advise you to review the project on its own merits irrespective that a special district might be negotiating with the property owner or pursuing eminent domain proceedings at a later date. They currently have access to their pump station. It is a more preferable access so it is not like public health is at risk because we do not have access to a pump station.

Commissioner Salvadori: I take umbrage with that. It is ludicrous for me to accept the idea that we will approve a use on a parcel that could not possibly sustain that use knowing that another agency is moving in that direction. Why can't they have those conversations first before we are forced to make the decision on this? We all pretty much agree that this is not the best use for the property. Why pass a use permit if it is never going to be used for that?

Claudia Quintana: I think what I am trying to do is separate the issues because there are different findings that need to be made in order to justify each action the Commission takes. If we take out the issue of the easement then the Commission is free to concentrate on whether or not this is the correct use of property by looking at the resolution and looking at the findings that need to be made. If the Commission can't make those findings then at least we can look at what is necessary and articulate it in terms of whether or not this is a use that would fit within the geography of Vallejo.

Commissioner Turley: I sure agree with Commissioner Salvadori. It seems to me we are getting the cart before the horse. It seems like that if VSFCDC was going to require an easement and they brought that to the applicant and the applicant says then I can not do it, then why have it before the Commission.

Commissioner Manning: Even if we take out the easement potential I really think I am getting mixed messages from staff on what is being proposed because masonry walls are a very expensive thing to do and I have some concerns that it could be a home for the homeless and not be safe for people in the community. It could be a place where people could hide. When I look at all the conditions that are here it leads me to believe that staff also feels that there are problems with having something like this in this location which is Sonoma Blvd. So hearing from the attorney representing the owner and applicant they have raised a lot of concerns about the costs of such a thing. I do not think this is the right use for this space. I

think staff sort of feels that way too. Yet we have a recommendation to approve this.

Marcus Adams: Could there be a better use there a use that was more aesthetic or pleasurable, more than likely yes. However, the zoning does allow for the use and so I thought what was the best way to accommodate this allowed use and preserve the aesthetics needed in this area. I realize these conditions would be expensive but this is a site that is critical in it location. It is a case of if you want this use at this site you may have to take some steps that maybe you would not have to at another location, particularly an industrial zone that is not so visible to the public. That is why some of the conditions that may seem greater in terms of the cost were put in. The fencing is required in the zoning. For tow yards you will often see fencing that is taller than six feet it is a requirement that they can be up to eight feet. Staff is already seriously increasing the amount of landscaping at tow yards because we do have a number of complaints from the public about tow yards keeping up their appearance.

Commissioner Manning: We are still struggling as a community and we definitely want to have more business here. We don't want to make it so onerous that small businesses can't afford to have their locations here. We want to do the right thing for the community in keeping it beautiful but we don't want the owners unable to break even. I think with all the things it would take to mitigate Sonoma Blvd and with the concerns of the neighbors that this is not the right use at this location and I think it would be better served if staff could help the applicant find another location that would be better suited for this use.

Commissioner McConnell: I move that we deny the application. This City spent a lot of time, money and effort trying to devise a plan to beautify Sonoma Blvd. We heard comments tonight about why this is not the right type of activity at this particular location. We have heard opposition speak to the eyesore. I tend to agree with them there are just too many problems with this particular location for this type of activity. I think the applicant would be ill served by trying to address the costs of such compliances that would be put upon this lot. When I see something that calls for parking of up to 30 vehicles and I hear opposition based upon eyesore from property owners who have some types of activities up there I have to agree with them. More expectantly I firmly expect them to make that position consistent. When we have applications along Sonoma Blvd that will address parking for much more that 30 vehicles at that time. The same argument would apply then as it does tonight. The idea of using this as a stop gap method of income for the City is understandable given the economic consideration of this City. But I think that is being penny wise and pound foolish. I would hope that staff would discourage such thinking in the future. My motion is to deny the application.

Chairperson Legalos: I am going to support Commissioner McConnell's motion. The police do tow damaged vehicles if the vehicle is unlicensed. If there are infractions those vehicles are likely to be there for a long time and likely to cause a problem with toxic waste. It seems like what is being proposed by the applicant is a bare wooden fence with no landscaping and no irrigation in an area that is an entry to the City. I am going to support the motion to deny.

Claudia Quintana: If the thought is to deny the application perhaps you could make reference to the language that is in the resolution to be able to properly support the decision. As you know if you did approve a conditional use permit you would have to find that the use would be compatible with the buildings, uses and structures giving consideration to size, scale and bulk and density. If you are proposing to deny it that you give some thought to how it does not fit. If the vote results in denial

you can direct staff to come back with a resolution that reflects the findings that you are making.

Commissioner McConnell: I will make that request of staff and I will articulate that the site is incompatible with the nature of the area. There are no other parking lots or storage yards in this area. The conditions that would be placed in an attempt to comply with this usage would be unreasonable at best because of the types of restrictions that would be necessitated, by the sensitivity to the area, by the easement constraints, by CalTmas, by the presence of White Slough, it is not compatible from an ecological standpoint or the environment in that area as well. I move to deny.

Marcus Adams: Staff in preparation for potential denial will ask that the use discontinue within 30 days of the Planning Commission decision unless of course there is an appeal filed. They were under a temporary permit which would expire.

AYES: McConnell, Manning, Legalos, Turley, Salvadori, Engelman.

NOS: None.

ABSENT: Peterman.

Motion carries.

3. **Minor Use Permit 07-0003** to expand a drug and alcohol treatment facility from 6 to 8 persons located at 200 Peppercorn Court. Proposed CEQA Action: Exempt.

Staff recommends **approval** based on the findings and conditions.

June Cummings:

Martin & Marilyn Silverstein, 215 Peppercorn Ct, Vallejo: My name is Martin Silverstein and this is my wife Marilyn. We have owned our residence located at 215 Peppercorn Court in Vallejo for 28 years. We would like to present our opinions regarding the expansion of the community based drug and alc

4. **Variance 06-0001** to modify an existing shopping center sign at Redwood Plaza to permit for 5 tenant signs. Proposed CEQA Action: Exempt.

Staff recommends **approval** based on the findings and conditions.

5. **Tentative Map 07-0003** to create two parcels for commercial development on Mare Island. Proposed CEQA Action: Exempt.

Staff recommends **approval** based on the findings and conditions.

M. OTHER ITEMS

1. Development Agreement 07-0001 for the Annual Review of the Lennar Mare Island Development Agreement. *Continued to the meeting of May 21, 2007.*

M. WRITTEN COMMUNICATIONS

None.

Vallejo Planning Commission Minutes
June 18, 2007

- A. The meeting was called to order at 7:00 p.m.
- B. The pledge of allegiance to the flag was recited.
- C. ROLL CALL:

Present: Commissioners McConnell, Manning, Legalos, Turley, Salvadori, Engelman, Peterman.

Absent: None.

- D. APPROVAL OF THE MINUTES.

Chairperson Legalos: May we have a motion for approval of the Minutes of the meeting of March 19, 2007? Commissioner Peterman.

Commissioner Peterman: I move that we approve the Minutes of March 19, 2007.

Chairperson Legalos: Thank you. Please vote.

AYES: Commissioners McConnell, Manning, Legalos, Turley, Salvadori, Peterman.

NOS: None.

ABSENT: None.

ABSTAINING: Engelman.

It is unanimous, with one abstaining. Motion carries.

Chairperson Legalos: May we have a motion to approve the Minutes of the meeting of April 2, 2007. Commissioner Peterman:

Commissioner Peterman: I move that we approve the Minutes of April 2, 2007.

Chairperson Legalos: Please vote.

AYES: Commissioners McConnell, Manning, Legalos, Turley, Salvadori, Peterman, Engelman.

NOS: None.

ABSENT: None.

It is unanimous. Motion carries.

Chairperson Legalos: May we have a motion for the approval of the Minutes of April 16, 2007, please.

Commissioner Peterman: I move that we approve the Minutes of the meeting of April 16, 2007.

AYES: Commissioners McConnell, Manning, Legalos, Turley, Salvadori, Engelman.

NOS: None.

ABSENT: None.

ABSTAINING: Peterman.

Chairperson Legalos: May we have a motion for the approval of the Minutes of June 4, 2007 please. Commissioner Peterman.

Commissioner Peterman: I move that we approve the Minutes of June 4, 2007.

Chairperson Legalos: Please vote.

AYES: Commissioners McConnell, Manning, Legalos, Turley, Salvadori, Peterman, Engleman.

NOS: None.

ABSENT: None.

Motion carries.

E. WRITTEN COMMUNICATIONS

None.

F. REPORT OF THE SECRETARY

1. Upcoming Meeting of Monday, July 16, 2007
 - a. Code Text Amendment 06-0004 to revise Chapter 16.70 – Screening and Landscaping Regulations. *Continued from the meeting of April 16, 2007 to the meeting of July 16, 2007. Has been continued to August 20, 2007.* Staff Person: Katherine Donovan, 648-4327.
 - b. Tentative Map 06-0003 to create 23 parcels for Skyline States subdivision. Staff Person: Marcus Adams, 648-5392. *Continued to a future meeting.*
 - c. Site Development 06-0022 for a second story addition in the View District located at 35 Burnham Street. Staff Person: Marcus Adams, 648-5392.

2. a. Receiving Planning Commission Packets Electronically Starting July 16, 2007

After polling the Commissioners, most of them want both an electronic copy and a hard copy, with Commissioner Turley wanting only a hard copy. Commissioner Manning suggested that the minutes be done electronically only. The packets can be accessed from the web. Deborah Marshall will notify the Commissioners where to access them. Hard copies will be mailed and not delivered. Due to the scanning process and the fact that at least one Commissioner wants only a hard copy the minutes cannot be done electronically only.

G. CITY ATTORNEY REPORT

None.

H. REPORT OF THE PRESIDING OFFICER AND MEMBERS OF THE PLANNING COMMISSION AND LIAISON REPORTS

1. Report of the Presiding Officer and members of the Planning Commission

Chairperson Legalos: Do we have any reports from the Planning Commission?
Commissioner McConnell.

Commissioner McConnell: Thank you, Mr. Chairman. Tonight I would like to bring the attention of the Planning Commission and City Staff to two developments that have occurred that I have recently become aware of. One relates to an occurrence in Contra Costa County where an individual who is an employee of that county submitted an application in the unincorporated area of Contra Costa County for a building that would have taken the place of another building on a lot. He proposed

that the new building be substituted for the original building and the original building be considered the secondary housing unit. The Planning Division of the County approved it and as fate would have it, someone objected upon a view consideration, thus bringing the attention of everyone, the fact that they had approved a new structure to become a primary structure and substituted the original structure as a secondary unit. I felt that that was taking advantage of the secondary housing ordinance as it written, and I would like to ask Staff to investigate the adequacy of our secondary housing unit and report back when it can. Whether we need to address, or we need to enforce or increase the requirements of that ordinance, because I don't think someone should be permitted to create a new structure – and say that that will be the primary structure and use the existing structure as a second unit – that I think, was not the intent of the secondary housing unit.

The other matter I would like to bring to the Commission and Staff is a decision of the California State Supreme Court which was filed on June 7, 2007. *Hernandez vs. City of Hanford*. In reviewing this, it strikes me that this is going to present an excellent opportunity to cities everywhere within the State of California to reshape its zoning approach and how it regulates economic activities within the City. It is a fairly lengthy decision, and I would ask that our City Staff and City Attorney take a look at this decision and report back to us in a month as to their review of this matter. I believe that we will be able to address some of the concerns the Downtown Association has voiced about competition from other areas in town. I believe that it presents a tool for a city to entirely revamp its zoning approach to how to regulate economic activity within the city and, in my opinion, I think it presents a tremendous opportunity for us that I am sure every city in the State of California is going to be looking at and will be addressing in the due course of time. Thank you Mr. Chairman.

Chairperson Legalos: Thank you. Are there any other reports of the Commission? May we have the report of the Liaison to the City Council please.

2. Council Liaison to Planning Commission – None.
3. Planning Commission to City Council - None

I. COMMUNITY FORUM

Members of the public wishing to address the Commission on Consent Calendar items are requested to submit a completed speaker card to the Secretary. Any member of the public who wishes to speak as to any consent item may do so at the public comment period preceding the approval of the consent calendar and agenda. Any member of the public may request that any consent item be removed from the consent calendar and be heard and acted upon in Public Hearing portion of the agenda. Such requests shall be granted, and items will be addressed in the order in which they appear in the agenda. After making any changes to the agenda, the agenda shall be approved.

None.

J. CONSENT CALENDAR AND APPROVAL OF THE AGENDA

Consent Calendar items appear below in section K, with the Secretary's or City Attorney's designation as such. Members of the public wishing to address the Commission on Consent Calendar items are asked to address the Secretary and submit a completed speaker card prior to the approval of the agenda. Such requests shall be granted, and items will be addressed in the order in which they appear in the agenda. After making any changes to the agenda, the agenda shall be approved.

All matters are approved under one motion unless requested to be removed for discussion by a commissioner or any member of the public

Chairperson Legalos: We have nothing on the Consent Calendar, and I would like to suggest that item K3 be moved up to K1.

Commissioner Peterman: With Item K3 moved to K1, I move that we approve the consent calendar and the agenda.

AYES: McConnell, Manning, Legolas, Turley, Salvadori, Engelman, Peterman.

NOS: None.

ABSENT: None.

Motion carries.

K. PUBLIC HEARINGS

- 1. Use Permit 07-0002** Reconsideration of tow yard located at 107 Couch Street. The applicant is proposing a tow storage yard with capacity for 30 vehicles. Access to the yard would be from Couch Street only. No structures are proposed for the yard which is enclosed by a chain link fence with vinyl slats. The applicant operates a towing storage yard on Maine Street and the current proposed yard would serve as an over-flow yard for the Maine Street lot. Proposed CEQA Action: Exempt per Section 15332, "In-Fill Development". Staff Person: Marcus Adams, 648-5392.

Don Hazen: Yes, Mr. Chair and Commission members. Item K3 was intended to be a reconsideration of a tow yard that you had previously reviewed and had denied. The applicant filed an Appeal before the City Council but at the same time, had also modified his application to include provisions which he believes can address the concerns that were addressed by the Commission, which led to the vote of denial. It was my suggestion that before we took it to the Council, that we checked with the Commission to see if they would be willing to re-hear this item because there were elements of that project proposal that you were not given in the original submittal. From a procedural standpoint, the City Attorney advises that it is really a two-step process. The first step is that you would need to vote a majority vote. At least, the majority members that had voted to deny it would need to agree to re-hear this item, and, if so, then we would bring that back at a later date. So, for this evening, it is convenient that the applicant had requested a continuance anyway because some members of his team were out on vacation. So, what I would suggest is that we go through the formal process of taking a vote this evening to see whether there is majority support of the Commission to re-hear this item. Included in your packet is an overview of some of the changes that the applicant was requesting so that can kind of help assist in your decision on whether you wish to re-hear it or not. I also believe there are members of the public that came to speak to this item tonight, and my advice on that is, let's see how the re-hearing vote goes, and if you do agree to have a re-hearing, I would like to go ahead and suggest a meeting date. Then, if members of the public, for some reason, may be unable to attend that, it would be up to the Chair whether you wish to at least open it for testimony, but there is no plan for a staff presentation this evening.

Chairperson Legalos: I understand.

Commissioner Turley: You sure you want me to go first? Anyway, I have read the material on K3, and I think I know where you are going, and I would just like to ask a procedural question. Can we discuss the content of the changes before we vote on whether or not to re-hear the case?

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Claudia Quintana: Yes, and in fact if somebody wanted to speak, that would be fine too. But, the only issue before the Commission tonight is whether or not you want the re-hearing. So, you are not denying the project, improving the project – nothing like that, only whether or not you want a re-hearing.

Commissioner Turley: And, I was saying that if a member of the public wants to speak, we open a Public Hearing and . . .

Claudia Quintana: That's correct.

Chairperson Legalos: Okay, Commissioner Turley.

Commissioner Turley: I have read all of the material in there concerning K3 and it hasn't changed my feelings at all, and I personally would like to support the decision that we made the last time in denying approval. Thank you.

Chairperson Legalos: Thank you.

Commissioner Peterman: I just have a point of order question. When I asked Ms. Quintana if I could vote on it, she said "yes", and Mr. Hazen said "no". So, do I vote or not?

Don Hazen: Well, I think I was just referring to the majority of the members who voted no last time. Is that correct?

Claudia Quintana: That's correct. There has also been some discussion about which procedure to use – whether it was a Motion to Reconsider which would have entailed sort of going back to the previous hearing in reconsidering just one item, but since this is a Motion for Re-Hearing and it will encompass the totality of the action, tonight considered action sort of stands on its own, so it will be fine if you vote.

Commissioner McConnell: Thank you Mr. Chairman. If I may ask a question to Staff: Has the applicant withdrawn its Appeal?

Don Hazen: No, the applicant has essentially kept the Appeal application active but has waived his right to an Expedited Appeal Hearing. So, if you vote to not re-hear this, then we would schedule it for City Council on that Appeal application that we have right now.

Commissioner Salvadori: I am a little confused with something that was said that perhaps I misheard. If any member of the Commission that voted on the affirmative side in the prior vote can request that this item be brought back, and then other members of the Commission sitting here, can vote whether or not they want it back. Probably it needs a majority of those who voted in the affirmative last time.

Don Hazen: It doesn't need that. Just one.

Chairperson Legalos: Are there any members of the public who would like to address the Commission on this issue? Seeing none: do we need a motion, Ms. Quintana?

Claudia Quintana: I don't know if you said it. You probably did, but I didn't hear it, as to whether you opened the Public Hearing.

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Chairperson Legalos: Well, I asked if there was anyone who wished to speak. There was none.

Claudia Quintana: Okay.

Deborah Marshall: There is one person who does want to speak if you are not going to bring it back. If the vote goes to where it is another night, he will come back on that night, but otherwise he does want to be heard.

Claudia Quintana: Well, it is hard to know. So, if you would like to speak on the re-hearing issue, the time is now, not afterwards.

Deborah Marshall: So, he will speak, then.

Chairperson Legalos: Then, I will now open the Public Hearing.

Tony Nino: I own a few properties around the premises where they are applying for a license for towing and basically, parking. I had brought in with me some pictures that I would like to share with you guys if I can and go over them. May I pass them to you? There isn't really much for me to talk about besides my photos. I had passed by and taken photos of the property. On Photo 1, 2, 3 and 4: It shows the frontage of the lot where it is actually visible from Sonoma Boulevard., and it shows the condition of the property on top of the cars that are parked there. Also there are pictures 5, 6 and 7. They are numbered on the back of the pictures. It shows the condition of the inside lots – of how much bushes there is and garbage laid out around and also that could cause, basically, fire. Photos 8, 9 and 10 – it shows garbage and old transmissions, engines that's inside the truck beds, and pictures 11 through 14 are also photos of vehicles there, and based on my experience in cars, that those vehicles are probably the latest one is 1980 and 1970's vehicle that looks like there is maybe \$200.00 to maybe \$1,000.00 worth sitting on the lot. It shows the condition of them. God knows how much leakage there is – how much contamination there in that property, and there is also a square box inside the property. It shows a lot of garbage that has been basically, collected, on the property. That should answer basically what we need to see and know – what type of property this is turning into on Sonoma Boulevard, which is our main street in Vallejo.

Chairperson Legalos: Thank you Mr. Nino. If there are no other speakers, I will close the Public Hearing and bring the matter back into the hands of the Commission.

Commissioner Turley: Thank you Mr. Chairman. Somewhere in our package, it says that most of these cars will be kind of in and out cars but yet if you will look at those pictures that were just given to us, you can see where weeds are growing up around some of them. So, some of them are there for quite awhile.

Commissioner Manning: Tonight we are just here to talk about whether or not we are going to re-hear this, and my position on that is that it is our responsibility as a Planning Commission to try to work out these things and not have them passed onto City Council if we can avoid that. Since the applicant is coming back with a revision, I thought it was our responsibility to hear that revision and then make a decision. If we decide, even with the revision, to deny as we did the first time, there is just more information for the City Council if they do appeal it to go to City Council. So, that was my thinking about why we should hear this again.

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Commissioner McConnell. Thank you Mr. Chairman. If I may, I have a question to our Staff. Would you refresh my memory as to what the present status of this applicant is with respect to property being at that location? With the applicant being on the premises: is that something he has a right to do at this time, or did he just sort of move in and take over.

Don Hazen: He was granted an Administrative Permit to do this on a temporary basis and then with the provision that if he wanted to continue it, and I believe the initial period was 90 days, then he needed to pursue it on a more permanent basis, and so that's what this application was for.

Commissioner McConnell: How many days has he been at the location?

Don Hazen: He has exceeded that probably by about at least two months, but because this issue was pending, we typically wouldn't have him vacate the site because he is pursuing this in good faith and trying to get a City approval for a Permanent CUP.

Commissioner Engelman: Well, when we discussed this the last time, it all came down to use of that property and at that location, and I think that at that time, even through maybe the aesthetics has changed a little, basically, we didn't want that type of use there in that location. So, to me, I won't change my mind. It is still a tow yard and I don't believe it has any business there where it is located, and I don't think it benefits the City at this time or in the future with what our plans are.

Don Hazen: Not to speak for the applicant, but there was some discussion at your meeting also about – there was some initial questions about whether you could impose some frames on the CUP and the City Attorney said "no, not unless the applicant offered," and so he was a little slow I think in coming up with that offer until after you made your decision. So, I think the applicant's view of this is: "Okay, you didn't like the use" so he is now going to propose it on a temporary basis – I believe, five years. That's his attempt to try to address your concern about the use was now to through out this as a temporary.

Chairperson Legalos: I think that Commissioner Manning's argument is very important and that the Planning Commission should not pass these decisions onto the City Council. However, it seems to me that an Appeal will be filed in any case and the City Council will be forced to hear it. So I wonder about the futility of the Commission going through the motions of re-hearing and either denying it again and having it appealed, or, approving it and having it Appeal. I think an Appeal, it seems to me, is almost inevitable although in principle I do certainly agree with Commissioner Manning but in this case, I am not in favor of re-hearing this.

Commissioner Engelman: I move to deny the re-hearing.

AYES: ~~Engelman, Legalos~~ ↗
NOS: Turley, McConnell, Peterman, Salvadori, Manning.
ABSENT: None.

Motion to deny carries.

Chairperson Legalos: Ms. Marshall may we have item K2 which was item K1?



STAFF REPORT

CITY OF VALLEJO PLANNING COMMISSION

Date of Hearing: April 16, 2007 **Agenda Item:** K 2

Application Number: Use Permit #07-0002 as governed by Section 16.82 of the Vallejo Municipal Code (V.M.C.)

Recommendation: Recommend **Approval** of Use Permit #07-0002 subject to the findings and conditions contained in the staff report.

1. **PROJECT DESCRIPTION:** The applicant is proposing a tow storage yard with capacity for 30 vehicles. Access to the yard would be from Couch Street only. No structures are proposed for the yard which is enclosed by a chain link fence with vinyl slats. The applicant operates a towing storage yard on Maine Street and the current proposed yard would serve as an over-flow yard for the Maine Street lot. The project is illustrated on a site plan submitted by the applicant (see Attachment B)

2. **LOCATION:** 107 Couch Street **APN: 0054-172-280**

3. **APPLICANT:** Arrow Tow Service
924 Maine Street
Vallejo, CA 94590

4. **PROPERTY OWNER:** Joe Saqueton
P.O. Box 1796
Vallejo, CA 94590

5. **EXISTING LAND USE:** The property is currently being operated as a tow storage yard as a temporary use under Administrative Permit #07-0001.

6. **SURROUNDING LAND USES:** The subject property is encompassed by a paint and body shop to the north, a restaurant to the south, a transmission shop to the east, and Sonoma Boulevard to the west.

7. **CONSISTENCY WITH THE GENERAL PLAN:** The General Plan Land Use designation for this site is "Employment." The proposed tow storage yard is an allowed use in Intensive Use zoning districts and is defined as clearly compatible with the General Plan land use designation.

8. ENVIRONMENTAL REVIEW: The project meets the requirements for Section 15332, Class 32 Categorical Exemption, "In-Fill Development" of the California Environmental Quality Act because the proposed project meets the following conditions:

- a. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- c. The project site has no value as habitat for endangered, rare or threatened species.
- d. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- e. The site can be adequately served by all required utilities and public services.

9. CONFORMANCE WITH APPLICABLE ZONING REGULATIONS:

ZONING. The property is zoned Intensive Use (IU). Towing services uses with storage area are allowed in IU districts, subject to conditional use permit approval.

The following zoning ordinance development standards are applicable:

LANDSCAPING- Section 16.70.070(C)(1-4)V.M.C.

Boundary Landscaping. Boundary landscaping is required for a minimum depth of four feet along all property lines abutting streets except for the area required for street openings.

Vehicle Storage and Parking Areas. In addition to the landscaping required by subsection A, not less than two percent of any vehicle storage or parking area shall be landscaped.

Additional Landscaping. All portions of the building site, exclusive of structures, parking areas, recreational uses, driveways and walkway, shall be landscaped.

Trees. At least one street tree is required for each 50' of street frontage or fraction thereof.

The applicant's site plan does not propose any landscaping for the site. Staff recommends as a condition of approval that the required boundary landscaping be increased by one foot (four to five) along Couch Street and that five feet of perimeter landscaping (excluding rear gate area accessing VSFCD pump station) along with two street trees (one on each side of the Couch Street entrance gate) be required, subject to Planning Division approval.

- 10. NOTICING AND PUBLIC COMMENTS:** Notice of the proposed project was sent to: property owners within 500 feet of the subject property, the Vallejo Times Herald and the applicant on March 22, 2007.

Staff did receive three inquiries regarding the project, two with stated opposition. The two individuals opposed to the project, one a neighboring property owner, stated to staff that a "towing yard" which is visible from both Couch and Sonoma Boulevard should not be type of use the City would allow on the site, based on the operating characteristics of such a use.

- 11. DEPARTMENT AND AGENCY REVIEW:** Notice of the application was sent to the City & Traffic Engineer, Vallejo Sanitation and Flood Control District, Fire Prevention, Crime Prevention and the Community Development Department. Comments from these departments are incorporated in the staff analysis and conditions of approval.

- 12. STAFF ANALYSIS:** The tow storage yard currently operating at the subject site was approved for temporary operation January 3, 2007 with the condition that the temporary use would expire on January 17th or that the operator of the tow yard apply for a conditional use permit to continue operating. Prior to Arrow Tow Service occupying the site, the lot had been vacant. The subject site housed a car wash in the late 1970's and 1980's.

Although the site is highly visible to vehicles traveling southbound on Sonoma Boulevard and partially visible to those traveling northbound, the IU zoning of the site is appropriate as the light and heavy industrial uses continue to transition north on Couch Street. While staff would have preferred a use that would better implement the General Plan land use designation of "Employment," staff views this use as an interim use until property values increase to a point that a higher and better use of the property is requested.

As noted in Section 10 of this report (Public Comments) staff has received comments in opposition to the proposed permanent use of the lot for a tow service. The main points of opposition expressed related to visual blight and day-to-day operating characteristics of tow storage yards. Based on staff's experience with other tow storage yards in the city, staff shares these same concerns; however, staff believes that with appropriate boundary and perimeter landscaping, and strict adherence to the Planning Division's conditions of approval related to the day-to-day operation of the yard, undesirable visual and physical impacts from the proposed use can be minimized. To ensure that vehicles are not seen from public streets, staff will recommend as a condition of approval that an eight foot masonry wall (or wood fence with stucco facing) be constructed around the perimeter of the property and that vehicles exceeding eight feet in height be prohibited from being stored on the lot.

The Vallejo Sanitation and Flood Control District (VSFCD) have requested that they be provided a minimum ten foot easement through the site to access their pump station which abuts the rear of the subject site. Currently, VSFCD accesses their pump station from Sonoma Boulevard but Caltrans has informed VSFCD that the encroachment to the pump station from Sonoma Boulevard cannot continue indefinitely. Because the desired easement is on private property, staff believes that the issue should be worked out between the property owner and VSFCD.

13. STAFF RECOMMENDATION:

Staff recommends the Planning Commission **ADOPT** a Resolution approving Use Permit #07-0002 subject to findings and conditions found in the attached Resolution.

EXPIRATION

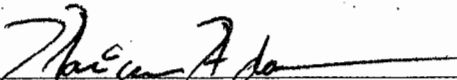
Approval of a use permit shall expire automatically twenty-four months after its approval unless authorized construction has commenced prior to the expiration date.

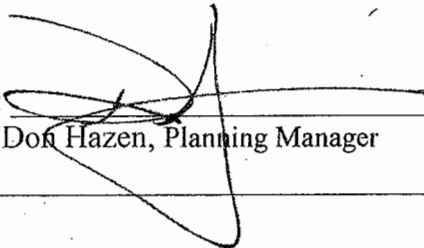
APPEAL

The applicant or any party adversely affected by a decision of the Planning Commission may within ten days after the rendition of the decision of the Planning Commission appeal in writing to the City Council by filing a written appeal with the City Clerk and Planning Division. Such written appeal shall state the reason or reasons for the appeal and why the applicant believes he or she is adversely affected by the decision of the Planning Commission. Such appeal shall not be timely filed unless it is actually received by the City Clerk or designee no later than the close of business on the tenth calendar day after the rendition of the decision of the Planning Commission. If such date falls on a weekend or city holiday, then the deadline shall be extended until the regular business day.

GROUND FOR REVOCATION OR SUSPENSION

The planning commission shall have the power to revoke or suspend a use permit in any case where the permit was obtained by fraud; or where the conditions of such use permit have not been or are not complied with; or in any case where a person, firm, partnership, association, or corporation holding a use permit, directly or indirectly, conducts or carries on the use in a manner as to materially and adversely affect the health, safety, or welfare of persons residing or working in the vicinity or neighborhood of the property subject to such use permit; or directly or indirectly conducts or carries on the use in a manner that is materially detrimental to the public health, safety or welfare, or injurious to property or improvements in the vicinity of the neighborhood of the property subject to such use permit. (VMC Section 16.82.110)

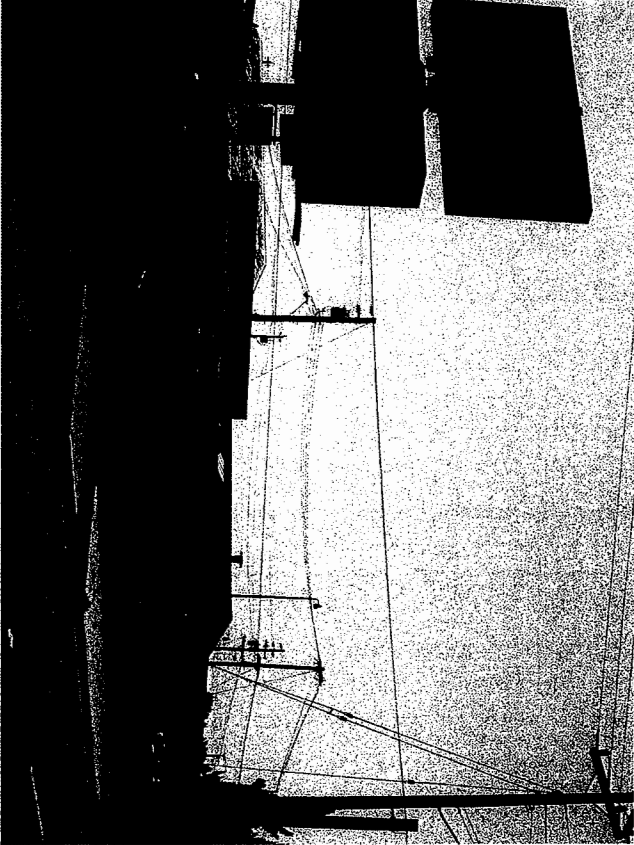
Prepared by: 
Marcus Adams, Associate Planner

Reviewed by: 
Don Hazen, Planning Manager

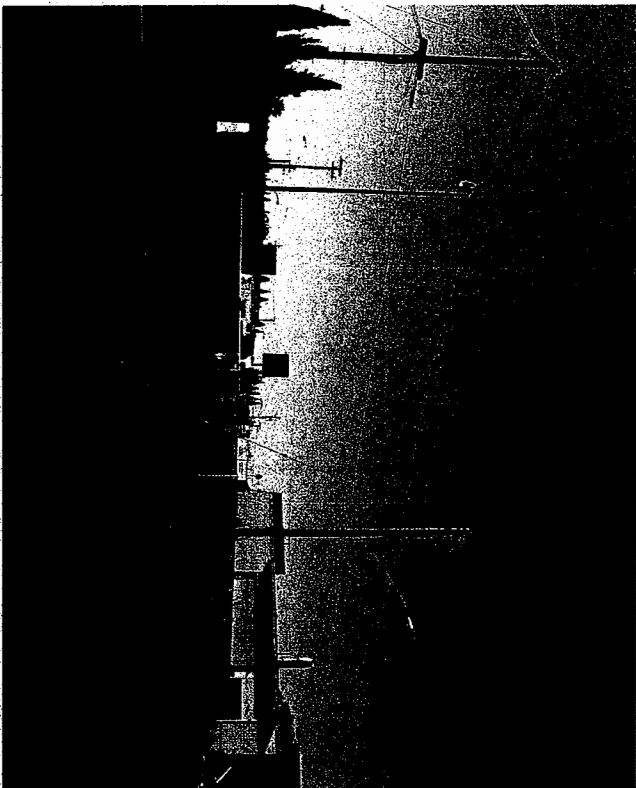
- Attachment A: Resolution and conditions of approval
- Attachment B: Site plan and parcel map
- Attachment C: Conflict of Interest Map

J:\PIA\Marcus\2007\permits\UP\arrowtow(107couch0002)\staffreport

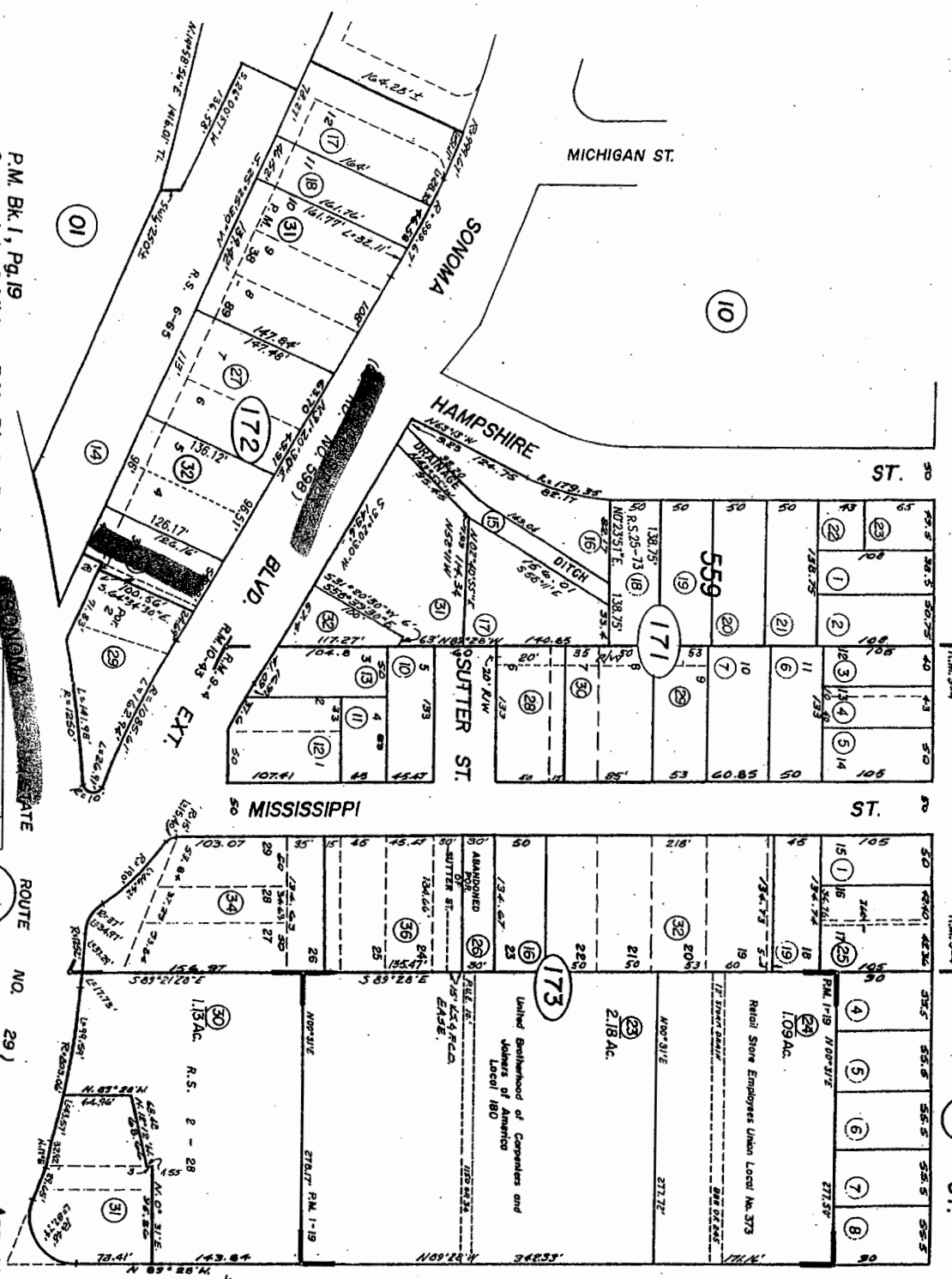
Arrow Tow Service/Auto Storage Yard



Sonoma Boulevard View



Couch Street View



P.M. Bk. 1, Pg. 19
 Castanola Addition, R.M. Bk. 9, Pg. 4
 Couch Subdivision, R.M. Bk. 10, Pg. 43

REVISION	DATE	BY
171-18 (R)	1-16-03	SE
172-12 (U)	10-30-00	FG
172-31	9-16-94	SW
172-30	2-28-94	PD
172-28&29	6-30-92	SS

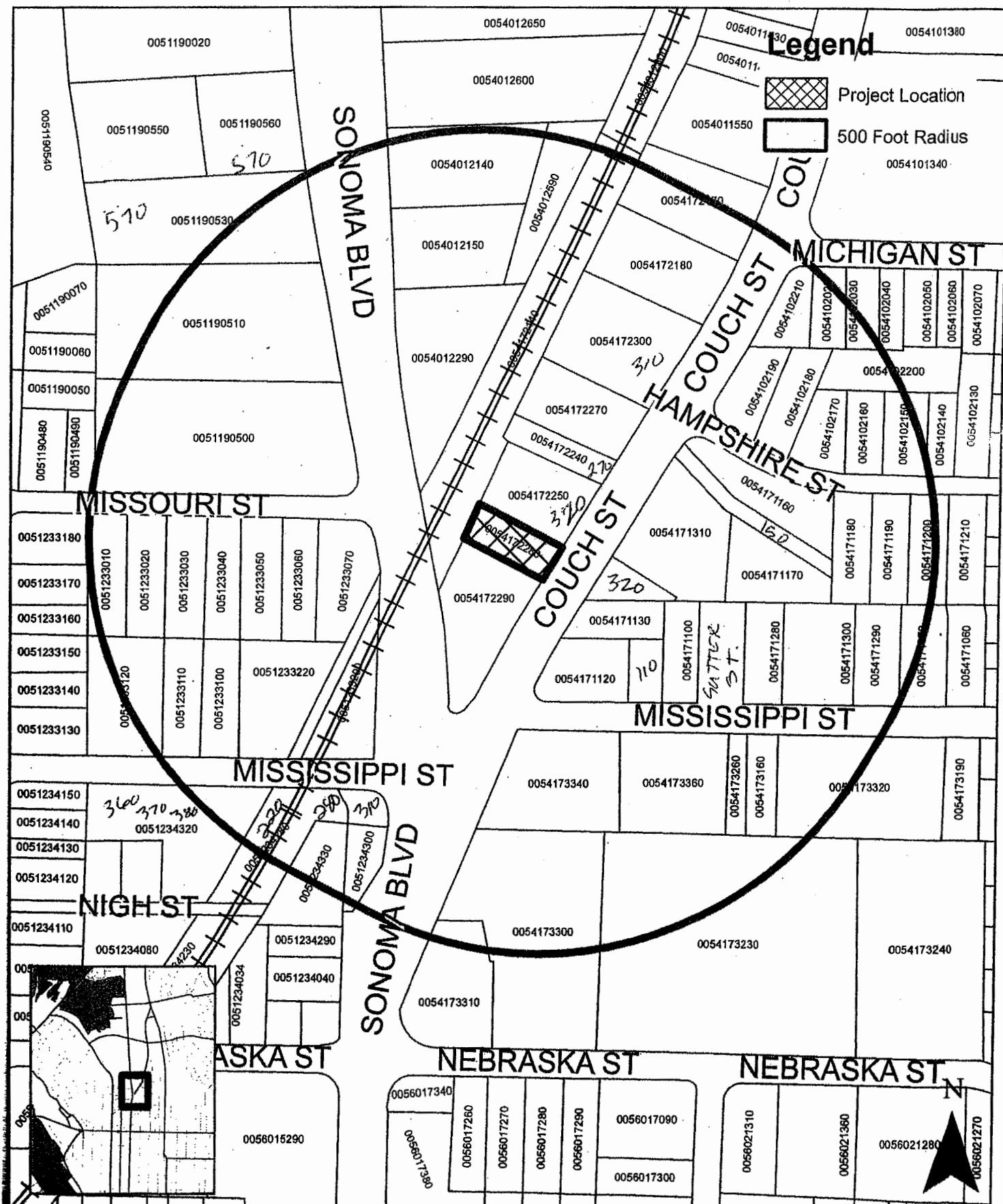
ROUTE NO. 29)
 Bk. 51

BLVD. Assessor's Map Bk. 54 Pg. 17
 County of Solano, Calif.

NOTE: This map is for assessment purposes only and is not for the intent of interpreting legal boundary rights, zoning regulations and/or legality of land division laws.

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500 Foot Notification Map





POLICY A

Agenda Item No.

COUNCIL COMMUNICATION

Date: July 17, 2007

TO: Honorable Mayor and Members of the City Council

FROM: Robert W. Nichelini, Chief of Police **RWN**

SUBJECT: Security Alarm Systems Ordinance

SUMMARY

On June 26, 2007, Council passed Resolution No. 07-168 N.C., expressing intent to initiate an amendment to Title 7 of the Vallejo Municipal Code to add Chapter 7.81 regulating security alarm systems and implementing a penalty assessment requirement. As a result, an appropriate ordinance has been prepared for Council consideration.

Adoption of the proposed ordinance will permit retention of two police officer positions scheduled for elimination from next year's budget.

BACKGROUND

As previously discussed, when the number of alarmed premises was small, there was limited impact on police service delivery. As alarm systems usage increased exponentially, alarm calls have exceeded the Police Department's ability to handle the workload. Current law provides little incentive for system users or providers to reduce the number of false alarms and, as a result, **99% of all security alarm activations are false.** The Police Department responded to over 6,500 false alarms in 2006 and, unless aggressive action is taken, we estimate that number will grow to 12,000 by 2011.

DISCUSSION

Following the June 26th discussion, the draft ordinance previously provided to Council has been modified as follows:

- All penalties have been recalculated to include dispatch, administration and overhead costs.

- The penalty for residential “duress or panic” alarms has been reduced. Statistically, very few such alarms are actually received.
- A premise code requirement has been added to simplify alarm processing.
- The definition of “alarm user” has been rewritten to include locally sounding audible alarms.

PROPOSED ACTION

Adopt the proposed ordinance updating security alarm standards and establishing an effective penalty system to reduce false alarms.

DOCUMENTS ATTACHED

- a. Resolution holding the proposed Security Alarm Ordinance on first reading.
- b. Copy of proposed Security Alarm Ordinance.

CONTACT PERSON

Robert W. Nichelini, Chief of Police
(707) 648-4540

RESOLUTION NO. _____ N.C.

BE IT RESOLVED by the Council of the City of Vallejo as follows:

WHEREAS, the Vallejo Police Department currently responds to over 6,500 false alarm calls each year, and

WHEREAS, in order to reduce the incidence of false alarms and better utilize police resources, the Council has considered modification to the Security Alarm ordinance to update standards and procedures and to establish an effective penalty system to reduce false alarms; now, therefore,

BE IT RESOLVED that an ordinance (Penalty Assessment) of the City of Vallejo repealing Section 5.55.010 of Title 5, Chapter 5.55 (Alarm Business and Agents) and Chapter 7.80 of Title 7 (Automatic Calling and Alarm Devices) of the Vallejo Municipal Code and Ordinance Nos. 429 N.C. (2d), 1978 and 1411 N.C. (2d), 1999, and adding a new Chapter 7.81 Regulating Security Alarm Systems to Title 7 of the Vallejo Municipal Code, is hereby held on first reading.

July 17, 2007

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DRAFT ORDINANCE – PENALTY ASSESSMENT

**AN ORDINANCE OF THE CITY OF VALLEJO REPEALING
CHAPTER 5.55 OF TITLE 5 (ALARM BUSINESS AND AGENTS) AND
CHAPTER 7.80 OF TITLE 7 (AUTOMATIC CALLING AND
ALARM DEVICES) OF THE VALLEJO MUNICIPAL CODE;
ORDINANCE NO. 300 N.C. (2d), 1975; ORDINANCE
NO. 429 N.C. (2d), 1978; AND ORDINANCE NO.
1411 N.C. (2d), 1999, AND ADDING A NEW CHAPTER 7.81
REGULATING SECURITY ALARM SYSTEMS TO TITLE 7
OF THE VALLEJO MUNICIPAL CODE**

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

SECTION 1. Chapter 5.55 of Title 5 (Alarm Business and Agents) and Chapter 7.80 (Automatic Calling and Alarm Devices) of the Vallejo Municipal Code; and Ordinance No. 300 N.C. (2d), 1975; Ordinance No. 429 N.C. (2d), 1978; and Ordinance No. 1411 N.C. (2d) 1999 are hereby repealed.

SECTION 2. There is hereby added to the Vallejo Municipal Code a new Chapter 7.81, which is to read as follows:

SECURITY ALARM SYSTEMS

Section:

<u>7.81.005</u>	<u>Purpose.</u>
<u>7.81.010</u>	<u>Definitions.</u>
<u>7.81.020</u>	<u>Alarm businesses.</u>
<u>7.81.030</u>	<u>Alarm business duties.</u>
<u>7.81.040</u>	<u>Alarm user duties.</u>
<u>7.81.050</u>	<u>Features and interconnection.</u>
<u>7.81.060</u>	<u>Administration.</u>
<u>7.81.070</u>	<u>Maintaining and providing specified information - Cancellation of response.</u>
<u>7.81.080</u>	<u>Violations and Penalties.</u>
<u>7.81.090</u>	<u>Appeal process.</u>
<u>7.81.100</u>	<u>Alarm user awareness class.</u>
<u>7.81.110</u>	<u>Good faith standards.</u>

7.81.005 Purpose.

A. The purpose of this ordinance codified in this chapter is to reduce the number of false alarms and promote the responsible use of security alarm systems.

7.81.010 Definitions.

“Alarm Administrator” means a person or persons designated by the Vallejo Police Chief to administer, control and review alarm response procedures, dispatch requests, and reported false alarms.

“Alarm Business” means an individual, partnership, corporation or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, installing or monitoring an alarm system at an alarm site.

“Alarm Dispatch Request” means a notification to the police by the alarm business that an alarm, either manual or automatic, has been activated at a particular alarm site.

“Alarm Site” means a single premise or location served by an alarm system or systems.

“Alarm System” means any mechanical device or electrical device designed to emit a sound or generate a signal or message during the commission of an unlawful act in or an unauthorized entry into a building, structure or facility. The following devices shall not constitute an alarm system:

1. Alarm devices affixed to motor vehicles;
2. Alarm device installed on a temporary basis by the Vallejo Police Department; or
3. Hand held/portable personal safety devices not connected to a central monitoring system or station.

“Alarm User” means any person, firm, partnership, corporation or other entity who (which) uses an alarm system at its alarm site. Alarm specifically includes the owner or person in possession of any premises wherein a locally sounding audible alarm has been installed.

“ANSI/SIA Control Panel Standard CP-01” means the American National Standard Institute approved Security Industry Association CP-01 Control Panel Standard, as may be updated from time to time, that details recommended design features for security system control panels and their associated arming and disarming devices to reduce the incidence of false alarms. Control panels built and tested to this standard by Underwriters Laboratory (UL), or other nationally recognized testing organizations, will be marked to state: “Design evaluated in accordance with SIA CP-01 Control Panel Standard Features for False Alarm Reduction.”

“Automatic Dialer” means any electrical, electronic, mechanical or other device capable of being programmed to send a prerecorded voice message, when activated or if self-activated, over a telephone line, radio or other communication system, to the Police Department.

“Cross Zone Structure” is a system design that ensures coverage of zones by multiple devices, to minimize potential false alarms.

“Duress Alarm” means a silent alarm signal generated by the manual activation of a device intended to signal a bona fide emergency requiring police response.

“Enhanced Call Verification” is a monitoring procedure requiring that a minimum of two calls be made prior to making an alarm dispatch request. The two calls must be made to different telephone numbers where a responsible party typically can be reached.

“False Alarm” means any activation of an alarm not caused by or because of a criminal act or unauthorized entry.

“False Alarm Waiver” is issued to an alarm user after successful completion of a false alarm awareness class.

“Manually Activated Burglar Alarm” or “Panic Alarm” means an audible alarm signal generated by the manual activation of a device intended to signal an attempted or in-progress unlawful entry.

“Notice of Non-compliance” means formal thirty (30) day notification by the Alarm Administrator, advising of the intent to put the alarm business in substantial non-compliance status.

“Person” means an individual, corporation, partnership, association, organization or similar entity.

“Proprietary Information” means specific information pertaining to individual alarm business customers.

“Robbery Alarm” or “Hold-up Alarm” means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

“Verify” means two attempts by the alarm business or its representative, to contact the alarm user by telephonic or other electronic means, whether or not actual contact with a person is made, before requesting a police dispatch, in an attempt to avoid an unnecessary alarm dispatch request.

“Substantial Compliance Failure” means failure to achieve compliance with select elements of this ordinance resulting in penalty assessment.

“Substantial Non-compliance Status” means failure to come into compliance within a specified time period after notification of substantial compliance failure.

7.81.020 Alarm businesses.

Alarm businesses shall comply with the State of California and City of Vallejo licensing standards and requirements.

7.81.030 Alarm business duties.

The duties of an alarm business shall be as follows:

A. To install an alarm or alarm system compatible with the environment and be available to maintain the system in good working order, and to take reasonable measures to prevent the occurrence of false alarms.

B. To provide each purchaser and alarm user with a copy of the provisions of this article relating to alarm user duties, false alarm assessments and appeal procedures, within thirty (30) days of the enactment of the ordinance codified in this chapter.

C. To provide accurate and complete instructions to the alarm user in the proper use and operation of said system. Specific emphasis shall be placed on the avoidance of false alarms. All businesses which sell alarm systems, but which are not an

alarm business as defined in this chapter, are similarly responsible for instructing the buyer of the alarm system in the proper use of said system.

D. Each alarm business leasing, renting or monitoring an alarm system shall maintain records of the location of these alarm systems, devices or services and the name and telephone number of the person and two alternates to be notified whenever the alarm is activated, and to immediately report such information to the Police Department upon request.

E. Each alarm business, at the time of installation or service of any monitored alarm system, will confirm that the alarm user has readily available the twenty-four (24) hour telephone number for the central monitoring station.

F. An alarm business performing or contracting monitoring services shall have written procedures to ensure efforts are made to verify every alarm signal, except duress, panic, or robbery alarm activation before requesting a police response to an alarm signal. Those procedures shall minimally include the following:

1. Procedure. For alarm signals received from commercial burglar alarm systems or any residential burglar alarm system signal, except duress or panic, the following procedures shall be followed.

a. Call 1. The monitoring facility shall attempt telephone verification to the protected premises after receipt of the alarm signal.

b. Call 2. If a monitoring facility operator gets a busy signal, no answer, or an answering machine on the first call to the protected premises, a second or succeeding call shall be made to an alternate telephone number such as a cellular, work or second number at the protected premises.

c. Person on Premises Without Proper Code. If the operator reaches the protected premises on the first or second call and the person answering the telephone does not have the proper pass code, then the operator shall attempt to reach others on the call list to verify the authenticity of the person on the protected premises.

d. Scheduled Events. If an alarm signal is received in connection with an abort/cancel event, the operator will not contact the Police Department until further contact has been initiated with a responsible party.

e. Verified False. If the alarm is verified as being false during the first, second or succeeding call or as a result of receiving a valid pass code, the operator shall cancel any previous police dispatch relating to the specific signal being worked.

f. Call Lists and Priority. Following notification to law enforcement authorities, attention shall be placed on completing the entire emergency call list with priority to achieve a cancellation of the dispatch if it is verified that no emergency exists. Subsequent to dispatch of a sworn officer, the priority of notification calls to telephone numbers in the customer's database shall be first to numbers where there is a high probability of reaching an alarm user. The alarm user shall be advised of the Notification Call and Police response. The succeeding calls shall be made next to neighbors, then to non-premises people such as relatives or secondary key holders.

g. Enhanced Call Verification Telephone Accessibility Guideline. Care shall be taken to verify that the emergency call list numbers are to telephones without call waiting, or alternately that *70 is programmed in front of the monitoring center telephone number in the electronic digital communicator. The verification telephones at the

monitored premises shall be accessible after normal business hours. The verification telephones shall not direct callers to voice mail so that employees and cleaning people who are working after normal business hours may hear and answer the telephone.

2. Additional Methods. Audio verification, video verification, or cross zoning shall be permitted in place of, or in addition to, the second verification call and shall be considered in compliance with this enhanced call verification standard.

a. Alarm businesses shall maintain installation quality control tracking for all false alarms and shall obtain written confirmation from an alarm user or lessee documenting the training on any newly installed alarm systems.

b. Each alarm business shall provide group training for commercial installations, including false alarm prevention.

c. No alarm business may sell or transfer an alarm contract during the warranty period, without transfer of the existing warranty or insuring the warranty remains in force.

d. Within ten (10) business days, any alarm business placed in substantial noncompliance status shall notify its customers in writing of the company's noncompliance status and provide the customers a copy of the false alarm ordinance highlights. Failure to comply with this section of the ordinance shall result in a two-hundred fifty dollar (\$300.00) per day penalty.

e. Every alarm business shall, within thirty (30) days of the sale or assignment of its obligations to service an alarm or alarms, notify the Vallejo Police Department and the affected alarm users in writing of the transfer of such responsibility, whether partial or total.

f. Every alarm business shall maintain for a period of at least one year from the date of an alarm activation, all records relating to alarm dispatch requests. Records must include the name, address, and telephone number of the alarm user, the alarm system zone(s) activated, the time of the alarm dispatch request and evidence of verification attempts. The Alarm Administrator may request copies of such records for individually named alarm users. If the request is made within sixty (60) days of an alarm dispatch request, the alarm business shall furnish requested records within three (3) business days of receiving the request. If the records are requested between sixty (60) days to one (1) year after an alarm dispatch request, the alarm business shall furnish the requested records within thirty (30) days of receiving the request. Failure to maintain such records shall be considered a substantial compliance failure.

g. Each alarm business must designate one individual as the alarm response manager for the company who will manage alarm related issues and act as the point of contact for the Alarm Administrator. The name, telephone number, and e-mail address of the designated alarm response manager must be provided to the Alarm Administrator.

h. Each alarm business shall provide a customer list in a format acceptable to the Alarm Administrator, upon request, to assist in creating tracking data.

i. Installation of all new alarm components shall adhere to manufacture installation guidelines.

7.81.040 Alarm user duties.

An alarm user shall:

- A. Be familiar with the provisions of this Article.
- B. Maintain the alarm system in good working order, and periodically test and take reasonable measures to prevent the occurrence of false alarms.
- C. Instruct all persons who are authorized to place the alarm system into operation, in the appropriate method of operation and to lock and secure all doors and windows and other points of entry.
- D. Inform all persons who are authorized to place the alarm system into operation of the provisions of this Article, emphasizing the importance of avoiding false alarms. A current copy of the provisions of this chapter shall be maintained on the premises and be made available to all persons who are authorized to place an alarm system into operation.
- E. Provide a sign or notice posted on or near every audible device with the name and twenty-four (24) hour telephone number of the person or company responsible for the maintenance of the system. The notice shall be posted in such a position as to be readable from the ground level outside and adjacent to the building. All silent alarm systems shall have a notice on the premises which provides the same information.
- F. Respond to the scene of an activated alarm within forty-five (45) minutes of the alarm activation after being notified by the alarm business or the Vallejo Police Department. This response shall include, when necessary, the opening of the premises so that they may be searched.
- G. Have a licensed alarm business annually service and test any alarm system that does not have a self-test of the backup battery and wireless sensors.

7.81.050 Features and interconnection.

- A. It shall be unlawful for anyone to install or sell an alarm system which upon activation emits a sound similar to sirens used on emergency vehicles or for other emergency purposes. This action shall not apply to devices mounted inside a building which cannot be clearly heard from outside of the building.
- B. It shall be unlawful to operate an audible alarm system which does not shut off within a maximum time of fifteen (15) minutes from the time of activation. This may be accomplished by either an automatic cut-off, or by manual operation. If the alarm system has an automatic cut-off with a rearming phase, the rearming phase must be able to distinguish between an open and a closed circuit. If the circuit is broken the system shall not rearm.
- C. No automatic dialing device shall be programmed to dial 9-1-1 or any telephone number of the Vallejo Police Department without prior approval from Alarm Administrator. Any person who knowingly interconnects programs or permits such interconnection or programming of an automatic dialing device is guilty of an infraction.
- D. It shall be unlawful for any alarm system to terminate directly at the Vallejo Police Department unless specifically authorized in writing by the Alarm Administrator.
- E. All alarm systems shall have a standby backup power supply which will automatically assume the operation of the alarm system for a minimum of four (4) hours should any interruption occur in power to the alarm system. The transfer of power from

the primary source to the backup source must occur in a manner which does not activate the alarm.

F. All equipment for new installations shall meet or exceed generally accepted industry standards (currently ANSI/SIA Control Panel Standard CP-01, including but not limited to any related devices and accessories).

G. Duress, Robbery, and Panic Alarm Activating Devices. After July 1, 2007, alarm companies shall not install a device for activating duress, robbery, or panic alarms which have a single action, non-recessed button. All existing installations using single action, non-recessed buttons or devices shall be upgraded to current standards not later than July 1, 2008. Violation of this section shall result in a one-hundred fifty dollar (\$200.00) penalty per day of non-compliance.

7.81.060 Administration.

A. The provisions of this chapter shall be administered and enforced by the Chief of Police and the Alarm Administrator. The Chief of Police or Alarm Administrator shall have the authority to make and enforce such rules and regulations as are necessary to implement the provisions of this chapter. This may include a no-response policy on the part of the Vallejo Police Department to alarm activations at locations which have repeated instances of false alarms.

B. Alarm business proprietary information furnished and secured pursuant to the ordinance codified in this chapter shall be confidential and shall not be subject to public inspection. It is hereby declared that this information is critical to the safety and security of the alarm user and law enforcement personnel and that the public interest served by not disclosing said information to the public clearly outweighs the public interest served by disclosing said information.

C. The Alarm Administrator shall consider an alarm business in substantial compliance failure when the business has failed to comply with any of the following sections of this chapter.

1. 7.81.020
2. 7.81.030 (F)(1)
3. 7.81.040 (E)(F)
4. 7.81.070 (A) 1-4; or
5. Fail to comply with three (3) or more components of Section 7.81.110.

D. When an alarm business is deemed to be in "substantial compliance failure" by the Alarm Administrator, the following procedure shall be applied.

1. The Alarm Administrator shall send the alarm business a "Notice of Non-compliance" containing the following information:

- a. The section of the ordinance to which the alarm business has failed to comply;
- b. The specific remedy for the compliance failure;
- c. The date by which the alarm business must come into compliance, and

- d. The specific action that will be taken by the department, including the date that action will be taken.
2. Unless otherwise specified in this chapter, the notice of noncompliance shall give the alarm business thirty (30) days to come into compliance with the specified section.
3. Failure to come into compliance, within the time specified in the notice of noncompliance, will result in penalty of two-hundred fifty dollars (\$300.00) per day.

7.81.070 Maintaining and providing specified information -- Cancellation of response.

A. Any central station, monitoring company, or telephone answering service that reports alarm activations to the Vallejo Police Department shall maintain and provide the following information to the Police Communications Center:

1. Any premise or alarm code assigned by the Police Department;
2. The name of the alarm user;
3. The address of the alarm system;
4. The nature of alarm (i.e., burglary, robbery, audible, silent, interior, or perimeter); and
5. Whether the alarm user is responding, the name of the person responding, estimated time of their arrival, and the responder's vehicle description.

B. An alarm business must cancel any request for police response immediately when the alarm business determines that the alarm signal is false. No false alarm assessment will be made for such canceled alarm if the cancellation call is received by the Police Department prior to an officer being dispatched, unless, at the Vallejo Police Department's discretion, the responding officer continues to the premises to investigate unusual or suspicious circumstances arising from the alarm activation.

C. If the responding officer is already on the premises or has been dispatched but has not arrived at the protected premises prior to the receipt of a request to cancel police response, the false alarm penalty assessment shall apply.

7.81.080 Violations and penalties.

A. A penalty of one-hundred dollars (\$150.00) shall be assessed against an alarm user for every false alarm after the first false reported from his/her premises following enactment of this ordinance. Alarm users who have completed an alarm awareness course approved by the Vallejo Police Department may submit a certificate of course completion in lieu of paying a subsequent false alarm penalty. A course completion certificate is valid for a specific alarm site only and is valid for a false alarm penalty waiver only one time in a twelve (12) month period.

B. Activation of a duress, panic, or holdup alarm for an event not consistent with a robbery or other life threatening situation, shall be considered a violation of this section and will result in a one-hundred dollar (\$100.00) penalty assessment for residential alarms or a three-hundred dollar (\$300.00) penalty assessment for business-related alarms.

C. If an alarm activation is determined to be false and subsequently cancelled by an alarm user or provider after an officer or officers have been dispatched but before the officer or officers arrive at the protected premises, the pertinent false alarm penalty shall be reduced by fifty percent (50%).

D. In determining the number of false alarm penalties, multiple alarms occurring in any twenty-four (24) hour period may be counted as one false alarm, to allow the alarm user time to take corrective action, except where the alarm user has a history of chronic false alarms.

E. A false alarm response penalty may be waived if the alarm system was activated by factors out of the alarm users control, including violent conditions of nature; such as, earthquake, high intensity winds, extreme storms including thunderstorms, lightning, electrical surge, or other extraordinary circumstances not reasonably subject to the control of the alarm business or alarm user. The Vallejo Police Department may request a written statement/report from a licensed alarm company representative, which details the reasons for the false alarms under this section.

F. Whenever, in the opinion of the Alarm Administrator, an alarm user has a history of false alarms the pertinent system may be placed in "no response" status until the alarm user submits proof of system service and problem resolution by a licensed alarm business. Failure to pay alarm-related penalty assessments shall result in the pertinent system being placed in "no response" status at the discretion of the Alarm Administrator until such payment is received.

G. The false alarm penalties set forth in this ordinance shall be adjusted on July 1st of each year following enactment of this ordinance by the Annual Average Percentage Increase in the U.S. Department of Labor Consumer Price Index for the San Francisco-Oakland-San Jose Area for the preceding calendar year. All revenue generated by alarm penalties shall be appropriated to the Police Department and dedicated to off-set alarm response costs.

7.81.090 Appeal process.

An alarm user who has been denied a waiver of a penalty or penalties, or an alarm business that has received a notice of noncompliance may appeal that decision.

A. The initial appeal shall be to the Alarm Administrator. A letter of appeal must be filed with the Alarm Administrator within fifteen (15) days of the date of the letter of notification of the proposed action. This initial appeal shall be informal and a written decision shall be prepared. Failure to file a timely appeal shall constitute a waiver of the alarm user's or alarm business' right to appeal provided, however, that the Alarm Administrator may in his/her sole discretion waive the fifteen (15) day limit if good cause is shown or there is cause to believe that it might encourage substantial cooperation from the alarm user. There shall be no right to appeal the decision of the Alarm Administrator to not waive the fifteen (15) day time limit.

B. If the alarm user or alarm business is dissatisfied with the decision of the Alarm Administrator, the appeal may be considered by the Chief of Police or his/her designee. A copy of the Alarm Administrator's decision shall be submitted with the appeal request. The appeal must be filed with the Chief of Police within fifteen (15) days of the mailing of the letter of notification of the Alarm Administrator's decision. Failure

to file a timely appeal shall constitute a waiver of the alarm user's or alarm business' right to appeal. The decision of the Chief of Police shall be final.

7.81.100 Alarm user awareness class.

A. The Vallejo Police Department shall deliver or provide access to an educational program for the prevention of false alarms.

B. If an alarm user successfully completes the alarm user awareness class, the Police Department shall issue the person a certificate. The certificate may be used in lieu of payment of a false alarm penalty as described in Section 7.81.080 of the article.

C. An alarm user who attends an alarm user awareness class pursuant to this section may attend additional classes, but is not eligible for more than one penalty assessment waiver within any twelve (12) month period.

7.81.110 Good faith standards.

Each alarm business shall, to the greatest extent possible, adhere to the following consumer protection and equipment standards for all new installations in the City of Vallejo.

A. Participate in quarterly false alarm prevention classes with the Vallejo Police Department.

B. Participate in ongoing research to reduce false alarms.

C. Report unlicensed alarm businesses operating within the City of Vallejo.

D. Establish a single point of contact for the Alarm Administrator.

E. Install only UL listed equipment.

F. Conduct follow-up calls on a second false alarm in a fourteen (14) day period.

G. Maintain active membership in a local alarm association.

H. Install cross-zone structures in all new installations, where possible.

I. Present false alarm prevention information at crime prevention meetings, upon request.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect and shall be in full force and effect thirty (30) days from and after its final passage.



POLICY B

Agenda No.

COUNCIL COMMUNICATION

Date: July 17, 2007

TO: Honorable Mayor and Members of the City Council

FROM: Robert W. Nichelini, Chief of Police *RWN*

SUBJECT: Proposed ordinance regulating camping on public and private property and the storage of personal property on public and private property

BACKGROUND AND DISCUSSION

In recent years, Vallejo has seen a growing problem with unauthorized camping on public and private property throughout the City and the need to address storage of personal property on public and private property. Of particular concern is the potential danger to public health and safety resulting from a complete lack of sanitary facilities and the accumulation of trash and debris. Much of this activity is occurring in the environmentally sensitive marsh areas and open space along Wilson Avenue and Highways 37 and 29.

Additionally, the unauthorized or inappropriate use of outdoor cooking equipment, open flames, fires or stoves of any sort typically associated with camping creates a major fire threat to life, safety and property, including public and private property, open lands, and hillsides. Illegal campsites are typically located in areas with high levels of combustible vegetation or near foot paths that are used by the public, often resulting in increased criminal activity.

There have been several recent events that illustrate the dangers of illegal camping. On June 28, 2007, there was a four alarm grass fire at a homeless encampment that burned ten acres of wetlands brush. Approximately 200 rounds of ammunition ignited during the blaze and several propane canisters exploded endangering the firefighters and nearby residents. On July 2, 2007, the City spent \$19,000 clearing the area to prevent further fires as the result of illegal camping. There were 500 cubic yards of debris collected during this clean up effort. In Los Angeles County, persons associated with an illegal encampment were responsible

for an 800 acre grass fire that endangered several homes and required evacuation of a large area.

Additionally, violent crime is often associated with illegal encampments. In May, 2007, while jogging on the foot path in River Park, an employee of Kaiser Hospital was attacked, beaten and robbed by a subject who was "living" in a nearby illegal encampment. During an investigative search of the area, two subjects with an extensive criminal background including prior arrests for murder were located.

The City of Vallejo currently can initiate the abatement process upon discovering that illegal or unauthorized camping is taking place on city-owned property. This ordinance expands this authority to other properties not owned or controlled by the City of Vallejo.

Enforcement efforts will be supplemented with a compassionate approach to assist people in need. The Police Department will continue to direct individuals to appropriate health and welfare service providers. The priority is to insure that people are aware of the various social and medical services available to them and seek voluntary compliance. Members of the Police Department's Community Services Division and representatives of the various social service agencies have toured the illegal encampments, contacted the residents, and offered their services. Pamphlets listing available services and resources will be distributed within the encampments. Illegal campers will be given the opportunity to gather their belongings before being required to vacate the public property. Formal enforcement and abatement processes will only take place after efforts to secure voluntary compliance have failed.

Enforcement on private property will generally be on a complaint basis unless there is a visible or known health and safety violation. If a private property owner wants to allow camping on vacant or under-developed land, the ordinance provides procedures to obtain City permission in order to protect the health and safety of the campers and the public. This ordinance will not regulate "backyard" camping on residential property.

FISCAL IMPACT

Staff has consulted with Code Enforcement, the City Attorney's office, various social service agencies within Solano County and members of the community while preparing this ordinance. Adoption of this ordinance will not incur a substantial expense as mechanisms to support this ordinance are already in place and will require limited modifications to support its enforcement actions.

RECOMMENDATION

Adopt the proposed ordinance regulating camping on public and private property and the storage of personal property on public and private property.

ENVIRONMENTAL REVIEW

This resolution of intention is an action exempt from CEQA pursuant to Cal. Gov. Code §65584.

PROPOSED ACTION

Adopt a resolution holding the proposed ordinance regulating camping on public and private property and the storage of personal property on public and private property on first reading.

DOCUMENTS AVAILABLE FOR REVIEW

- a. Resolution holding the proposed Camping Ordinance on first reading.
- b. Copy of proposed Camping Ordinance.

CONTACT PERSON

PREPARED BY: Lieutenant Reggie Garcia, Vallejo Police Department
(707) 648-5297 e-mail: 337@ci.vallejo.ca.us

RESOLUTION NO. _____ N.C.

BE IT RESOLVED by the Council of the City of Vallejo as follows:

WHEREAS, unregulated camping on public and private property results in an unhealthy and unsafe environment to the public in that there are no sanitary facilities available to persons who camp overnight, and trash and debris accumulate in unregulated areas; and

WHEREAS; the unauthorized or inappropriate use of outdoor cooking equipment, open flames, fires or stoves of any sort typically associated with camping creates a major fire threat to life, safety and property; and

WHEREAS; it is desirable to regulate camping on public and private property and the storage of personal property on public and private property in order to protect the health and safety of the campers and the public, now, therefore,

BE IT RESOLVED that the City Council does hereby implement an Ordinance, as herein above described, by holding on first reading the Ordinance attached hereto.

JULY 17, 2007

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Chapter 7.59

CAMPING ON PUBLIC AND PRIVATE PROPERTY AND THE STORAGE OF PERSONAL PROPERTY ON PUBLIC AND PRIVATE PROPERTY

Sections:

7.59.010 Purpose.

7.59.020 Definitions.

7.59.030 Unlawful Camping.

7.59.040 Storage of personal property on public and private property.

7.59.050 Permit for special events required.

7.59.060 Posting copy of permit.

7.59.070 Power of the city manager and GVRD to make rules and regulations.

7.59.080 Current ordinance provisions.

7.59.090 Violations.

Section 7.59.010 Purpose.

The streets and public areas within the City of Vallejo need to be readily accessible and available to residents and the public at large. The use of these areas for camping purposes or storage of personal property interferes with the rights of others to use these areas for which they were intended. Such activity can also constitute a public health and safety hazard, which adversely impacts other members of the public, neighborhoods and commercial areas. The purpose of this chapter is to maintain public and private lands, streets, sidewalks, alleys, ways, creeks, waterways, parks, playgrounds, recreation areas, plazas, open spaces, lots, parcels and other public and private areas within the city in a clean, sanitary and accessible condition and to protect the health, safety and welfare of the community, while recognizing that, subject to reasonable conditions, camping and camping facilities associated with special events can be beneficial to the cultural and educational well-being of city residents. Nothing in this chapter is intended to interfere with otherwise lawful and ordinary uses of public or private property.

The unauthorized or inappropriate use of outdoor cooking equipment, open flame, fires or stoves of any sort typically associated with camping creates a major fire threat to life, safety and property, including public and private property, open lands, and hillsides. Illegal campsites are typically located in areas where high levels of combustible vegetation are located (e.g. wooded areas), which creates an even higher level of a fire threat.

Camping adjacent to, within, or below the top of banks of creeks or streams poses a health and safety risk from potential flooding, proximity to unstable banks with slippage potential, health risks from human waste entering into creeks, streams, or other waterways and the risk of damage to environmentally sensitive habitat and species known to exist in some portions of the city, such as creeks, streams, waterways, and wetlands.

Unauthorized camping near bicycle paths **and walking paths** within the city also increases the potential for crimes against persons using the bicycle paths **and walking paths**.

It is not the intent or purpose of this chapter to prohibit overnight camping on private residentially zoned property when located on the same lot as an existing single family residence as permitted under section 7.96.020 of this code.

Section 7.59.020 Definitions.

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

- A. "Camp" or "camping" means to do any of the following:
 - 1. To sleep at any time between the hours of 11:00 p.m. and 8:30 a.m. in any of the following places:
 - a. Outdoors, with or without bedding, sleeping bag, blanket, mattress, tent, hammock, or other similar protection, equipment or device;
 - b. In, on, or under any structure or thing not intended for human occupancy, whether with or without bedding, sleeping bag, blanket, mattress, tent, hammock, or other similar protection, equipment or device.
 - 2. To establish or maintain, outdoors or in, on, or under any structure, object or thing not intended for human occupancy, at any time between the hours of 11:00 p.m. and 8:30 a.m., a temporary or permanent place for sleeping by setting up any bedding, sleeping bag, blanket, mattress, tent, hammock, or other sleeping equipment or device in such a manner as to be usable for sleeping purposes.
 - 3. To establish or maintain, outdoors or in, on, or under any structure or thing not intended for human occupancy, at any time during the day or night, a temporary or permanent place for cooking or sleeping by setting up any bedding, sleeping bag, blanket, mattress, tent, hammock, or other sleeping equipment or device or by setting up any cooking equipment, with the intent to remain in that location overnight.
- B. "Camping facilities" or "camping facility" include, but are not limited to, tents, huts, lean-to's, tarps, trailers, vehicles, vehicle camping outfits or other forms of temporary shelter.
- C. "Camping paraphernalia" includes, but is not limited to, bedrolls, blankets, tarpaulins, cots, beds, mattresses, pads, sleeping bags, hammocks, lanterns, stoves or non-city designated cooking facilities and similar equipment.
- D. "City manager" means the city manager or his/her designee.
- E. "Establish" means setting up or moving equipment, supplies or materials onto public or private property for the purpose of camping or operating or using camping facilities.
- F. "Maintain" means keeping or permitting equipment, supplies or materials to remain on public or private property in order to camp or operate or use camping facilities.

G. "Operate" or "operating" means participating or assisting in establishing or maintaining a camp or camping facility.

H. "Parks" is a park, reservation, playground, beach, recreation center or any other public area in the city, owned or used by the city and devoted to active or passive recreation as defined in 7.60.020 of this code.

I. "Playgrounds" means play lots, playgrounds, and play fields for local youth and adult recreation programs, excluding professional or semi-professional athletic fields or other outdoor commercial recreation .

J. "Private property" means all privately-owned real property including, but not limited to, privately-owned streets, sidewalks, alleys, ways, creeks, waterways, lots, parcels and other forms of improved or unimproved land or real property.

K. "Public property" means all publicly-owned property including, but not limited to, public streets, sidewalks, alleys, ways, creeks, waterways, parks, playgrounds, recreation areas, plazas, open spaces, lots, parcels and other forms of improved or unimproved land or real property.

L. "Sidewalks" are the areas along the frontage of private or public property between the street pavement line and the adjacent property line designated or designed for pedestrian use, including driveways and landscape medians.

M. "Special event" means the meaning set forth in section 12.32.050 of this code.

N. "Store" means to set aside or accumulate for use when needed, to put for safekeeping, or to place or leave in a location.

O. "Streets" or "public streets" includes avenues, highways, lanes, alleys, ways, crossings or intersections, courts and cul-de-sacs that have been dedicated and accepted according to law, or which have been in common and undisputed use by the public for a period of not less than five years from the effective date of the ordinance enacting this chapter. "Streets" and "public streets" do not include privately-owned streets unless the context clearly provides otherwise.

Section 7.59.030 Unlawful Camping.

It is unlawful and a public nuisance for any person or group of persons to camp, occupy camping facilities, or use camping paraphernalia in the following areas:

A. Any public property, improved or unimproved, including, but not limited to, public streets and sidewalks, parks, open space, and other property; or

B. Except as otherwise permitted under 7.59.020 of this code.

Section 7.59.040 Storage of personal property on public and private property.

It is unlawful and a public nuisance for any person to store personal property, including but not limited to camping facilities and camping paraphernalia, in the following areas, except as otherwise specifically permitted in writing by the city manager upon a finding by the city manager that, under the circumstances, such storage shall not constitute a public nuisance nor be a threat to the public health, safety or welfare:

A. Any public property, improved or unimproved including, but not limited to, public streets and sidewalks; or

B. Any private property without the consent of the owner or other lawful user of such property.

Section 7.59.050 Permit for special events required.

GVRD may issue a temporary permit to permit camping in connection with a special event. A "special event" is intended to include, but not be limited to, programs operated by the departments of the city, youth or school events, marathons or other sporting events and scouting activities that GVRD deems to be in the public interest and shall not constitute a public nuisance nor be a threat to the public health, safety or welfare. In rendering this determination, GVRD may consult with various city departments, the health officer, or members of the public prior to issuing any temporary permit. Each department or person consulted may provide comments to GVRD regarding any health, safety or public welfare concerns and provide recommendations to the city manager pertaining to the issuance, denial or conditioning of the permit. A reasonable fee, to be set by the city council, shall be paid, in advance, by the applicant. The fee shall be returned if the application is denied. In exercising discretion to issue a temporary permit, GVRD may consider any facts or evidence bearing on the sanitary, health, safety and welfare conditions on or surrounding the area or tract of land upon which the proposed temporary camp or camping facility is to be located.

Section 7.59.060 Posting copy of permit.

The permit obtained from GVRD in accordance with section 7.59.050 of this code shall be at all times posted in a conspicuous place upon the area or tract of land upon which the camp or camping facility is located.

Section 7.59.070 Power of the City Manager and GVRD to make rules and regulations.

GVRD is further empowered to ascertain that the operation or maintenance of any camp or camping facility to which a temporary permit has been issued pursuant to section 7.59.050 of this code will not jeopardize the public health, safety or welfare and, for this purpose, may make additional rules and regulations pertaining to their establishment, maintenance or operation. GVRD may also impose conditions on the establishment, maintenance or operation of the camp or camping facility, including, but not limited to security, sanitation facilities, the number of occupants, posting of bonds or deposits, insurance, quiet hours, duration of the permit, and permitted activities on the premises. When GVRD issues any permit pursuant to section 7.59.050 of this code, such permit may be revoked at any time thereafter by GVRD if GVRD reasonably determines that the maintenance or continuing operation of the camp or camping facility is a public nuisance or poses a threat to or is adverse to the public health, safety or welfare.

Section 7.59.080 Current ordinance provisions.

Neither the adoption of this chapter nor its repeal or amendment shall in any manner affect the prosecution for violation of this code or other ordinances, which violations were committed prior to the effective date of such adoption, repeal or amendment, nor be construed as affecting any of the provisions of this code or other city ordinance, regulation or rule relating to the collection of any license, fee or penal sum applicable to any violation thereof, nor affect the validity of any bond or cash deposit in lieu thereof, required to be posted, filed or deposited pursuant to this code or other city ordinance, regulation or rule and all rights and obligations there under appertaining shall continue in full force and effect.

Section 7.59.090 Violations.

A violation of this chapter is a misdemeanor and is subject to fine and/or imprisonment. In addition to the remedies set forth in Penal Code Section 370, the city attorney may, at the city council's direction, institute civil actions to abate a public nuisance under this chapter.



City of Vallejo Memo

To: Honorable Mayor Intintoli & City Council

From: Brian Dolan, Development Services Director *BD*
Don Hazen, Planning Manager *DH*

Date: July 17, 2007

Re: Motion to Reconsider Planned Development (Unit Plan) 06-0018 at the request of Councilmember Sunga

On March 19, 2007, the Planning Commission considered a proposal for an 11,754 custom single family home at 1757 Durrow Court. After hearing testimony from Planning Division staff, neighbors of the project, the applicant's representatives and the Hiddenbrooke Architectural Review Committee, the Commission unanimously granted the Unit Plan, determining that the project was consistent with the Hiddenbrooke Specific Plan and would be of a "quality and character" which would harmonize with the existing neighborhood.

Mr. Larry Seamer, an adjoining neighbor, filed an appeal of the Planning Commission decision on 03/29/2007.

On May 22, 2007, the Vallejo City Council considered an appeal from the Planning Commission's decision granting unit plan approval for the custom single family home at 1757 Durrow Court. After the hearing, the Council voted to uphold the appeal, and modify the decision of the Planning Commission regarding the unit plan by a vote of 5-2. The majority based their decision on the findings that the proposed custom home was inconsistent with the intent and purpose of the Hiddenbrooke Specific Plan and that the proposed custom home would be incompatible with the existing custom home pattern of development. However, the City Council did approve a modified unit plan that would result in a smaller home of approximately 7,100 square feet.

Pursuant to Vallejo Municipal Code section 2.02.650, Council member Sunga has requested that this item be agendaized in order to make a motion to reconsider.

At this time, the sole matter in question is whether the Council should reconsider its decision concerning the unit plan at a future time. If the Council votes to grant the motion to reconsider, such matter will be placed on a future agenda, and the statutory notice to

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interested parties shall be provided. If Council members have any questions regarding this memo, please contact Don Hazen, Planning Manager, at 648-4328.

PROPOSED ACTION: Determine whether Unit Plan 06-0018 should be considered at a future time. If the Council votes to grant the motion to reconsider, such matter will be placed on a future agenda, and the statutory notice to interested parties shall be provided.




ADMIN. B

Agenda Item No.

COUNCIL COMMUNICATION

Date: July 17, 2007

TO: Honorable Mayor and Members of the City Council

FROM: Gary A. Leach, Public Works Director 

SUBJECT: CONSIDERATION OF A RESOLUTION HOLDING ON A FIRST READING AN ORDINANCE AMENDING CHAPTERS 7.40 THROUGH 7.52 OF THE VALLEJO MUNICIPAL CODE RELATING TO THE REVISED AND RESTATED FRANCHISE AGREEMENT FOR COLLECTION AND DISPOSAL OF SOLID WASTE AND RECYCLABLES

BACKGROUND

On September 12, 2006, when the City Council authorized the City Manager to sign the Revised and Restated Franchise Agreement for Collection and Disposal of Solid Waste and Recyclables, it became necessary to amend the Vallejo Municipal Code to ensure that the new Franchise Agreement and Municipal Code were consistent with each other. At that time, Council approved a resolution holding on a first reading of an ordinance amending Chapters 7.40 through 7.52 of the Vallejo Municipal Code. However, all the necessary changes to the ordinance could not be implemented because the transition to automated cart service could not be completed until the new automated trucks arrived in July 2007.

In addition, as staff reviewed Chapters 7.40 through 7.52 of the Municipal Code, it became apparent that although solid waste, recycling and green waste services for Commercial and Industrial businesses were covered under the exclusive Franchise Agreement, there were several pertinent issues that were not specifically addressed in the Municipal Code. Staff has worked with Vallejo Garbage Service to ensure that changes to the Municipal Code are consistent with the commercial garbage and recycling services that the franchise hauler provides.

Since Vallejo Garbage Service has begun to deliver the new residential carts, they have encountered approximately 150 residences that did not have an account or any type of garbage service. It is very likely that these residences would have continued to go without garbage service if the City had not switched to the cart system. In addition, we assume that this may very well be the case with commercial businesses as well. It is staff's opinion that businesses which do not pay for garbage service may be contributing to the City's illegal dumping problem. The proposed change to the Municipal Code will include requiring businesses to maintain a minimum level of



garbage service, which is a 32 gallon cart that is provided by the franchise waste hauler.

Residents and businesses that maintain the minimum level of garbage service are allowed to self haul any excess garbage to a certified landfill or transfer station. However, if the minimum service or frequency of collection is inadequate and the customer does not promptly self haul excess garbage, then upon an investigation confirming that a residence or business does not have adequate garbage service, the Public Works Director, and/or, the Health Department may require an increase in service and/or the frequency that garbage is picked up.

Staff will work with the franchise hauler to identify those businesses that currently do not have the minimum level of garbage service and require them to start service. In addition, staff will work diligently with the Vallejo Garbage Service Recycling Coordinator to perform waste audits and assist businesses with implementing recycling programs to keep their costs down. Staff intends to promote business recycling by informing businesses that recycling services are free to all commercial and industrial businesses that have the required minimum garbage service.

Currently, under the Municipal Code the Solano County Health Department is responsible for issues pertaining to subscription, hearings, mandatory service, collection and removal of solid waste. This is not practical since the Public Works Director is responsible for overseeing the Solid Waste and Recycling Franchise Agreement. Staff concluded that the Public Works Director should also be responsible for the majority of issues pertaining to solid waste and recycling in the City of Vallejo and/or at a minimum share the responsibility with the Solano Health Department. According to the Solano County Health Department, other cities in Solano County do not rely on the Health Department for these types of services and they have informed staff that they are in agreement with the proposed revisions.

In order for the Council to be fully aware of all the proposed changes to the Municipal Code, staff has attached a redlined copy of the Municipal Code that shows all the changes, which include deletions and additions. All the changes to the Municipal Code are intended to ensure consistency with the services that are being provided by the franchise hauler and to ensure fairness on the behalf of all the residences and businesses in the City.

PROPOSED ACTION

Adopt the resolution holding on the first reading an Ordinance amending chapters 7.40 through 7.52 of the Vallejo Municipal Code.



ALTERNATIVES CONSIDERED

As the proposed amendments to the Municipal Code are being made to assure that it is consistent with the new automated collection service and the terms of the Revised and Restated Franchise Agreement no alternatives were considered.

ENVIRONMENTAL REVIEW

Staff has determined that the adoption of the resolution amending the Vallejo Municipal Code is exempt from the California Environmental Quality Act ("CEQA") pursuant to section 15301 of Title 14 of the California Code of Regulations since it involves the operation of existing facilities with no expansion of the existing uses.

DOCUMENTS AVAILABLE FOR REVIEW

- a. Resolution holding on a first reading of an Ordinance amending Chapters 7.40 through 7.52 of the Vallejo Municipal Code.
- b. Draft Ordinance amending Chapters 7.40 through 7.52 of the Vallejo Municipal Code.
- c. Redline version of Draft Ordinance amending Chapters 7.40 through 7.52 of the Vallejo Municipal Code.

CONTACT PERSON

Gary Leach, Public Works Director
(707) 648-4315
gleach@ci.vallejo.ca.us

Derek Crutchfield, Recycling Coordinator
(707) 648-5346
dcrutchfield@ci.vallejo.ca.us

JULY 17, 2007

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RESOLUTION NO. 07-__ N.C.

BE IT RESOLVED by the Council of the City of Vallejo as follows:

WHEREAS, on September 12, 2006, the City Council approved the consolidated the garbage and curbside recycling franchise agreements into a single Revised and Restated Franchise Agreement ("Franchise Agreement") and authorizing the City Manager to sign the Franchise Agreement; and

WHEREAS, the terms of the Franchise Agreement were in conflict with the Vallejo Municipal Code and required certain revisions to the Municipal Code; and

WHEREAS, automated collection service was not scheduled to begin until July 2007 the necessary changes to the Municipal Code related to the new service could not be made; and

WHEREAS, all garbage and recycling service will be automated by July 31, 2007; and

WHEREAS, staff have presented amendments to the Vallejo Municipal Code to ensure that it is consistent with the solid waste and recycling service provided by Vallejo Garbage Service under the Franchise Agreement are consistent.

NOW, THEREFORE BE IT FOUND AND DETERMINED by the City Council of the City of Vallejo that the adoption of this Resolution is exempt from the California Environmental Quality Act pursuant to section 15301 of Title 14 of the California Code of Regulations (Class 1 Categorical Exemption) as the amendment of the Vallejo Municipal Code concerns the operation of existing facilities (solid waste and recycling collection and disposal) and involves no expansion of use.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Vallejo hereby holds on first reading an Ordinance amending Chapter 7.40 through 7.52 of the Vallejo Municipal Code.

JULY 17, 2007

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ORDINANCE NO. _____ N.C. (2d)

AN ORDINANCE OF THE CITY OF VALLEJO
AMENDING SUBCHAPTER II OF TITLE 7
OF THE VALLEJO MUNICIPAL CODE

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

SECTION 1. Ordinance No. 1572 (2d), Section 1 and Chapter 7.40 of the Vallejo Municipal Code are hereby repealed in their entirety and a new and revised Chapter 7.40, entitled "Definitions," is hereby added to Vallejo Municipal Code, to read as follows:

"Chapter 7.40 DEFINITIONS

7.40.010	<u>Generally.</u>	Formatted: Not Highlight
7.40.020	<u>Bin.</u>	Formatted: Not Highlight
7.40.030	<u>Box.</u>	Formatted: Not Highlight
7.40.040	<u>Bulky Goods.</u>	Formatted: Not Highlight
7.40.050	<u>Cart.</u>	Formatted: Not Highlight
7.40.060	<u>City.</u>	Formatted: Not Highlight
7.40.070	City council.	
7.40.080	City manager.	
7.40.090	<u>Commercial/industrial business owner.</u>	Formatted: Not Highlight
7.40.100	<u>Commercial/industrial business premises.</u>	Formatted: Not Highlight
7.40.110	<u>Commercial/industrial business container.</u>	Formatted: Not Highlight
7.40.120	<u>Container.</u>	Formatted: Not Highlight
7.40.130	Franchisee.	
7.40.140	Green Waste.	Formatted: Not Highlight
7.40.150	Hazardous materials.	Formatted: Not Highlight
7.40.160	Health department.	Formatted: Not Highlight
7.40.170	Owner.	Formatted: Not Highlight
7.40.180	Person.	
7.40.190	<u>Public works director.</u>	
7.40.200	Recyclables.	Formatted: Not Highlight
7.40.210	Resident.	Formatted: Not Highlight
7.40.220	<u>Residential cart service.</u>	Formatted: Not Highlight
7.40.230	<u>Residential collection - Container.</u>	Formatted: Not Highlight
7.40.240	<u>Residential minimum service.</u>	Deleted: c
7.40.250	<u>Residential premises.</u>	Formatted: Not Highlight
7.40.260	Solid Waste.	Formatted: Not Highlight
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		Deleted: 7.40.140 . Metered ("or by the can") residential service.¶ 7.40.150 . Minimum residential service.¶

7.40.010 Generally.

For the purposes of chapters 7.40, through 7.52, the following words and phrases are defined and shall be construed as hereinafter set out unless it is apparent from the context that a different meaning is indicated.

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7.40.020 Bin.

"Bin" means a detachable container used in connection with commercial/industrial premises with a capacity equal to or less than six (6) cubic yards that is serviced using a front end loading vehicle.

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7.40.030 Box.

"Box", sometimes known as a "roll-off," "drop" box or "debris" box, means a wheeled or sledged container or compactor, generally 10 to 40 cubic yards in size, that is picked up in its entirety by a dedicated truck.

7.40.040 Bulky Goods.

"Bulky goods" means discarded furniture; carpets; mattresses; household appliances including refrigerators, ranges, washers, dryers, water heaters, and dishwashers and other similar items; household goods including lawn and garden equipment (drained of fluids), bicycles and other similar personal items. Bulky goods excludes motor vehicles or any subassembly, component, or part thereof (including tires), hazardous materials, and universal waste (including electronic waste) as currently defined by the State of California.

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7.40.50 Cart.

"Cart" means an industry-standard receptacle for solid waste, recyclables, or green waste made of metal, hard rubber or plastic in a range of sizes approximately 32, 64 or 96 gallons with wheels, a handle for ease of movement and a tight-fitting, attached lid, and designed to be dumped mechanically into a collection vehicle.

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7.40.60 City.

"City" means the city of Vallejo.

7.40.070 City council.

"City council" means the city council of the city of Vallejo.

7.40.080 City manager.

"City manager" means the city manager of the city of Vallejo, or his or her authorized representative.

7.40.090 Commercial/industrial business owner.

"Commercial/Industrial business owner" means any person holding or occupying, alone or with others, commercial/ industrial business premises, whether or not it is the holder of the title or the owner of record of the commercial/industrial business premises.

7.40.100 Commercial/industrial premises.

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"Commercial/Industrial premises" means all occupied real property in the city, except property occupied by state or local governmental agencies which pursuant to state or federal laws are exempt from the requirement to utilize the city's franchisee and except residential premises as defined herein, and shall include, without limitation, wholesale and retail establishments, restaurants and other food establishments, bars, stores, shops, offices, industrial establishments, manufacturing establishments, service stations, repair, research and development establishments, professional, services, sports or recreational facilities, construction and demolition sites, a multi-family residence that is not a residential premises, and any other commercial or industrial business facilities, structures, sites, or establishments in the city.

7.40.110 Commercial/industrial container.

"Commercial/industrial container" means a cart(s), bin(s) or box(es) used in connection with commercial/industrial business premises designed for mechanical pick-up by collection vehicles and equipped with a lid, or where appropriate other types of containers suitable for the storage and collection of commercial/industrial business solid waste if approved in writing by the public works director.

7.40.120 Container.

"Container" shall mean any bin(s), box(es) or cart(s) used for the purpose of holding solid waste, recyclables, or green waste for collection.

7.40.130 Franchisee.

"Franchisee" includes and means, for the purpose of chapters 7.40 through 7.52, an agent or employee of the city or any person, firm, corporation, co-partnership, joint venture, or association, or the officers, agents and employees thereof, with whom the city shall have a franchise agreement under the terms and conditions as are set forth in chapters 7.44 through 7.52, to collect, transport through the streets, alleys, or public

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ways of the city and dispose of solid waste and recyclables produced within the territorial limits of the city.

7.40.140 Green Waste.

"Green waste" means prunings, brush, leaves, grass clippings, garden and hedge trimmings, small branches less than six inches in diameter and four feet in length and similar vegetative waste generated from residential property or landscaping activities, but does not include stumps or similar bulky wood materials, or painted or treated wood. Green waste may also include pre- and post-consumer food scraps, or paper contaminated with food scraps when specifically included in a green waste collection program and such material is separated from solid waste.

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7.40.150 Hazardous Materials.

"Hazardous materials" means "Hazardous substances" and "Hazardous waste." "Hazardous substance" means any of the following: (a) any substance defined, regulated or listed (directly or by reference) as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic wastes," "pollutant," or "toxic substances" or similarly identified as hazardous to human health or the environment, in or pursuant to (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC Section 9601 *et seq.* (CERLA); (ii) the Hazardous Materials Transportation Act, 49 USC Section 1802 *et seq.*; (iii) the Resource Conservation and Recovery Act, 42 USC Section 6901 *et seq.*; (iv) the Clean Water Act, 33 USC Section 1251 *et seq.*; (v) California Health and Safety Code Sections 2515-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USFC Section 7901 *et seq.*; or, (vii) California Waste Code, Section 13050; (b) any amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other applicable federal, state, or local environmental law currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated byphenyl's (PCBs), petroleum, natural gas and synthetic fuel products, and by-products. "Hazardous waste" means all substances defined as hazardous waste, acutely hazardous waste, or extremely hazardous waste by the State of California in Health and Safety Code Sections 25110.02, 25115, and 15227 or in future amendments to or recodifications of such statutes identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation Act, 42 USC section 6901 *et seq.*, all future amendments thereto, and all rules and regulations promulgated thereunder.

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7.40.160 Health department.

"Health department" means the Solano County Department of Environmental Health, acting as the health department of the city.

7.40.170 Minimum service.

"Minimum service" means one thirty two gallon cart, not to exceed seventy-five pounds in weight, shall be the minimum garbage, refuse and rubbish collection service for occupied residential premises and commercial /industrial premises.

7.40.180 Owner.

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"Owner" where that word refers to an owner who occupies a single-family dwelling or the owner of a leased or rented single-family dwelling house or of an apartment, flat, duplex, or other multiple-family dwelling or commercial/industrial premises, means and includes the person who, with respect to such leased or rented premises, is the agent, manager, or representative of any individual owner, or who is the agent, managing or executive officer, or employee, or authorized representative of any owner which is a firm, corporation, copartnership, joint venture, or association.

7.40.190 Person.

"Person" means any individual, firm, corporation, copartnership, joint venture, or association acting for himself, or as agent, officer, servant, or employee for and on behalf of any other individual, firm, corporation, copartnership, joint venture, or association. The singular includes the plural and the plural includes the singular. The masculine gender includes the feminine or neuter as the context may require.

7.40.200 Public works director.

"Public works director" means the public works director of the city of Vallejo, or his or her authorized representative.

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7.40.210 Recyclables.

"Recyclables" means glass containers, metal (ferrous, non-ferrous, and bi-metal) containers (including aerosol and empty latex paint cans); aluminum foil and pie plates; #1 and #2 narrow-neck plastic containers; gable top and juice carton polycoated containers, newspaper; corrugated cardboard; mixed paper (including but not limited to white and colored paper, fax paper, magazines, chipboard, junk mail and telephone books); green waste (whether source separated or commingled with solid waste); and, any such other materials designated by the public works director, or designated as recyclables by the California Integrated Waste Management Board, or any other agency with jurisdiction.

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7.40.220 Resident.

"Resident" means any person residing in a household either owned, leased, or rented by him or her in the city of Vallejo.

7.40.230 Residential cart service.

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"Residential cart service" means the system for solid waste, recyclables, green waste collection and disposal wherein the rates or collection charges set forth in this chapter 7.48 are based upon the size of the garbage cart, which is provided by the franchisee for collection. Solid waste, as defined in section 7.40.260 and recyclables as defined in section 7.40.210, respectively, shall be deposited only in cart(s) as described in section 7.44.020(A) subject to the volume and weight limitations herein established.

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7.40.240 Residential Collection - Containers

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"Residential collection" is subject to the prior approval of the city, and to the terms and conditions of the franchise agreement. The franchisee shall provide solid waste, recyclables, and green waste cart(s) to each residential householder. No cardboard box, paper or plastic bag, or other similarly fragile container, may be used as a container for solid waste, recyclables, or green waste. Except as expressly provided otherwise herein, upon the commencement of automated collection in the city only container(s), and/or, cart(s) provided by the franchisee may be used for residential solid waste, recyclables, or green waste.

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No cardboard box or paper or plastic bag may be used as a container for solid waste, recyclables or green waste. Except as expressly authorized by this chapter, no person other than the franchisee may place a cart(s), bin(s), box(es) or other containers for the collection of solid waste, recyclables or green waste within the city. Any container(s) or other than approved container(s) placed in violation of this section is hereby declared to be a nuisance, and is subject to abatement pursuant to applicable provisions of this code.

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7.40.250 Residential premises.

"Residential premises" shall mean: (i) any building or structure, or portion thereof, that is used for residential housing purposes and has four (4) or fewer distinct living units; and (ii) any multiple unit residential complex which, with the prior written approval of the city manager, receives solid waste, recyclables and green waste collection services using standard residential solid waste, recycling and green waste cart(s).

7.40.260 Solid Waste.

"Solid waste" means all the putrescible and non-putrescible solid, semisolid and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition debris and construction wastes (as defined in the section 7.53.030 of this code), discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which are not hazardous materials, manure, vegetable or animal solid and semi-solid wastes, and other dismantled solid and semi-solid wastes generated by a household, commercial/retail business or industrial generators. Solid waste excludes hazardous materials or low level radioactive waste regulated under

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Chapter 8 (commencing with Section 114960) of Division 104 of the Health and Safety Code, or medical waste which is regulated pursuant to the Medical Waste Management Act (Chapter 1 commencing with Section 117600 of Division 104 of the Health and Safety Code), provided that the medical waste, whether treated or untreated, is not disposed of at a solid waste facility.

SECTION 2. Ordinance No. 1572 N.C. (2d), Section 2 and Chapter 7.44 of the Vallejo Municipal Code are hereby repealed in their entirety and a new and revised Chapter 7.44, entitled "Accumulation and Transportation," is hereby added to Vallejo Municipal Code, to read as follows:

"Chapter 7.44 ACCUMULATION AND TRANSPORTATION

- 7.44.010 Regulations -- Compliance required.
- 7.44.020 Containers -- Requirements generally.
- 7.44.030 Containers -- Number requirements.
- 7.44.040 Containers -- Storage and enclosure.
- 7.44.050 Commercial/industrial business disposal of solid waste.
- 7.44.060 Commercial/industrial -- special circumstances.
- 7.44.070 New commercial/industrial business buildings.
- 7.44.080 Burning.
- 7.44.090 Burying.
- 7.44.100 Depositing on streets, public and private places prohibited.
- 7.44.110 Accumulation on streets and public places prohibited.
- 7.44.120 Hauling over streets or waterways.
- 7.44.130 Collection - Hours prohibited.
- 7.44.140 Depositing in or removing from receptacle of subscriber -- Unlawful.
- 7.44.150 Evidence.
- 7.44.1670 Rewards.

7.44.010 Regulations--Compliance required.

It is unlawful for any person to deposit, keep, accumulate, or permit, cause, or suffer any solid waste, recyclables or green waste to be deposited, kept, or accumulated upon any lot or parcel of land, or on any public or private place, street, lane, alley, or drive in the city, unless the same is kept, deposited, or allowed to accumulate as provided in this chapter.

7.44.020 Container -- Requirements generally

A. Every owner, proprietor, manager, or other person having charge or control of any commercial/industrial premises or residential premises within the city shall maintain the minimum level of service, a thirty-two gallon cart, or the number of solid waste cart(s) or containers that the public works director or health department may require, which shall be placed in a location that is readily accessible to the franchisee on days of collection, and where it will not be a public nuisance or be offensive. The cart(s) shall be kept

~~Deleted: 7.40.140 . Metered (or "by the can") residential service.¶~~

~~¶ A. Metered (or "by the can") service means the system for solid waste and recyclables collection and disposal wherein the rates or collection charges set forth in this subchapter are based upon the number of cans provided by the customer for collection by the franchisee. Solid waste, as defined in section 7.40.130 and recyclables as defined in section 7.40.110, respectively, shall be deposited only in receptacles as described in section 7.44.020(A) subject to the volume and weight limitations herein established. The "front yard" means, (except for alley services):¶~~

~~¶ Receptacles shall be placed at the curb and in a clearly accessible location to permit the franchisee's collection. The container must be placed so that it does not obstruct the right of way of traffic or the sidewalk. ¶~~

~~¶ The franchisee is responsible for insuring that emptied receptacles are properly replaced back at the curb. ¶~~

~~¶ B. "Collection service off alleys" means that the owner shall place solid waste and recyclables receptacles in an alley location easily accessible by the franchisee, but not in a manner which impedes or creates a hazard for vehicular ¶ [1]~~

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closed at all times except when necessarily opened to permit solid waste, recyclables and green waste to be taken there from or deposited therein. Said cart(s) shall not be less than thirty two gallons and in no event shall each exceed seventy-five pounds in weight when full, and shall be placed so as to be readily accessible for the removal and emptying of the waste material or recyclable contained therein by the franchisee; provided, however, that in commercial properties including apartment houses, solid waste and recyclables may be kept in an enclosure or other suitable receptacle approved by the public works director.

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The franchisee shall provide solid waste, recycling and green waste cart(s) and replace cart(s) at no additional cost to resident or commercial/industrial business owner. In cases of intentional damage to cart(s) or cart(s) having to be replaced more than once within a four month period due to negligence, the resident or commercial/industrial business owner will incur the cost for replacing carts.

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1. Solid waste, recyclables and green waste cart(s) shall not be located on any public area, including but not limited to, lots, streets, lanes, alleys, courts, parkways or drives in the city, unless written permission is obtained from the public works director, except as provided in subsection C of this section.

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2. Owners/renters of solid waste, recyclable and green waste container(s) that are allowed to be placed in public places shall be responsible for the removal of any solid waste, recyclables, trash, junk, debris, or litter from, on, and around said container(s) up to the middle measurement of the public area. Failure of owners/renters of said container(s) to properly maintain the container(s) and surrounding area so as not to cause a public nuisance may result in the revocation of permission to place the container(s) in a public area, the imposition of fines and associated costs, and further legal action from the city.

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B. For a disabled person that is unable to place cart(s) at the curb for residential curbside pick up, they shall be required to apply, on a form approved by the city manager, to the franchisee for a curbside pick up exemption. In order to qualify for a curbside pick up exemption, certification from a licensed physician that the person seeking the exemption is not able to move, and no one residing at the property can move, the solid waste, recyclables and green waste receptacles to the curb for collection. If an exemption is granted, solid waste, recyclables and green waste collection will be from a location on the property that is reasonably acceptable to Franchisee at no additional cost to the resident. A denial of a curbside pick up exemption may be appealed to the city manager and the city manager will make the final decision as to eligibility.

C. In residential areas, solid waste, recycling and green waste cart(s), shall not be placed in public view for purposes of pickup by the franchisee prior to sunset on the day before pickup is scheduled, and empty cart (s) shall be removed from public view before ten p.m. on the day when pickup is made.

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7.44.030 Container--Number requirements.

The franchisee shall provide at least one solid waste, recycling and green waste cart, but in any event not less than the number of solid waste, recycling and green waste cart(s) or containers as the city or health department may require.

Franchisee shall:

1. Place and maintain on the outside of such container(s) or other equipment, in legible letters and numerals not less than one inch in height, the franchisee's business name in a color contrasting with the background color of the container; and
2. Provide containers on wheels or skids or with hasps and locks upon request by the commercial/industrial business owner.

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7.44.040 Container--Storage and enclosure.

For commercial/industrial premises within the city, the health department, and/or, the public works director may prescribe reasonable rules and regulations pertaining to containers, their design and location, and maintenance and design of enclosures in which the containers are placed for the storage and pickup of solid waste, recyclables and green waste. Rules and regulations adopted under this section for the design of enclosures shall be approved by resolution of the city council prior to the application thereof.

A. Solid waste, recycling and green waste containers provided by the franchisee shall be maintained in a clean, safe and sanitary condition by the franchisee. Containers which are not provided by the franchisee shall be maintained in a clean, safe and sanitary condition by the owner. Every commercial/industrial business owner shall provide a container location on the commercial/industrial business premises and shall keep the area in good repair, clean and free of solid waste outside of the container. The franchisee will be responsible for removing any solid waste or litter that is spilled or deposited on the ground as a result of the franchisee's emptying of the container(s) or other activities of the franchisee.

B. Upon collection of solid waste, recyclables and green waste by the franchisee, all containers shall be replaced, upright, where found, with the lids closed. No person, other than the owner thereof, shall in any manner, break, damage, roughly handle or destroy containers placed on the premises of a commercial/industrial business owner. Any container which has defects likely to hamper collection or injure the person collecting the contents thereof, or the public generally shall be replaced promptly by the commercial/industrial business owner or franchisee if provided by the franchisee. Failure to replace any such container within five (5) days of written notification from the public works director shall constitute a violation of this section.

7.44.050 Commercial/industrial business disposal of solid waste.

The franchisee shall collect and dispose of all solid waste, recyclables and green waste generated and presented for collection at each commercial/industrial premises in conformity with the provisions of this chapter. Any such collection and disposal shall be in accordance with all applicable federal, state, and local laws and regulations and the franchise agreement between the franchisee and the city. All solid waste collected by a franchisee shall be the exclusive property of the franchisee.

7.44.060 Commercial/industrial - Special circumstances.

If particular commercial/industrial business premises require collections at times, frequencies or in a manner such that the franchisee is unable to perform the collection in the normal course of business, or where unusual quantities of solid waste, recyclables, green waste or special types of material are to be collected and disposed of, or where special methods of handling are required, or where the quantity of solid waste, recyclables or green waste requires the use of multiple (more than three) containers, the franchisee and the commercial/industrial business owner may make arrangements for such collection on mutually agreeable terms. If the business owner and the franchisee do not agree as to the methods for the service provided for in this Section, the public works director shall determine the method of service. If the franchisee is unable or unwilling to provide such service, the public works director may authorize the commercial/industrial business owner to use another solid waste company for such special service until the franchisee can provide such service in its normal course of business.

7.44.070 New Commercial/industrial business buildings.

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No building permit shall be issued for construction of any commercial/industrial building including, but not limited to multi-family residences, until the adequacy, location and accessibility of solid waste, recycling, and/or, green waste containers has been approved by the city. No certificate of occupancy shall be issued for the premises until the planning division has approved these facilities.

7.44.080 Burning.

It is unlawful to burn or cause to be burned in the city any solid waste or recyclables, except as may be permitted by applicable regulations of the Bay Area Air Pollution Control District or other applicable laws and regulations.

7.44.090 Burying.

It is unlawful for any person to bury solid waste or recyclables at any place within the city.

7.44.100 Depositing on streets, public and private places prohibited.

It is unlawful for any person to throw, deposit, put, place, or sweep any solid waste, recyclables, junk, debris, or litter or to cause the same to be thrown, placed or swept upon any public place as provided in Vallejo Municipal Code Chapter 7.60 or to throw, deposit, put or place the same in or upon any vacant lot, front or back yard or to store or keep the same in the city in public and on private places except in the manner described in this chapter.

7.44.110 Accumulation on streets and public places prohibited.

It is unlawful for the occupant, or in the absence of an occupant, the owner or lessee of any building or property in the city, to permit any solid waste, recyclables, junk, debris, or litter or to cause the same to remain or accumulate upon any street, gutter, sidewalk or alley in front, behind or abutting said building or property. Said litter may be disposed of as provided in this chapter.

7.44.120 Hauling over streets or waterways.

No person shall carry, convey, or haul rubbish on or along the streets, lanes, alleys, highways, or waterways of the city except in conveyance(s) so constructed as to be dustproof, and so aged as not to permit dust or other matter to sift through or fall upon said streets, lanes, alleys, highways, or waterways. Solid waste and recyclables so conveyed shall be further protected with appropriate covers so as to prevent the same from being blown or carried upon the streets, lanes, alleys, highways, waterways, or adjacent lands.

7.44.130 Collection--Hours prohibited.

No solid waste or recyclables may be collected or transported on or through the streets, lanes, alleys, and highways of the city between the hours of nine p.m. in the evening and five a.m. of the next morning in single-family residential districts, except in cases of emergency as provided in section 7.52.020.

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7.44.140 Depositing in or removing from receptacle of subscriber--Unlawful.

It is unlawful for any person to dump or deposit solid waste or recyclables into or remove same from the receptacle of a person who has subscribed for the collection and disposal service without that person's consent.

7.44.150 Evidence.

For purposes of this chapter, information such as names, telephone numbers, addresses, or any other identifying information that appear on any item of litter or in any pile or other collection of trash, junk, solid waste, recyclables, debris or other articles

found on public property or vacant lots, may be used as evidence to establish the fact and may create an inference that a person or entity who's information, as described above, was found in any item of litter or in any pile or other collection of trash, junk, solid waste, recyclables, debris or other articles found on public property or vacant lots, is responsible for the littering or dumping of the item(s). Any one found responsible for the littering or dumping of the item(s) shall be required to reimburse the city for full costs and charges to the city for the removal of said items and disposal.

7.44.160 Rewards.

Every person giving information leading to the arrest and conviction of any person for a violation of sections 7.44.080, 7.44.090, 7.44.100, and 7.44.110 is entitled to a reward therefor. The amount of the reward for each such arrest and conviction shall be fifty percent of the amount of the fine paid by the person convicted under this chapter and received by the city. If the reward is payable to two or more persons, it shall be divided equally. The amount of collected fine to be paid under this section shall be paid prior to any distribution of the fine that may be prescribed by any other section with respect to the same fine.

SECTION 3. Ordinance No. 1572 N.C. (2d), Section 3 and Chapter 7.48 of the Vallejo Municipal Code are hereby repealed in their entirety and a new and revised Chapter 7.48, entitled "Collection," is hereby added to Vallejo Municipal Code, to read as follows:

"Chapter 7.48 COLLECTION

- 7.48.010 Number of collections.
- 7.48.020 Residential collection.
- 7.48.030 Commercial/industrial business collection.
- 7.48.040 Franchise Agreement.
- 7.48.050 Subscription required – Transportation by other than franchisee.
- 7.48.060 Notice to subscribe or appear and show cause for exclusion.
- 7.48.070 Action taken at hearing – Exclusions.
- 7.48.080 Collection and removal of solid waste by franchisee.
- 7.48.090 Account and report of cost.
- 7.48.100 Notice of hearing and report.
- 7.48.110 Hearing and confirmation.
- 7.48.120 Payment of assessment.
- 7.48.130 Notice– Recording.
- 7.48.140 Release of lien.
- 7.48.150 Minimum service and collection rates, 7.48.160 Compaction rates – Limits.
- 7.48.170 Residential household hazardous waste fund.
- 7.48.180 Implementation of recycling programs.

Deleted: 7.44.160. Penalty misdemeanor or infraction.
 ¶ Any person who violates any provisions of sections 7.44.010 through 7.44.090 shall be deemed guilty of either a misdemeanor or an infraction. The prosecuting attorney shall have the discretion to file a complaint charging a violation of any provision of this chapter as a misdemeanor or infraction. ¶
 A. If charged as an infraction, the penalty upon conviction of such person shall be a fine as set forth in section 1.12.010 of this code. ¶
 B. If charged as a misdemeanor, the penalty upon conviction of such person shall be imprisonment in the county jail for a period not to exceed six months, or by a fine not less than five hundred dollars nor more than one thousand dollars or by both such fine and imprisonment. ¶
 ¶ The complaint charging such violation shall specify whether the violation charged is a misdemeanor or an infraction. ¶
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 7.48.140. Minimum service and collection rates – Multiple-family dwelling units, . . . apartment houses, condominiums, stock cooperatives and industrial ¶ . . . establishments. ¶
 7.48.150. Minimum service and collection rates – Commercial establishments. ¶

7.48.010 Number of collections.

Unless otherwise approved by the city council, collection of solid waste, recyclables and green waste shall take place no less than once each calendar week, on the same day of the week, with exception of holidays, or at such other collection frequencies as the health department or public works director may require. The franchisee shall collect all solid waste, recyclables and green waste placed for collection in compliance with this chapter from each residential, and/or, commercial/industrial business premises in accordance with a schedule which has been approved by the public works director. The schedule shall identify the routes and days of pick up for each collection district established within the city.

Deleted: There shall be at least one collection per week for solid waste and recyclables, except that solid waste shall be collected at least two times per week from all meat, fish, game, and vegetable markets; hotels, boardinghouses, restaurants, hospitals and such other establishments or at such other collection frequencies as the health department may require. The health department, after investigation and with adequate justification, may make specific exemption to the requirements of this section, but in no event will collection frequency be less than one time per week. ¶

7.48.020 Residential Collection.

A. "Residential Collection" means all solid waste, recyclables and green waste collected shall be disposed of or recycled by the franchisee in accordance with all applicable federal, state and local laws and regulations and the franchise agreement.

B. "Collection service off alleys" means that the owner shall place solid waste, recyclables, and green waste carts in an alley location easily accessible by the franchisee, but not in a manner which impedes or creates a hazard for vehicular or pedestrian traffic.

C. "Placement and Removal of cart(s)" means every resident shall place each solid waste, recyclables, and green waste cart(s) 3 ft. apart at the curb or the side of the premises where the premises are adjacent to more than one street, in a clearly accessible location to permit the franchisee's collection. Upon collection, all solid waste, recyclables, and green waste containers shall be emptied and replaced in an upright position, at the location where found by the franchisee. No person shall place any such cart(s) for collection earlier than sunset of the day preceding the day designated for collection, and all cart(s) shall be removed from the place of collection prior to 10:00 p.m. of the day the cart(s) have been emptied. Such cart(s) shall be removed to a storage location, which is not visible from any public right-of-way, excluding alleys.

7.48.030 Commercial/industrial business collection.

A. Except as otherwise provided in this chapter, each commercial/industrial business owner shall utilize the services of the franchisee for the collection of solid waste, recyclables and green waste from the commercial/industrial business premises held or occupied by such renter or owner and shall pay for such services the fees set by the franchisee and authorized by the city council. No commercial/industrial business owner shall enter into an agreement for solid waste, recyclables and green waste collection services with any person other than the franchisee, except as otherwise expressly provided in this chapter.

7.48.040 Franchise Agreement.

A. The terms and conditions of any franchise agreement entered into by the city and any person for the collection, removal, and disposal of solid waste, recyclables and/or green waste accumulated or generated within the city shall be as provided or approved by other ordinances and resolutions of the city council. The terms and conditions of the franchise agreement shall provide for the operation of a clean, efficient, and comprehensive collection and disposal service sufficient for the protection of the public health, safety, convenience, and welfare of the people of the city; provided, however, that nothing contained in this chapter shall alter, vary, or abridge the terms of any franchise agreement heretofore executed by the city and relating to the collection, removal, and disposal of solid waste and/or recyclables.

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B. Except as otherwise expressly provided in sections 7.48.050 and 7.52.020, at such time as there is in full force and effect a franchise agreement entered into by and between the city and any person, which is incorporated herein by this reference, granting such person the exclusive privilege or right to collect solid waste, recyclables and/or green waste in the city, it shall be unlawful for any person other than the franchisee to collect, transport, or dispose of, for pay or compensation, whether money, in kind or for the salvage value of the material collected, any solid waste, recyclables and/or green waste within the city unless specifically exempted and given the written permission of the franchisee, subject to the approval of the city manager.

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7.48.050 Subscription required--Transportation by other than franchisee.

A. Nothing contained in chapters 7.44 through 7.52 shall be construed to prohibit or prevent any person from removing, taking, hauling, transporting, or disposing of any solid waste, recyclables and green waste which the franchisee is not given the exclusive privilege or right to collect or dispose of under the terms and conditions of the franchise agreement, accumulated or generated in the city; provided that said solid waste, recyclables and green waste are kept, hauled, transported and disposed of in the manner prescribed in chapters 7.44 through 7.52 and other applicable laws.

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B. Every owner of a premises where it is required in chapter 7.44 that the franchisee provides solid waste, recyclable and green waste container(s) shall subscribe for and pay the franchisee for minimum service for the collection and disposal of solid waste, at such rates or collection charges as prescribed in this chapter, and shall bear the responsibility for payment of said charges. An owner may authorize a tenant to act in his behalf to subscribe and pay for service, but such shall not relieve an owner from his liability hereunder; and, unless notice to the contrary is given the franchisee, any additional services contracted for by a tenant so authorized to act shall be chargeable to the owner. In the case of any leased or rented apartment, flat, duplex, or multiple-family dwelling, the owner shall subscribe to such collection and disposal service for each occupied dwelling unit therein and shall directly bear the responsibility for payment of the cages for such collection and disposal services. The franchisee shall give written notice to the health department or public works director of the name and address of any

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person or owner who fails to subscribe for such collection and disposal service and the address of the premises for which such collection and disposal service has not been subscribed, unless the franchisee has been notified by the owner or other person in lawful possession that the property is temporarily not occupied, and when the franchisee has determined that said condition actually exists on the premises.

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7.48.060 Notice to subscribe or appear and show cause for exclusion.

A. If the health department or public works director has reason to believe that any person required by section 7.48.050 to subscribe for the collection and disposal of solid waste has failed to subscribe, or has defaulted in the obligation imposed under Section 7.48.030 relating to payment of collection and disposal of solid waste, which default shall be presumed if an account is more than ninety days in arrears, the health department or public works director may cause written notice to be mailed to the owner of the real property so affected directing the owner, in case of non-subscription, to subscribe for such service within ten days after reception of the notice, or to appear in the health department office or public works department within the said ten-day period to show why such person should not be required to subscribe for the collection and disposal of solid waste. Any such notice shall state that if the person to whom it is directed fails within the ten day period to subscribe for such collection and disposal service or fails to appear and show cause why such person should not be required to so subscribe, the health department or public works director will authorize such services and the charges therefor will be assessed against the real property upon which the premises served are located as specified in this chapter.

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B. If the health department or public works department has reason to believe that any subscriber, or person responsible for payment for solid waste service, pursuant to section 7.48.050, has defaulted in payment as defined above, the department or public works director may cause written notice to be mailed to the owner of the real property so affected notifying said owner that service will be continued for health and safety reasons and that the city has been authorized to institute lien proceedings against the property for services and charges rendered as specified in this chapter.

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C. The notices specified in this section shall be served upon the owner by placing a true and correct copy thereof in the United States mail, certified or registered, postage fully prepaid and addressed to the owner at his last known address as shown on the latest equalized assessment roll of Solano County, or in the manner set out for service of summons in Part 2, Title 5, Chapter 4, Articles 3 and 4 (commencing with Section 415.10) of the California Code of Civil Procedure. A copy of said notice shall be transmitted to the franchisee on the same date as said notice is served upon the person. Service shall be deemed complete at the time of deposit in the United States mail. The franchisee shall notify the health department or public works director in writing if the person or persons upon whom notice was served have, within ten days after such service, subscribed for the collection and disposal of garbage and refuse, or made payment for charges due, as the case may be.

7.48.070 Action taken at hearing--Exclusions.

At the appearance required by Section 7.48.060, the health department or public works director may find excluded from the requirements of said section only those persons who show:

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A. That they are not owners of the property mentioned;

B. That every residential unit on the property is vacant or temporarily unoccupied for a period in excess of two weeks;

C. That the occupant of a single-family dwelling is a senior citizen (or citizens) on a low to moderate fixed income who shares the minimum service with an immediately adjacent neighbor and follows such practices and meets such requirements as may be prescribed by the health department or public works director;

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D. That the occupant of a single-family dwelling recycles all, or virtually all, solid waste produced by occupants of the premises pursuant to recycling procedures approved by the health department or public works director.

7.48.080 Collection and removal of solid waste by franchisee.

A. If the health department or public works director receives notice that any person or persons upon whom notice was served pursuant to Section 7.48.060 have failed within the time specified therein to subscribe for the collection and disposal service, or have failed to make timely payment therefor, the health department or public works director shall order the franchisee to provide, or, in the case of nonpayment of charges, to continue to provide such collection and disposal services to the premises. The franchisee shall bill the city once per year in July at the rates specified in the ordinances establishing charges during the period that it provides such collection and disposal service upon the order of the health department or public works director, which may include costs necessary for the removal of accumulated wastes found on the premises at the time service is ordered by the health department or public works director. No charge ordered by the health department or public works director shall be presented to the city until service has been provided at least ninety days, and the franchisee shall attempt to collect payment from the subscriber for such service in its ordinary fashion prior to the end of said ninety days.

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B. By resolution, the city council shall establish, pursuant to charter section 711, a revolving fund for reimbursement of the franchisee for service rendered pursuant to order of the health department or public works director in subsection A of this section. The amount of said fund shall be determined by the council, and thereafter said fund shall be maintained from receipts of assessments levied and collected pursuant to this chapter.

C. Notwithstanding subsections A and B of this section, the franchisee may discontinue service to subscribers for bin service, debris box, or equivalent multi-can service, except single-family residences, where payment is not made for such services within ninety days, upon notice to the health department or public works director. In such case, the franchisee may treat said delinquency as a debt and collect therefor by any means provided by law, and the city shall not be obligated therefor. Nothing herein shall be deemed to relieve any owner, tenant or other person in possession of such premises from any obligation pursuant to chapters 7.40 through 7.52. In cases where restoration of service is necessary for reasons of immediate danger to public health, as determined by the health department or public works director, the same may be ordered as set out in this chapter.

7.48.090 Account and report of cost.

The city manager or his designee shall keep an account of the charges presented to the city by the franchisee pursuant to section 7.48.080 for each parcel of real property served and shall embody such account in a report and assessment list to the city council, which report shall be filed with the city clerk. The report shall refer to each separate parcel of real estate by description sufficient to reasonably identify it, together with the charges proposed to be assessed against it. For each parcel so identified, an administrative charge of ten percent shall be added to the charges due upon the parcel, but in no case shall such additional charge be less than fifty dollars. All such administrative charges shall be retained by the city and shall not be paid to the franchisee.

7.48.100 Notice of hearing and report.

The public works director shall cause, or direct to be caused, written notice, in a form approved the city attorney, to be mailed to the persons named in the report and assessment list provided by the public works director. The written notice shall be mailed by first class United States mail to each person named in the report at the address shown on the latest equalized assessment roll of Solano County. Service shall be deemed complete at the time of deposit in the United States mail.

7.48.110 Hearing and confirmation.

At the time and place fixed for receiving and considering the report, the city council shall hear the same together with any protests or objections which may be raised by any interested person. Upon such hearing, the council shall make such corrections or modifications in any proposed assessment which it may deem to be excessive or otherwise incorrect after which such assessments shall be confirmed by resolution of the council, and the amount thereof shall constitute a lien on property assessed until paid or, at the option of the city council, such assessment may be declared a personal obligation of the assessee. The confirmation of assessments by the city council shall be final and conclusive.

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Deleted: The city clerk shall post a copy of such report and assessment list on the bulletin board near the entrance to the city hall council chamber, together with the notice of the filing thereof and the time and place when and where it will be submitted to the city council for hearing and confirmation.

Deleted: city clerk

Formatted: Justified

Deleted: health department a notice in a form substantially as follows:¶
¶
"ASSESSMENT FOR COLLECTION AND DISPOSAL OF SOLID WASTE AND RECYCLABLES AND NOTICE OF HEARING THEREON"¶
¶
"NOTICE IS HEREBY GIVEN that pursuant to the provisions of Vallejo Municipal Code, Chapter 7.48, the Health Department or the Public Works Director has ordered the collection and disposal of solid waste and recyclables from the premises owned, occupied, leased, rented, or managed or controlled by you, which premises are described as follows:¶
(DESCRIPTION OF PREMISES)¶
¶
"FURTHER NOTICE IS HEREBY GIVEN that on the ___ day of _____, 19 __, at the hour of ___ o'clock ___ m. in Council Chamber, City Hall, Vallejo, California, the report of the City Manager on the cost of collection and disposal of solid waste and recyclables, the penalties therefor, and the assessment list thereof will be presented to the City Council for consideration, correction and confirmation and at the said time and place, any and all persons interested in or objecting to the said report or list of proposed assessments or to any matter contained therein may appear and be heard. The failure to make any objection to the said report and list shall be deemed a waiver thereof.¶
¶
"Upon confirmation of the said assessment by the City Council, the amount thereof will be payable. In the event the same is not paid on or before the fifteenth day of July following the aforesaid hearing, said assessment may be declared a personal debt of the owner or will be added to the tax bill for said property and thereafter shall become a lien on said property.¶
¶
"Dated: _____ ¶

... [4]

7.48.120 Payment of assessment.

It is lawful for any person to pay the amount of such assessment for the collection and disposal of solid waste and recyclables on or before the fifteenth day of July following the date the confirmation of assessment was made by the council. If the assessment is not paid on or before said date, and has not been declared a personal obligation of the owner, the total amount thereof shall be entered on the next fiscal year tax roll as a lien against the property, and shall be subject to the same collection procedures and penalties as are provided for other delinquent taxes or assessments of the city. If declared a personal obligation, such assessment shall be a debt and may be collected by any means permitted by law.

7.48.130 Release of lien.

Upon satisfaction of the entire amount of any lien imposed pursuant to this chapter, the city will, upon request and payment of any recording fees required therefor, record a release of the lien in the official records of the recorder of Solano County, California.

7.48.140 Minimum service and collection rates.

Upon review of the franchisee's rate adjustment application, the city council shall by resolution establish minimum service by the franchisee and the maximum rates or charges that may be charged for collection.

7.48.150 Compaction rates--Limits.

Upon review of the franchisee's rate adjustment application, the city council shall by resolution establish maximum compaction rates or charges that may be charged for compaction services.

7.48.160 Residential household hazardous waste fund.

There is created a special fund of the city to be known as the household hazardous waste fund, into which shall be deposited all fees received from a special residential household hazardous waste surcharge to be set as part of city council review of the franchisee's rate adjustment application.

7.48.170 Implementation of recycling programs.

The council may by resolution implement recycling programs consistent with the council's determination as to the best manner in which recycling services are to be provided to the residents and businesses in the city of Vallejo, including mandatory subscription to such programs."

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7.48.13

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Deleted: 0. Notice--Recording.¶

A. The city clerk shall cause to be recorded in the office of the recorder of Solano County a "Notice of Mandatory Solid Waste Ordinance" substantially as follows:¶

NOTICE OF MANDATORY SOLID WASTE ORDINANCE¶

"NOTICE IS HEREBY GIVEN that occupied real property within the City of Vallejo, County of Solano, is subject to a mandatory solid waste ordinance (Vallejo Municipal Code, Chapter 7.48). The city limits of the City of Vallejo are as delineated on certain boundary maps, attached hereto as exhibits, and made a part hereof as though set forth at length.¶

"By the provisions of said ordinance, the health department of Solano County may order solid waste service to be provided to real property, the charges for such service becoming a lien on the property. Prospective buyers of real property should ascertain from the [insert name of franchisee], the City's franchisee, whether such a lien exists on particular properties.¶

CITY OF VALLEJO¶
By: ...
City Clerk"¶

B. The city clerk shall also cause to be recorded, from time to time, such additional boundary maps of the city as may come into effect as the result of annexation.¶

Deleted: for occupied dwelling units--Single-family dwellings, duplex dwellings and mobile home dwellings

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7.48.140 . Minimum service and collection rates--Multiple-family dwelling units, apartment houses, condominiums, stock cooperatives and industrial establishments.¶

¶
Upon review of the franchisee's rate adjustment application, the city council shall by resolution establish minimum service by the franchisee and the maximum rates or charges that may be charged for collection.¶

7.48.150 . Minimum service and collection rates--Commercial ... [5]

SECTION 4. Ordinance No. 1572 N.C. (2d), Section 5 and Chapter 7.52 of the Vallejo Municipal Code are hereby repealed in their entirety and a new and revised Chapter 7.52, entitled "Enforcement," is hereby added to Vallejo Municipal Code, to read as follows:

"CHAPTER 7.52 ENFORCEMENT

- 7.52.010 Enforcement.
- 7.52.020 Emergency removal, disposal and transportation.
- 7.52.030 Interference with authorized franchisee unlawful.
- 7.52.040 Persons authorized to make arrests.
- 7.52.050 Violations and infractions.

Deleted: Public health officers may

7.52.010 Enforcement.

A. The city manager and the health department shall enforce the provisions of this chapter and chapter 7.40 through 7.48.

B. The city manager shall enforce the provisions of this chapter and chapter 7.40 through 7.48 relating to the performance of the franchisee's obligations under the franchise agreement.

C. The health department and public works director shall enforce the provisions of this chapter and chapter 7.40 through 7.48 relating to collection and disposal as it relates to the public health, safety, and welfare.

7.52.020 Emergency removal, disposal and transportation.

Nothing in this chapter and chapters 7.40 through 7.48 and 7.53 shall be deemed to prohibit or prevent the emergency removal, disposal, and transportation of solid waste, recyclables and construction and demolition debris considered by the health department or public works director to be a health menace. Said emergency removal shall be authorized by the health department or public works director, and upon written authorization, persons other than the franchisee may promptly remove, transport, and dispose of the solid waste, recyclables and construction and demolition debris in the manner specified in chapter 7.44.

Deleted: of the department

7.52.030 Interference with authorized franchisee unlawful.

It is unlawful for any person to interfere in any manner whatsoever with the collection, transportation and disposal of solid waste and recyclables by the franchisee, authorized to collect, transport, and dispose of same.

Deleted: any person

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7.52.040 Persons authorized to make arrests.

Deleted: Public health officers may

In addition to those city employees authorized by administrative rule, pursuant to section 1.14.010 of this code, officers of the health department customarily engaged in enforcement of chapters 7.40 through 7.52 are authorized to make arrests under the conditions prescribed by section 836.5 of the California Penal Code, and may issue written notices to appear as prescribed therein and in chapter 5C of Part 2, Title 3, commencing with section 853.5, of the California Penal Code.

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7.52.050 Violations and infractions.

A. Criminal Penalties. Any person who violates any provision of chapters 7.40 through 7.52 shall be guilty of either an infraction or misdemeanor as set forth in section 1.12.010 of this code.

Deleted: In addition to any civil penalties or remedies otherwise authorized or prescribed in this chapter, a

B. Civil Enforcement. Any violation of any provision of chapters 7.40 through 7.52 may be enforced as set forth in sections 1.12.020 and 1.12.030 of this code.

Deleted: , as defined by

Deleted: sections 16(3) and 19(c) of

C. Administrative Citations. Any violation of any provision of chapters 7.40 through 7.52 may be enforced by the issuance of an administrative citation as set forth in chapter 1.15 of this code.

Deleted: the California Penal Code, and shall be punished by a fine not to exceed five hundred dollars.¶

Deleted: Any person who violates

D. Separate Violations. There shall be a separate violation of any provision of chapters 7.40 through 7.52 for each day on which a violation occurs.

Deleted: within two years after one or more previous convictions for the same offense shall be guilty of a misdemeanor, and shall be punished by a fine of not more than

Deleted: five hundred

E. Cumulative Remedies. The foregoing remedies shall be deemed nonexclusive, cumulative and in addition to any other remedy the city may have at law or in equity, including but not limited to injunctive relief to prevent violations of chapters 7.40 through 7.52.

Deleted: dollars, or by imprisonment in the county jail for not exceeding six months, or by both such fine and imprisonment.

F. Attorney Fees. In any civil enforcement action, administrative or judicial, the city shall be entitled to recover its attorney's fees and costs from any person who is determined by a court of competent jurisdiction to have violated any provision of chapters 7.40 through 7.52."

Deleted: Nothing in this section shall be construed to prohibit or prevent the city from taking any civil action permitted by law for any

SECTION 5. SEVERABILITY. This Ordinance and the various parts thereof are hereby declared to be severable. Should any section of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect and be in full force and effect thirty (30) days from and after its final adoption.

7.40.140 Metered (or "by the can") residential service.

A. Metered (or "by the can") service means the system for solid waste and recyclables collection and disposal wherein the rates or collection charges set forth in this subchapter are based upon the number of cans provided by the customer for collection by the franchisee. Solid waste, as defined in section 7.40.130 and recyclables as defined in section 7.40.110, respectively, shall be deposited only in receptacles as described in section 7.44.020(A) subject to the volume and weight limitations herein established. The "front yard" means, (except for alley services):

Receptacles shall be placed at the curb and in a clearly accessible location to permit the franchisee's collection. The container must be placed so that it does not obstruct the right of way of traffic or the sidewalk.

The franchisee is responsible for insuring that emptied receptacles are properly replaced back at the curb.

B. "Collection service off alleys" means that the owner shall place solid waste and recyclables receptacles in an alley location easily accessible by the franchisee, but not in a manner which impedes or creates a hazard for vehicular or pedestrian traffic.

7.40.150 Minimum residential service.

One twenty gallon receptacle, not to exceed fifty-five pounds in weight, shall be the minimum garbage, refuse and rubbish collection service for occupied single family."

any dwelling unit, apartment house, boardinghouse, lodginghouse, hospital or convalescent home; or any vegetable or food processing and handling establishment,

in good, sanitary condition, at all times, in a place readily accessible to the franchisee on days of collection, and where it will not be a public nuisance or be offensive, an adequate watertight receptacle(s) provided with close-fitting lids or covers and which shall be kept closed at all times except when necessarily opened to permit solid waste and green waste to be taken therefrom or deposited therein. Said receptacle(s) shall also be provided with handles and shall each have a capacity of not less than fifteen gallons nor more than thirty gallons and in no event shall each exceed seventy pounds in weight when full, and shall be placed so as to be readily accessible for the removal and emptying of the waste material contained therein by the franchisee; provided, however, that in

commercial properties including apartment houses, solid waste may be kept in an enclosed bin or other suitable receptacle approved by the health department.

health department a notice in a form substantially as follows:

"ASSESSMENT FOR COLLECTION AND DISPOSAL OF SOLID WASTE AND RECYCLABLES AND NOTICE OF HEARING THEREON

"NOTICE IS HEREBY GIVEN that pursuant to the provisions of Vallejo Municipal Code, Chapter 7.48, the Health Department or the Public Works Director has ordered the collection and disposal of solid waste and recyclables from the premises owned, occupied, leased, rented, or managed or controlled by you, which premises are described as follows:

(DESCRIPTION OF PREMISES)

"FURTHER NOTICE IS HEREBY GIVEN that on the ____ day of _____, 19 __, at the hour of _____ o'clock ____m. in Council Chamber, City Hall, Vallejo, California, the report of the City Manager on the cost of collection and disposal of solid waste and recyclables, the penalties therefor, and the assessment list thereof will be presented to the City Council for consideration, correction and confirmation and at the said time and place, any and all persons interested in or objecting to the said report or list of proposed assessments or to any matter contained therein may appear and be heard. The failure to make any objection to the said report and list shall be deemed a waiver thereof.

"Upon confirmation of the said assessment by the City Council, the amount thereof will be payable. In the event the same is not paid on or before the fifteenth day of July following the aforesaid hearing, said assessment may be declared a personal debt of the owner or will be added to the tax bill for said property and thereafter shall become a lien on said property.

"Dated: _____

City Clerk of the City of Vallejo"

7.48.140 Minimum service and collection rates--Multiple-family dwelling units, apartment houses, condominiums, stock cooperatives and industrial establishments.

Upon review of the franchisee's rate adjustment application, the city council shall by resolution establish minimum service by the franchisee and the maximum rates or charges that may be charged for collection.

7.48.150 Minimum service and collection rates--Commercial establishments.

Upon review of the franchisee's rate adjustment application, the city council shall by resolution establish minimum service by the franchisee and the maximum rates or charges that may be charged for collection.

ORDINANCE NO. _____ N.C. (2d)

**AN ORDINANCE OF THE CITY OF VALLEJO
AMENDING SUBCHAPTER II OF TITLE 7
OF THE VALLEJO MUNICIPAL CODE**

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

SECTION 1. Ordinance No. 1572 (2d), Section 1 and Chapter 7.40 of the Vallejo Municipal Code are hereby repealed in their entirety and a new and revised Chapter 7.40, entitled "Definitions," is hereby added to Vallejo Municipal Code, to read as follows:

"Chapter 7.40 DEFINITIONS

7.40.010	Generally.
7.40.020	Bin.
7.40.030	Box.
7.40.040	Bulky Goods.
7.40.050	Cart.
7.40.060	City.
7.40.070	City council.
7.40.080	City manager.
7.40.090	Commercial/industrial business owner.
7.40.100	Commercial/industrial business premises.
7.40.110	Commercial/industrial business container.
7.40.120	Container.
7.40.130	Franchisee.
7.40.140	Green Waste.
7.40.150	Hazardous materials.
7.40.160	Health department.
7.40.170	Minimum service.
7.40.180	Owner.
7.40.190	Person.
7.40.200	Public works director.
7.40.210	Recyclables.
7.40.220	Resident.
7.40.230	Residential cart service.
7.40.240	Residential collection - Container.
7.40.250	Residential premises.
7.40.260	Solid Waste.

7.40.010 Generally.

For the purposes of chapters 7.40 through 7.52, the following words and phrases are defined and shall be construed as hereinafter set out unless it is apparent from the context that a different meaning is indicated.

7.40.020 Bin.

"Bin" means a detachable container used in connection with commercial/industrial premises with a capacity equal to or less than six (6) cubic yards that is serviced using a front end loading vehicle.

7.40.030 Box.

"Box", sometimes known as a "roll-off," "drop" box or "debris" box, means a wheeled or sledged container or compactor, generally 10 to 40 cubic yards in size, that is picked up in its entirety by a dedicated truck.

7.40.040 Bulky Goods.

"Bulky goods" means discarded furniture; carpets; mattresses; household appliances including refrigerators, ranges, washers, dryers, water heaters, and dishwashers and other similar items; household goods including lawn and garden equipment (drained of fluids), bicycles and other similar personal items. Bulky goods excludes motor vehicles or any subassembly, component, or part thereof (including tires), hazardous materials, and universal waste (including electronic waste) as currently defined by the State of California.

7.40.50 Cart.

"Cart" means an industry-standard receptacle for solid waste, recyclables, or green waste made of metal, hard rubber or plastic in a range of sizes approximately 32, 64 or 96 gallons with wheels, a handle for ease of movement and a tight-fitting, attached lid, and designed to be dumped mechanically into a collection vehicle.

7.40.60 City.

"City" means the city of Vallejo.

7.40.070 City council.

"City council" means the city council of the city of Vallejo.

7.40.080 City manager.

"City manager" means the city manager of the city of Vallejo, or his or her authorized representative.

7.40.090 Commercial/industrial business owner.

"Commercial/Industrial business owner" means any person holding or occupying, alone or with others, commercial/ industrial business premises, whether or not it is the holder of the title or the owner of record of the commercial/industrial business premises.

7.40.100 Commercial/industrial premises.

"Commercial/Industrial premises" means all occupied real property in the city, except property occupied by state or local governmental agencies which pursuant to state or federal laws are exempt from the requirement to utilize the city's franchisee and except residential premises as defined herein, and shall include, without limitation, wholesale and retail establishments, restaurants and other food establishments, bars, stores, shops, offices, industrial establishments, manufacturing establishments, service stations, repair, research and development establishments, professional, services, sports or recreational facilities, construction and demolition sites, a multi-family residence that is not a residential premises, and any other commercial or industrial business facilities, structures, sites, or establishments in the city.

7.40.110 Commercial/industrial container.

"Commercial/industrial container" means a cart(s), bin(s) or box(es) used in connection with commercial/industrial business premises designed for mechanical pick-up by collection vehicles and equipped with a lid, or where appropriate other types of containers suitable for the storage and collection of commercial/industrial business solid waste if approved in writing by the public works director.

7.40.120 Container.

"Container" shall mean any bin(s), box(es) or cart(s) used for the purpose of holding solid waste, recyclables, or green waste for collection.

7.40.130 Franchisee.

"Franchisee" includes and means, for the purpose of chapters 7.40 through 7.52, an agent or employee of the city or any person, firm, corporation, co-partnership, joint venture, or association, or the officers, agents and employees thereof, with whom the city shall have a franchise agreement under the terms and conditions as are set forth in chapters 7.44 through 7.52, to collect, transport through the streets, alleys, or public ways of the city and dispose of solid waste and recyclables produced within the territorial limits of the city.

7.40.140 Green Waste.

"Green waste" means prunings, brush, leaves, grass clippings, garden and hedge trimmings, small branches less than six inches in diameter and four feet in length and similar vegetative waste generated from residential property or landscaping activities, but does not include stumps or similar bulky wood materials, or painted or treated wood. Green waste may also include pre- and post-consumer food scraps, or paper contaminated with food scraps when specifically included in a green waste collection program and such material is separated from solid waste.

7.40.150 Hazardous Materials.

"Hazardous materials" means "Hazardous substances" and "Hazardous waste." "Hazardous substance" means any of the following: (a) any substance defined, regulated or listed (directly or by reference) as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic wastes," "pollutant," or "toxic substances" or similarly identified as hazardous to human health or the environment, in or pursuant to (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC Section 9601 *et seq.* (CERLA); (ii) the Hazardous Materials Transportation Act, 49 USC Section 1802 *et seq.*; (iii) the Resource Conservation and Recovery Act, 42 USC Section 6901 *et seq.*; (iv) the Clean Water Act, 33 USC Section 1251 *et seq.*; (v) California Health and Safety Code Sections 2515-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USFC Section 7901 *et seq.*; or, (vii) California Waste Code, Section 13050; (b) any amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other applicable federal, state, or local environmental law currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated byphenyl's (PCBs), petroleum, natural gas and synthetic fuel products, and by-products. "Hazardous waste" means all substances defined as hazardous waste, acutely hazardous waste, or extremely hazardous waste by the State of California in Health and Safety Code Sections 25110.02, 25115, and 15227 or in future amendments to or recodifications of such statutes identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation Act, 42 USC section 6901 *et seq.*, all future amendments thereto, and all rules and regulations promulgated thereunder.

7.40.160 Health department.

"Health department" means the Solano County Department of Environmental Management, acting as the health department of the city.

7.40.170 Minimum service.

"Minimum service" means one thirty two gallon cart, not to exceed seventy-five pounds in weight, shall be the minimum garbage, refuse and rubbish collection service for occupied residential premises and commercial /industrial premises.

7.40.180 Owner.

"Owner" where that word refers to an owner who occupies a single-family dwelling or the owner of a leased or rented single-family dwelling house or of an apartment, flat, duplex, or other multiple-family dwelling or commercial/industrial premises, means and includes the person who, with respect to such leased or rented premises, is the agent, manager, or representative of any individual owner, or who is the agent, managing or executive officer, or employee, or authorized representative of any owner which is a firm, corporation, copartnership, joint venture, or association.

7.40.190 Person.

"Person" means any individual, firm, corporation, copartnership, joint venture, or association acting for himself, or as agent, officer, servant, or employee for and on behalf of any other individual, firm, corporation, copartnership, joint venture, or association. The singular includes the plural and the plural includes the singular. The masculine gender includes the feminine or neuter as the context may require.

7.40.200 Public works director.

"Public works director" means the public works director of the city of Vallejo, or his or her authorized representative.

7.40.210 Recyclables.

"Recyclables" means glass containers, metal (ferrous, non-ferrous, and bi-metal) containers (including aerosol and empty latex paint cans); aluminum foil and pie plates; #1 and #2 narrow-neck plastic containers; gable top and juice carton polycoated containers, newspaper; corrugated cardboard; mixed paper (including but not limited to white and colored paper, fax paper, magazines, chipboard, junk mail and telephone books); green waste (whether source separated or commingled with solid waste); and, any such other materials designated by the public works director, or designated as recyclables by the California Integrated Waste Management Board, or any other agency with jurisdiction.

7.40.220 Resident.

"Resident" means any person residing in a household either owned, leased, or rented by him or her in the city of Vallejo.

7.40.230 Residential cart service.

"Residential cart service" means the system for solid waste, recyclables, green waste collection and disposal wherein the rates or collection charges set forth in this chapter 7.48 are based upon the size of the garbage cart, which is provided by the franchisee for collection. Solid waste, as defined in section 7.40.260 and recyclables as defined in section 7.40.210, respectively, shall be deposited only in cart(s) as described in section 7.44.020(A) subject to the volume and weight limitations herein established.

7.40.240 Residential Collection - Containers

"Residential collection" is subject to the prior approval of the city, and to the terms and conditions of the franchise agreement. The franchisee shall provide solid waste, recyclables, and green waste cart(s) to each residential householder. No cardboard box, paper or plastic bag, or other similarly fragile container, may be used as a container for solid waste, recyclables, or green waste. Except as expressly provided otherwise herein, upon the commencement of automated collection in the city only container(s), and/or, cart(s) provided by the franchisee may be used for residential solid waste, recyclables, or green waste.

No cardboard box or paper or plastic bag may be used as a container for solid waste, recyclables or green waste. Except as expressly authorized by this chapter, no person other than the franchisee may place a cart(s), bin(s), box(es) or other containers for the collection of solid waste, recyclables or green waste within the city. Any container(s) or other than approved container(s) placed in violation of this section is hereby declared to be a nuisance, and is subject to abatement pursuant to applicable provisions of this code.

7.40.250 Residential premises.

"Residential premises" shall mean: (i) any building or structure, or portion thereof, that is used for residential housing purposes and has four (4) or fewer distinct living units; and (ii) any multiple unit residential complex which, with the prior written approval of the city manager, receives solid waste, recyclables and green waste collection services using standard residential solid waste, recycling and green waste cart(s).

7.40.260 Solid Waste.

"Solid waste" means all the putrescible and non-putrescible solid, semisolid and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition debris and construction wastes (as defined in the section 7.53.030 of this code), discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which are not hazardous materials, manure, vegetable or animal solid and semi-solid wastes, and other dismantled solid and semi-solid wastes generated by a household, commercial/retail business or industrial generators. Solid waste excludes hazardous materials or low level radioactive waste regulated under

Chapter 8 (commencing with Section 114960) of Division 104 of the Health and Safety Code, or medical waste which is regulated pursuant to the Medical Waste Management Act (Chapter 1 commencing with Section 117600 of Division 104 of the Health and Safety Code), provided that the medical waste, whether treated or untreated, is not disposed of at a solid waste facility.

SECTION 2. Ordinance No. 1572 N.C. (2d), Section 2 and Chapter 7.44 of the Vallejo Municipal Code are hereby repealed in their entirety and a new and revised Chapter 7.44, entitled "Accumulation and Transportation," is hereby added to Vallejo Municipal Code, to read as follows:

"Chapter 7.44 ACCUMULATION AND TRANSPORTATION

- 7.44.010 Regulations -- Compliance required.
- 7.44.020 Containers -- Requirements generally.
- 7.44.030 Containers -- Number requirements.
- 7.44.040 Containers -- Storage and enclosure.
- 7.44.050 Commercial/industrial business disposal of solid waste.
- 7.44.060 Commercial/industrial -- Special circumstances.
- 7.44.070 New commercial/industrial business buildings.
- 7.44.080 Burning.
- 7.44.090 Burying.
- 7.44.100 Depositing on streets, public and private places prohibited.
- 7.44.110 Accumulation on streets and public places prohibited.
- 7.44.120 Hauling over streets or waterways.
- 7.44.130 Collection - Hours prohibited.
- 7.44.140 Depositing in or removing from receptacle of subscriber -- Unlawful.
- 7.44.150 Evidence.
- 7.44.160 Rewards.

7.44.010 Regulations--Compliance required.

It is unlawful for any person to deposit, keep, accumulate, or permit, cause, or suffer any solid waste, recyclables or green waste to be deposited, kept, or accumulated upon any lot or parcel of land, or on any public or private place, street, lane, alley, or drive in the city, unless the same is kept, deposited, or allowed to accumulate as provided in this chapter.

7.44.020 Container -- Requirements generally

A. Every owner, proprietor, manager, or other person having charge or control of any commercial/industrial premises or residential premises within the city shall maintain the minimum level of service, a thirty-two gallon cart, or the number of solid waste cart(s) or containers that the public works director or health department may require, which shall be placed in a location that is readily accessible to the franchisee on days of collection,

and where it will not be a public nuisance or be offensive. The cart(s) shall be kept closed at all times except when necessarily opened to permit solid waste, recyclables and green waste to be taken therefrom or deposited therein. Said cart(s) shall not be less than thirty two gallons and in no event shall each exceed seventy-five pounds in weight when full, and shall be placed so as to be readily accessible for the removal and emptying of the waste material or recyclable contained therein by the franchisee; provided, however, that in commercial properties including apartment houses, solid waste and recyclables may be kept in an enclosure or other suitable receptacle approved by the public works director.

The franchisee shall provide solid waste, recycling and green waste cart(s) and replace cart(s) at no additional cost to resident or commercial/industrial business owner. In cases of intentional damage to cart(s) or cart(s) having to be replaced more than once within a four month period due to negligence, the resident or commercial/industrial business owner will incur the cost for replacing carts.

1. Solid waste, recyclables and green waste cart(s) shall not be located on any public area, including but not limited to, lots, streets, lanes, alleys, courts, parkways or drives in the city, unless written permission is obtained from the public works director, except as provided in subsection C of this section.

2. Owners/renters of solid waste, recyclable and green waste container(s) that are allowed to be placed in public places shall be responsible for the removal of any solid waste, recyclables, trash, junk, debris, or litter from, on, and around said container(s) up to the middle measurement of the public area. Failure of owners/renters of said container(s) to properly maintain the container(s) and surrounding area so as not to cause a public nuisance may result in the revocation of permission to place the container(s) in a public area, the imposition of fines and associated costs, and further legal action from the city.

B. For a disabled person that is unable to place cart(s) at the curb for residential curbside pick up, they shall be required to apply, on a form approved by the city manager, to the franchisee for a curbside pick up exemption. In order to qualify for a curbside pick up exemption, certification from a licensed physician that the person seeking the exemption is not able to move, and no one residing at the property can move, the solid waste, recyclables and green waste receptacles to the curb for collection. If an exemption is granted, solid waste, recyclables and green waste collection will be from a location on the property that is reasonably acceptable to Franchisee at no additional cost to the resident. A denial of a curbside pick up exemption may be appealed to the city manager and the city manager will make the final decision as to eligibility.

C. In residential areas, solid waste, recycling and green waste cart(s), shall not be placed in public view for purposes of pickup by the franchisee prior to sunset on the day before pickup is scheduled, and empty cart (s) shall be removed from public view before 10:00 p.m. on the day when pickup is made.

7.44.030 Container--Number requirements.

The franchisee shall provide at least one solid waste, recycling and green waste cart, but in any event not less than the number of solid waste, recycling and green waste cart(s) or containers as the public works director or health department may require.

Franchisee shall;

1. Place and maintain on the outside of such container(s) or other equipment, in legible letters and numerals not less than one inch in height, the franchisee's business name in a color contrasting with the background color of the container; and
2. Provide containers on wheels or skids or with hasps and locks upon request by the commercial/industrial business owner.

7.44.040 Container--Storage and enclosure.

For commercial/industrial premises within the city, the health department, and/or the public works director may prescribe reasonable rules and regulations pertaining to containers, their design and location, and maintenance and design of enclosures in which the containers are placed for the storage and pickup of solid waste, recyclables and green waste. Rules and regulations adopted under this section for the design of enclosures shall be approved by resolution of the city council prior to the application thereof.

A. Solid waste, recycling and green waste containers provided by the franchisee shall be maintained in a clean, safe and sanitary condition by the franchisee. Containers which are not provided by the franchisee shall be maintained in a clean, safe and sanitary condition by the owner. Every commercial/industrial business owner shall provide a container location on the commercial/industrial business premises and shall keep the area in good repair, clean and free of solid waste outside of the container. The franchisee will be responsible for removing any solid waste or litter that is spilled or deposited on the ground as a result of the franchisee's emptying of the container(s) or other activities of the franchisee.

B. Upon collection of solid waste, recyclables and green waste by the franchisee, all containers shall be replaced, upright, where found, with the lids closed. No person, other than the owner thereof, shall in any manner, break, damage, roughly handle or destroy containers placed on the premises of a commercial/industrial business owner. Any container which has defects likely to hamper collection or injure the person collecting the contents thereof, or the public generally shall be replaced promptly by the commercial/industrial business owner or franchisee if provided by the franchisee. Failure to replace any such container within five (5) days of written notification from the public works director shall constitute a violation of this section.

7.44.050 Commercial/industrial business disposal of solid waste.

The franchisee shall collect and dispose of all solid waste, recyclables and green waste generated and presented for collection at each commercial/industrial premises in conformity with the provisions of this chapter. Any such collection and disposal shall be in accordance with all applicable federal, state, and local laws and regulations and the franchise agreement between the franchisee and the city. All solid waste collected by a franchisee shall be the exclusive property of the franchisee.

7.44.060 Commercial/industrial - Special circumstances.

If particular commercial/industrial business premises require collections at times, frequencies or in a manner such that the franchisee is unable to perform the collection in the normal course of business, or where unusual quantities of solid waste, recyclables, green waste or special types of material are to be collected and disposed of, or where special methods of handling are required, or where the quantity of solid waste, recyclables or green waste requires the use of multiple (more than three) containers, the franchisee and the commercial/industrial business owner may make arrangements for such collection on mutually agreeable terms. If the business owner and the franchisee do not agree as to the methods for the service provided for in this section, the public works director shall determine the method of service. If the franchisee is unable or unwilling to provide such service, the public works director may authorize the commercial/industrial business owner to use another solid waste company for such special service until the franchisee can provide such service in its normal course of business.

7.44.070 New Commercial/industrial business buildings.

No building permit shall be issued for construction of any commercial/industrial building including, but not limited to multi-family residences, until the adequacy, location and accessibility of solid waste, recycling, and/or, green waste containers has been approved by the city. No certificate of occupancy shall be issued for the premises until the planning division has approved these facilities.

7.44.080 Burning.

It is unlawful to burn or cause to be burned in the city any solid waste or recyclables, except as may be permitted by applicable regulations of the Bay Area Air Pollution Control District or other applicable laws and regulations.

7.44.090 Burying.

It is unlawful for any person to bury solid waste or recyclables at any place within the city.

7.44.100 Depositing on streets, public and private places prohibited.

It is unlawful for any person to throw, deposit, put, place, or sweep any solid waste, recyclables, junk, debris, or litter or to cause the same to be thrown, placed or swept upon any public place as provided in Vallejo Municipal Code Chapter 7.60 or to throw, deposit, put or place the same in or upon any vacant lot, front or back yard or to store or keep the same in the city in public and on private places except in the manner described in this chapter.

7.44.110 Accumulation on streets and public places prohibited.

It is unlawful for the occupant, or in the absence of an occupant, the owner or lessee of any building or property in the city, to permit any solid waste, recyclables, junk, debris, or litter or to cause the same to remain or accumulate upon any street, gutter, sidewalk or alley in front, behind or abutting said building or property. Said litter may be disposed of as provided in this chapter.

7.44.120 Hauling over streets or waterways.

No person shall carry, convey, or haul rubbish on or along the streets, lanes, alleys, highways, or waterways of the city except in conveyance(s) so constructed as to be dustproof, and so aged as not to permit dust or other matter to sift through or fall upon said streets, lanes, alleys, highways, or waterways. Solid waste and recyclables so conveyed shall be further protected with appropriate covers so as to prevent the same from being blown or carried upon the streets, lanes, alleys, highways, waterways, or adjacent lands.

7.44.130 Collection--Hours prohibited.

No solid waste or recyclables may be collected or transported on or through the streets, lanes, alleys, and highways of the city between the hours of nine p.m. in the evening and five a.m. of the next morning in single-family residential districts, except in cases of emergency as provided in section 7.52.020.

7.44.140 Depositing in or removing from receptacle of subscriber--Unlawful.

It is unlawful for any person to dump or deposit solid waste or recyclables into or remove same from the receptacle of a person who has subscribed for the collection and disposal service without that person's consent.

7.44.150 Evidence.

For purposes of this chapter, information such as names, telephone numbers, addresses, or any other identifying information that appear on any item of litter or in any pile or other collection of trash, junk, solid waste, recyclables, debris or other articles found on public property or vacant lots, may be used as evidence to establish the fact and may create an inference that a person or entity who's information, as described above, was found in any item of litter or in any pile or other collection of trash, junk, solid waste, recyclables, debris or other articles found on public property or vacant lots, is responsible for the littering or dumping of the item(s). Any one found responsible for the littering or dumping of the item(s) shall be required to reimburse the city for full costs and charges to the city for the removal of said items and disposal.

7.44.160 Rewards.

Every person giving information leading to the arrest and conviction of any person for a violation of sections 7.44.080, 7.44.090, 7.44.100, and 7.44.110 is entitled to a reward therefor. The amount of the reward for each such arrest and conviction shall be fifty percent of the amount of the fine paid by the person convicted under this chapter and received by the city. If the reward is payable to two or more persons, it shall be divided equally. The amount of collected fine to be paid under this section shall be paid prior to any distribution of the fine that may be prescribed by any other section with respect to the same fine.

SECTION 3. Ordinance No. 1572 N.C. (2d), Section 3 and Chapter 7.48 of the Vallejo Municipal Code are hereby repealed in their entirety and a new and revised Chapter 7.48, entitled "Collection," is hereby added to Vallejo Municipal Code, to read as follows:

"Chapter 7.48 COLLECTION

- 7.48.010 Number of collections.
- 7.48.020 Residential collection.
- 7.48.030 Commercial/industrial business collection.
- 7.48.040 Franchise agreement.
- 7.48.050 Subscription required -- Transportation by other than franchisee.
- 7.48.060 Notice to subscribe or appear and show cause for exclusion.
- 7.48.070 Action taken at hearing -- Exclusions.
- 7.48.080 Collection and removal of solid waste by franchisee.
- 7.48.090 Account and report of cost.
- 7.48.100 Notice of hearing and report.
- 7.48.110 Hearing and confirmation.
- 7.48.120 Payment of assessment.
- 7.48.130 Release of lien.
- 7.48.140 Minimum service and collection rates.7.48.150 Compaction rates -- Limits.
- 7.48.160 Residential household hazardous waste fund.
- 7.48.170 Implementation of recycling programs.

7.48.010 Number of collections.

Unless otherwise approved by the city council, collection of solid waste, recyclables and green waste shall take place no less than once each calendar week, on the same day of the week, with exception of holidays, or at such other collection frequencies as the health department or public works director may require. The franchisee shall collect all solid waste, recyclables and green waste placed for collection in compliance with this chapter from each residential, and/or, commercial/industrial business premises in accordance with a schedule which has been approved by the public works director. The schedule shall identify the routes and days of pick up for each collection district established within the city.

7.48.020 Residential collection.

A. "Residential collection" means all solid waste, recyclables and green waste collected shall be disposed of or recycled by the franchisee in accordance with all applicable federal, state and local laws and regulations and the franchise agreement.

B. "Collection service off alleys" means that the owner shall place solid waste, recyclables, and green waste carts in an alley location easily accessible by the franchisee, but not in a manner which impedes or creates a hazard for vehicular or pedestrian traffic.

C. "Placement and removal of cart(s)" means every resident shall place each solid waste, recyclables, and green waste cart(s) 3 ft. apart at the curb or the side of the premises where the premises are adjacent to more than one street, in a clearly accessible location to permit the franchisee's collection. Upon collection, all solid waste, recyclables, and green waste containers shall be emptied and replaced in an upright position, at the location where found by the franchisee. No person shall place any such cart(s) for collection earlier than sunset of the day preceding the day designated for collection, and all cart(s) shall be removed from the place of collection prior to 10:00 p.m. of the day the cart(s) have been emptied. Such cart(s) shall be removed to a storage location, which is not visible from any public right-of-way, excluding alleys.

7.48.030 Commercial/industrial business collection.

A. Except as otherwise provided in this chapter, each commercial/industrial business owner shall utilize the services of the franchisee for the collection of solid waste, recyclables and green waste from the commercial/industrial business premises held or occupied by such renter or owner and shall pay for such services the fees set by the franchisee and authorized by the city council. No commercial/industrial business owner shall enter into an agreement for solid waste, recyclables and green waste collection services with any person other than the franchisee, except as otherwise expressly provided in this chapter.

7.48.040 Franchise agreement.

A. The terms and conditions of any franchise agreement entered into by the city and any person for the collection, removal, and disposal of solid waste, recyclables and/or green waste accumulated or generated within the city shall be as provided or approved by other ordinances and resolutions of the city council. The terms and conditions of the franchise agreement shall provide for the operation of a clean, efficient, and comprehensive collection and disposal service sufficient for the protection of the public health, safety, convenience, and welfare of the people of the city; provided, however, that nothing contained in this chapter shall alter, vary, or abridge the terms of any franchise agreement heretofore executed by the city and relating to the collection, removal, and disposal of solid waste and/or recyclables.

B. Except as otherwise expressly provided in sections 7.48.050 and 7.52.020, at such time as there is in full force and effect a franchise agreement entered into by and between the city and any person, which is incorporated herein by this reference, granting such person the exclusive privilege or right to collect solid waste recyclables and/or green waste in the city, it shall be unlawful for any person other than the franchisee to collect, transport, or dispose of, for pay or compensation, whether money, in kind or for the salvage value of the material collected, any solid waste recyclables and/or green waste within the city unless specifically exempted and given the written permission of the franchisee, subject to the approval of the city manager.

7.48.050 Subscription required--Transportation by other than franchisee.

A. Nothing contained in chapters 7.44 through 7.52 shall be construed to prohibit or prevent any person from removing, taking, hauling, transporting, or disposing of any solid waste, recyclables and green waste which the franchisee is not given the exclusive privilege or right to collect or dispose of under the terms and conditions of the franchise agreement, accumulated or generated in the city; provided that said solid waste, recyclables and green waste are kept, hauled, transported and disposed of in the manner prescribed in chapters 7.44 through 7.52 and other applicable laws.

B. Every owner of a premises where it is required in chapter 7.44 that the franchisee provides solid waste, recyclable and green waste container(s) shall subscribe for and pay the franchisee for minimum service for the collection and disposal of solid waste, at such rates or collection charges as prescribed in this chapter, and shall bear the responsibility for payment of said charges. An owner may authorize a tenant to act in his behalf to subscribe and pay for service, but such shall not relieve an owner from his liability hereunder; and, unless notice to the contrary is given the franchisee, any additional services contracted for by a tenant so authorized to act shall be chargeable to the owner. In the case of any leased or rented apartment, flat, duplex, or multiple-family dwelling, the owner shall subscribe to such collection and disposal service for each occupied dwelling unit therein and shall directly bear the responsibility for payment of the charges for such collection and disposal services. The franchisee shall give written notice to the health department or public works director of the name and address of any

person or owner who fails to subscribe for such collection and disposal service and the address of the premises for which such collection and disposal service has not been subscribed, unless the franchisee has been notified by the owner or other person in lawful possession that the property is temporarily not occupied, and when the franchisee has determined that said condition actually exists on the premises.

7.48.060 Notice to subscribe or appear and show cause for exclusion.

A. If the health department or public works director has reason to believe that any person required by section 7.48.050 to subscribe for the collection and disposal of solid waste has failed to subscribe, or has defaulted in the obligation imposed under Section 7.48.050 relating to payment of collection and disposal of solid waste, which default shall be presumed if an account is more than ninety days in arrears, the health department or public works director may cause written notice to be mailed to the owner of the real property so affected directing the owner, in case of non-subscription, to subscribe for such service within ten days after reception of the notice, or to appear in the health department office or public works department within the said ten-day period to show why such person should not be required to subscribe for the collection and disposal of solid waste. Any such notice shall state that if the person to whom it is directed fails within the ten day period to subscribe for such collection and disposal service or fails to appear and show cause why such person should not be required to so subscribe, the health department or public works director will authorize such services and the charges therefor will be assessed against the real property upon which the premises served are located as specified in this chapter.

B. If the health department or public works department has reason to believe that any subscriber, or person responsible for payment for solid waste service, pursuant to section 7.48.050, has defaulted in payment as defined above, the department or public works director may cause written notice to be mailed to the owner of the real property so affected notifying said owner that service will be continued for health and safety reasons and that the city has been authorized to institute lien proceedings against the property for services and charges rendered as specified in this chapter.

C. The notices specified in this section shall be served upon the owner by placing a true and correct copy thereof in the United States mail, certified or registered, postage fully prepaid and addressed to the owner at his last known address as shown on the latest equalized assessment roll of Solano County, or in the manner set out for service of summons in Part 2, Title 5, Chapter 4, Articles 3 and 4 (commencing with Section 415.10) of the California Code of Civil Procedure. A copy of said notice shall be transmitted to the franchisee on the same date as said notice is served upon the person. Service shall be deemed complete at the time of deposit in the United States mail. The franchisee shall notify the health department or public works director in writing if the person or persons upon whom notice was served have, within ten days after such service, subscribed for the collection and disposal of garbage and refuse, or made payment for charges due, as the case may be.

7.48.070 Action taken at hearing--Exclusions.

At the appearance required by Section 7.48.060, the health department or public works director may find excluded from the requirements of said section only those persons who show:

- A. That they are not owners of the property mentioned;
- B. That every residential unit on the property is vacant or temporarily unoccupied for a period in excess of two weeks;
- C. That the occupant of a single-family dwelling is a senior citizen (or citizens) on a low to moderate fixed income who shares the minimum service with an immediately adjacent neighbor and follows such practices and meets such requirements as may be prescribed by the health department or public works director;
- D. That the occupant of a single-family dwelling recycles all, or virtually all, solid waste produced by occupants of the premises pursuant to recycling procedures approved by the health department or public works director.

7.48.080 Collection and removal of solid waste by franchisee.

A. If the health department or public works director receives notice that any person or persons upon whom notice was served pursuant to Section 7.48.060 have failed within the time specified therein to subscribe for the collection and disposal service, or have failed to make timely payment therefor, the health department or public works director shall order the franchisee to provide, or, in the case of nonpayment of charges, to continue to provide such collection and disposal services to the premises. The franchisee shall bill the city once per year in July at the rates specified in the ordinances establishing charges during the period that it provides such collection and disposal service upon the order of the health department or public works director, which may include costs necessary for the removal of accumulated wastes found on the premises at the time service is ordered by the health department or public works director. No charge ordered by the health department or public works director shall be presented to the city until service has been provided at least ninety days, and the franchisee shall attempt to collect payment from the subscriber for such service in its ordinary fashion prior to the end of said ninety days.

B. By resolution, the city council shall establish, pursuant to charter section 711, a revolving fund for reimbursement of the franchisee for service rendered pursuant to order of the health department or public works director in subsection A of this section. The amount of said fund shall be determined by the council, and thereafter said fund shall be maintained from receipts of assessments levied and collected pursuant to this chapter.

C. Notwithstanding subsections A and B of this section, the franchisee may discontinue service to subscribers for bin service, debris box, or equivalent multi-can service, except single-family residences, where payment is not made for such services within ninety days, upon notice to the health department or public works director. In such case, the franchisee may treat said delinquency as a debt and collect therefor by any means provided by law, and the city shall not be obligated therefor. Nothing herein shall be deemed to relieve any owner, tenant or other person in possession of such premises from any obligation pursuant to chapters 7.40 through 7.52. In cases where restoration of service is necessary for reasons of immediate danger to public health, as determined by the health department or public works director, the same may be ordered as set out in this chapter.

7.48.090 Account and report of cost.

The city manager or his designee shall keep an account of the charges presented to the city by the franchisee pursuant to section 7.48.080 for each parcel of real property served and shall embody such account in a report and assessment list to the city council, which report shall be filed with the city clerk. The report shall refer to each separate parcel of real estate by description sufficient to reasonably identify it, together with the charges proposed to be assessed against it. For each parcel so identified, an administrative charge of ten percent shall be added to the charges due upon the parcel, but in no case shall such additional charge be less than fifty dollars. All such administrative charges shall be retained by the city and shall not be paid to the franchisee.

7.48.100 Notice of hearing and report.

The public works director shall cause, or direct to be caused, written notice, in a form approved the city attorney, to be mailed to the persons named in the report and assessment list provided by the public works director. The written notice shall be mailed by first class United States mail to each person named in the report at the address shown on the latest equalized assessment roll of Solano County. Service shall be deemed complete at the time of deposit in the United States mail.

7.48.110 Hearing and confirmation.

At the time and place fixed for receiving and considering the report, the city council shall hear the same together with any protests or objections which may be raised by any interested person. Upon such hearing, the council shall make such corrections or modifications in any proposed assessment which it may deem to be excessive or otherwise incorrect after which such assessments shall be confirmed by resolution of the council, and the amount thereof shall constitute a lien on property assessed until paid or, at the option of the city council, such assessment may be declared a personal obligation of the assesses. The confirmation of assessments by the city council shall be final and conclusive.

7.48.120 Payment of assessment.

It is lawful for any person to pay the amount of such assessment for the collection and disposal of solid waste and recyclables on or before the fifteenth day of July following the date the confirmation of assessment was made by the council. If the assessment is not paid on or before said date, and has not been declared a personal obligation of the owner, the total amount thereof shall be entered on the next fiscal year tax roll as a lien against the property, and shall be subject to the same collection procedures and penalties as are provided for other delinquent taxes or assessments of the city. If declared a personal obligation, such assessment shall be a debt and may be collected by any means permitted by law.

7.48.130 Release of lien.

Upon satisfaction of the entire amount of any lien imposed pursuant to this chapter, the city will, upon request and payment of any recording fees required therefor, record a release of the lien in the official records of the recorder of Solano County, California.

7.48.140 Minimum service and collection rates.

Upon review of the franchisee's rate adjustment application, the city council shall by resolution establish minimum service by the franchisee and the maximum rates or charges that may be charged for collection.

7.48.150 Compaction rates--Limits.

Upon review of the franchisee's rate adjustment application, the city council shall by resolution establish maximum compaction rates or charges that may be charged for compaction services.

7.48.160 Residential household hazardous waste fund.

There is created a special fund of the city to be known as the household hazardous waste fund, into which shall be deposited all fees received from a special residential household hazardous waste surcharge to be set as part of city council review of the franchisee's rate adjustment application.

7.48.170 Implementation of recycling programs.

The council may by resolution implement recycling programs consistent with the council's determination as to the best manner in which recycling services are to be provided to the residents and businesses in the city of Vallejo, including mandatory subscription to such programs."

SECTION 4. Ordinance No. 1572 N.C. (2d), Section 5 and Chapter 7.52 of the Vallejo Municipal Code are hereby repealed in their entirety and a new and revised Chapter 7.52, entitled "Enforcement," is hereby added to Vallejo Municipal Code, to read as follows:

"CHAPTER 7.52 ENFORCEMENT

- 7.52.010 Enforcement.
- 7.52.020 Emergency removal, disposal and transportation.
- 7.52.030 Interference with authorized franchisee unlawful.
- 7.52.040 Persons authorized to make arrests.
- 7.52.050 Violations and infractions.

7.52.010 Enforcement.

A. The city manager and the health department shall enforce the provisions of this chapter and chapter 7.40 through 7.48.

B. The city manager shall enforce the provisions of this chapter and chapter 7.40 through 7.48 relating to the performance of the franchisee's obligations under the franchise agreement.

C. The health department and public works director shall enforce the provisions of this chapter and chapter 7.40 through 7.48 relating to collection and disposal as it relates to the public health, safety, and welfare.

7.52.020 Emergency removal, disposal and transportation.

Nothing in this chapter and chapters 7.40 through 7.48 and 7.53 shall be deemed to prohibit or prevent the emergency removal, disposal, and transportation of solid waste, recyclables and construction and demolition debris considered by the health department or public works director to be a health menace. Said emergency removal shall be authorized by the health department or public works director, and upon written authorization, persons other than the franchisee may promptly remove, transport, and dispose of the solid waste, recyclables and construction and demolition debris in the manner specified in chapter 7.44.

7.52.030 Interference with authorized franchisee unlawful.

It is unlawful for any person to interfere in any manner whatsoever with the collection, transportation and disposal of solid waste and recyclables by the franchisee authorized to collect, transport, and dispose of same.

7.52.040 Persons authorized to make arrests.

In addition to those city employees authorized by administrative rule, pursuant to section 1.14.010 of this code, officers of the health department customarily engaged in enforcement of chapters 7.40 through 7.52 are authorized to make arrests under the conditions prescribed by section 836.5 of the California Penal Code, and may issue written notices to appear as prescribed therein and in chapter 5C of Part 2, Title 3, commencing with section 853.5 of the California Penal Code.

7.52.050 Violations and infractions.

A. Criminal Penalties. Any person who violates any provision of chapters 7.40 through 7.52 shall be guilty of either an infraction or misdemeanor as set forth in section 1.12.010 of this code.

B. Civil Enforcement. Any violation of any provision of chapters 7.40 through 7.52 may be enforced as set forth in sections 1.12.020 and 1.12.030 of this code.

C. Administrative Citations. Any violation of any provision of chapters 7.40 through 7.52 may be enforced by the issuance of an administrative citation as set forth in chapter 1.15 of this code.

D. Separate Violations. There shall be a separate violation of any provision of chapters 7.40 through 7.52 for each day on which a violation occurs.

E. Cumulative Remedies. The foregoing remedies shall be deemed nonexclusive, cumulative and in addition to any other remedy the city may have at law or in equity, including but not limited to injunctive relief to prevent violations of chapters 7.40 through 7.52.

F. Attorney Fees. In any civil enforcement action, administrative or judicial, the city shall be entitled to recover its attorney's fees and costs from any person who is determined by a court of competent jurisdiction to have violated any provision of chapters 7.40 through 7.52."

SECTION 5. SEVERABILITY. This Ordinance and the various parts thereof are hereby declared to be severable. Should any section of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect and be in full force and effect thirty (30) days from and after its final adoption.