

MONO COUNTY PLANNING COMMISSION

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AGENDA

January 10, 2013 – 10 a.m.

Supervisors Chambers, County Courthouse, Bridgeport

*Videoconference: BOS Conference Room, third floor, Sierra Center Mall, Mammoth Lakes

1. **CALL TO ORDER & PLEDGE OF ALLEGIANCE**
2. **PUBLIC COMMENT:** Opportunity to address the Planning Commission on items not on the agenda
3. **MEETING MINUTES:** Review and adopt minutes of Nov. 8, 2012 – *p. 1*
4. **PUBLIC HEARING:** None.
5. **WORKSHOPS:**
 - A. **INITIATION OF COMPREHENSIVE GENERAL PLAN UPDATE.** *Staff: Wendy Sugimura – p. 5*
 - B. **HOME OCCUPATION REGULATIONS.** *Staff: Heather deBethizy – p. 14*
 - C. **FLOOD PLAIN REGULATIONS.** *Staff: Garrett Higerd – p. 57*
 - D. **PARKING REGULATIONS.** *Staff: Brent Calloway – p. 93*
6. **REPORTS:**
 - A. **DIRECTOR**
 - B. **COMMISSIONERS**
7. **INFORMATIONAL:** No items.
8. **ADJOURN**

In compliance with the Americans with Disabilities Act, anyone who needs special assistance to attend this meeting can contact the commission secretary at 760-924-1804 within 48 hours prior to the meeting in order to ensure accessibility (see 42 USCS 12132, 28CFR 35.130).

*The public may participate in the meeting at the teleconference site, where attendees may address the commission directly. Please be advised that Mono County does its best to ensure the reliability of videoconferencing, but cannot guarantee that the system always works. If an agenda item is important to you, you might consider attending the meeting in Bridgeport.

More on back...

DISTRICT #1
COMMISSIONER
Mary Pipersky

DISTRICT #2
COMMISSIONER
Steve Shipley

DISTRICT #3
COMMISSIONER
Daniel Roberts

DISTRICT #4
COMMISSIONER
Scott Bush

DISTRICT #5
COMMISSIONER
Chris Lizza

Full agenda packets, plus associated materials distributed less than 72 hours prior to the meeting, will be available for public review at the Community Development offices in Bridgeport (Annex 1, 74 N. School St.) or Mammoth Lakes (Minaret Village Mall, above Giovanni's restaurant). Agenda packets are also posted online at www.monocounty.ca.gov / departments / community development / commissions & committees / planning commission. For inclusion on the e-mail distribution list, send request to cdritter@mono.ca.gov

Interested persons may appear before the commission to present testimony for public hearings, or prior to or at the hearing file written correspondence with the commission secretary. Future court challenges to these items may be limited to those issues raised at the public hearing or provided in writing to the Mono County Planning Commission prior to or at the public hearing. Project proponents, agents or citizens who wish to speak are asked to be acknowledged by the Chair, print their names on the sign-in sheet, and address the commission from the podium.

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DRAFT MINUTES

November 8, 2012

COMMISSIONERS PRESENT: Scott Bush, Chris Lizza, Mary Pipersky, Dan Roberts, Steve Shipley

STAFF PRESENT: Scott Burns, CDD director; Gerry Le Francois, principal planner; Heather deBethizy, associate planner; Walt Lehmann, public works; Stacey Simon, assistant county counsel; C.D. Ritter, commission secretary

1. **CALL TO ORDER & PLEDGE OF ALLEGIANCE:** Chair Steve Shipley called the meeting to order at the county courthouse in Bridgeport at 10:13 a.m. and led the pledge of allegiance.
2. **PUBLIC COMMENT:** Opportunity to address the Planning Commission on items not on the agenda
3. **MEETING MINUTES:** Review and adopt minutes of Special Meeting October 11, 2012 (*distributed at meeting*).

MOTION: Adopt minutes of October 11, 2012, as amended: Commissioner absent: Mary Pipersky. Item 6B, Discussion p. 4, graph 2: Commissioner Bush heard no one state outright opposition to the project ~~but thought it could be better or more thorough~~. (*Bush/Roberts. Ayes: 4. Abstain due to absence: Pipersky.*)

4. **PUBLIC HEARING:**

A. USE PERMIT 12-005/Black. The proposal is to allow public access on APNs 015-010-006, 015-010-004, & 016-094-009 for non-commercial cross-country skiing associated with adjacent U.S. Forest Service land for a trial period of one year, with the opportunity to extend based upon monitoring results. The 40+ acre project consisting of three parcels has a land use designation of Natural Habitat Protection (NHP) and Estate Residential (ER) that conditionally allow for such recreational uses. Parking is proposed on the adjacent vacant parcel (APN 016-094-009) subject to Section 04.030(B) findings and a commission determination of the number of parking spaces required. In accordance with the California Environmental Quality Act, an addendum to the June Lake Environmental Impact Report (EIR) is proposed. *Staff: Heather deBethizy, associate planner*

Heather deBethizy reviewed the project as outlined in the project staff report. The applicant was present.

Property owners used property for private snowmobile use. Three parcels are private land, and the use permit covers only the three private parcels, not the USFS land. The use permit is only for the 2012-13 winter, but the applicant could request an extension.

Grooming equipment? *Snowmobile with attachments, stored at Double Eagle.*

What are "sufficient" snow loads? *Came up in discussions. Basically, so vegetation and topography are not disturbed.* Commissioner Shipley noted USFS uses 18" depth.

Trail requirements are based on USFS standards attached to the project conditions. Class of trail depends on grooming equipment, and class of trail could be chosen based on those standards.

OPEN PUBLIC COMMENT: **Brian Brosgart**, full-time Nevada Street resident since 1999, indicated he learned of today's meeting Saturday, and many neighbors were unable to come. He read e-mails from owners who opposed the park, but who were never informed or invited to meetings: Ray Sopfe, and Craig and Kathleen Hodowski. Brosgart cited problems on Nevada Street during summer movie shoot and expressed several concerns for winter: 1) Nevada Street is not respected as privately owned/maintained road; 2) parking

for 15 is inadequate; 3) commercial lighting for noncommercial venture is possible; 4) signage at intersection and at earlier approach; and 5) 10 residents request site visit prior to approval.

Shipleigh showed Walt Lehmann's topographical map: aerial topo map in early 2000s showed dirt road and right of way, property lines. DeBethizy noted berming would screen noise and headlights.

Lee Vorobyoff, longest full-time resident (since 1982), had cross country (XC) parties in meadow prior to Blacks' arrival and skated on the pond. Her house is closest of all to parking. It's a real positive thing to do, a good idea to have other entertainment after ski area closed.

Valorie Gale, fulltime Nevada Street resident, was concerned only how limited access would be enforced.

Igor Vorobyoff has XC skied on property ever since 1982, and regular snowmobile use existed even prior to Blacks' arrival. Nevada Street is moot point, but misleading points were made: 1) can't really say who owns road, possibly end up in courts; 2) Blacks were never asked and never refused to participate in organized road maintenance; 3) Sopfe's letter was written during e-mail exchange on Blacks' snowmobile park, not ski park; 4) believes he'll be affected most by proposed parking lot, but sees no impact. [The project would be] an absolute plus, with more people using a beautiful area, coming to June Lake, spending money. Residents are doing everything they can to increase visitation. Some will suffer discomfort, but clearly very small compared to community benefit. He threw his full support to project. Blacks have grandfathered in snow pond, and "no trespassing" signs may be due to liability concerns. He sympathized with Nevada Street people in "summer from hell" movie shoot, and denied the rumor that he's a spy employed by Blacks: "No check yet; had violent disagreements over Rodeo Grounds; not bosom buddies, but neighbors and friends again." He recalled that several people on Nevada Street voice disagreement with almost everything, and most would agree the project should go through. Contact residents for true opinions.

Commissioner questions: Noticing on proposal? *Yes, Oct. 29.* How many properties were involved? *Fifteen.*

Pat Gale, fulltime resident of Nevada Street, noted road was reverted to homeowners by legal documents. Assuming no plans of Nevada Street access, no reason to believe it's not the case. This will not save June Lake by itself, and snowmobile riders will go elsewhere. Double Eagle is a destination resort in winter. Trying to help the community. She goes into meadow daily to walk dogs. If follow through, project makes sense.

Ralph Lockhart, Double Eagle co-owner, noted existing private-property signs have been up only a few months, intended to keep trophy trout poachers at pond. Enjoy the property, not destroy the land. Allegations of special events are unfounded; Blacks don't collect money. He met with Corathers, next closest resident, who would support project if it had no undue effect on his peace and property use. First proposal would actually cost Blacks money. They wanted more things to do in winter when ski area closed. Movie: Universal Studios didn't want to use middle road on Black's property. Location manager talked to Nevada Street residents, watered road to eliminate dust, repaired/regraded road afterward, held party for residents at conclusion. The movie shoot brought \$1.3 million in revenue to county.

No ice skating is planned, Lockhart said, but possibly XC ski rentals (likely a cost, not income). Whole purpose was access through Blacks' property to meadow. There's no reason to go to Nevada Street with proper signage, but people can't be prevented from parking there. Additional parking lot is likely unneeded. Connie Black was interviewed at request of *The Sheet* reporter; she didn't initiate it. Lockhart is contemplating using USFS half of meadow to expand total trails. No application submitted yet. It's a very small operation, unlikely that hundreds of people would use it.

Does Nevada Street access Black property? *Burns noted remote sections are accessed via Nevada Street.*

Stacey Simon concurred with comment about ambiguity of private roads vs. County. Public roads also exist. Nevada Street is not a County road, but no judicial determination has been made of road status as private or public. Residents voted down a proposed Zone of Benefit for an assessment district to perform public services. Could claim it's a public road.

Lockhart noted first couple 100 yards of road are considered public/private, then becomes USFS road. He met with Silver Lake Homeowners Association, which expressed support for project.

If land at junction of SR 158/Nevada Street is not owned by Blacks, where to locate signage about park? *There is a sign allowed at the Black's driveway pointing people to the parking and cross county skiing permitted by the use permit.* Lee Vorobyoff had purchased a sign that read "Dead-end road, no lake access," and someone changed it to: "Private road."

Brosgart mentioned the walk from Double Eagle to Black house would encounter snow along roadsides.

Commissioner Bush asked if keeping people off Nevada Street was the main concern. He thought it seemed to be more a maintenance/liability issue. Why discussing movie set no longer in effect? No parking is proposed for Nevada Street. He asked Brosgart, "Do you not want project to go through?" *He did not want a commercial venture. CLOSE PUBLIC COMMENT.*

DISCUSSION: Scott Burns indicated only over-the-snow use in meadow, which is acceptable. A condition of necessary permits from Army Corps of Engineers could be added.

Did June Lake Citizens Advisory Committee (CAC) discuss this project? *Staff doesn't take projects to RPACs, but members discussed it.* Commissioner Roberts recalled the chairperson had remarked, "[You] can't stop me from parking along Nevada Street."

Burns noted that the Blacks applied on behalf of the community, and Mono will be part of this. It's not a commercial proposal.

Who did money [\$100,000 from BOS] go to? *Simon replied it was determined by Tourism Commission.* Burns noted Mono is not charging county staff time to move project along.

Commissioner Roberts noted private property was a last resort due to time constraint and USFS permits.

DeBethizy stated June Lake Area Plan allows recreational use, including XC skiing, but doesn't mention snow grooming.

Commissioner Lizza noted parking parcel is not contiguous with meadow parcels, so some encroachment onto adjoining properties would result. An existing road could be used.

Rentals? *No provision because Ernie's has rentals. Prefer not to spend \$4,000 for one year.* Public bathrooms? *No.*

Brosgart asked about expanding parking lot, as plenty of additional parking area exists nearby. *DeBethizy replied Mono doesn't plan for the "worst-case" scenario for parking requirements and hasn't required other projects to go beyond parking requirements.*

Conflicting uses often occur in XC areas, such as walking dogs on ski tracks, snowmobiling. *Lockhart indicated signs with "No snowmobile access, please. Snowshoe and XC skis OK."*

Commissioner Shipley noted area is too small for snowmobiles; Glass Mountain would be better, and only a half-dozen cars park there. This would be for local residents/visitors. He would be amazed if 15 cars would park there. No guarantee where people would park.

Lizza thought big impact was unlikely due to short trails. Try for one year, if problem arises, address it next year. He had concern with parking lot in meadow and would prefer highway parking. Intermittent cold and warm temps, sun comes out, melts snow down to grass. *Igor Vorobyoff stated that planking would allow grass to come right back. DeBethizy noted that Estate Residential (ER) portion, which is the location of the parking, is not designated as wetlands. Lockhart cited a firm gravel road.*

Commissioner Pipersky talked to two residents about project, and both said overarching concern was access via Nevada Street. *Burns suggested outreach to neighbors on appropriate sign placement, find cooperating property owners. Commissioner Bush suggested directional signage to free parking, and Stacey Simon suggested allowing signage on private property, but not specifying locations. Shipley noted park will have an access sign, and XC skiing lasts only a few months.*

MOTION: Make findings in staff report, approve Use Permit 12-005 subject to conditions, and with additional condition that any permits from Army Corps that may be required be obtained by Double Eagle Resort. *(Pipersky/Roberts. Ayes: 5-0.)*

--- BREAK ---

B. WHITE MOUNTAIN ESTATES SPECIFIC PLAN AMENDMENT & TENTATIVE TRACT MAP MODIFICATION. The White Mountain Estates Specific Plan and Tentative Tract Map 37-46 subdivided a total of 70.38 acres (APNs 26-240-09 & -10) into 45 single-family residential lots (overall project density of 1.5 acres per dwelling unit), one utility lot (0.78 acres) for water and propane tanks, three lots for open-space uses (1.46 acres, 3.81 acres, and 9.08 acres, respectively), and a remainder parcel of 19.23 acres that allows one single-family residence. The applicant is requesting to modify the Specific Plan and Tentative Tract Map as follows: 1) eliminate the speed hump on White Mountain Estates Road; 2) eliminate or reduce the per/lot recreation fees imposed on the projects; and 3) eliminate or reduce the housing mitigation requirements on the project. The site is ~10 miles north of Bishop and ~45 miles southeast of Mammoth

Lakes. The project site is adjacent to the existing White Mountain Estates subdivision on the east side of US 6 at White Mountain Estates Road. *Staff: Gerry Le Francois, principal planner*

Gerry Le Francois presented a brief summary of prior actions. Developer Bob Stark and Steve Kappos, his legal representative, were present. Applicant has requested elimination of housing requirement, table-top speed bump on White Mountain Estates Road, and per-lot recreation fees. Mono Supervisors have repealed housing mitigation ordinance and recreation fees.

No housing or recreation fee if presented now? *True. Items from citizen input were added in 2007.*

Does speed depression replace speed bump? *Public Works did traffic study, speed survey, found no impact. Commissioner Bush recalled that looking at worst-case scenario, people erred on side of extreme caution.*

Financial burden for speed bump? *Yes, \$20,000.*

OPEN PUBLIC COMMENT: Steve Kappos, attorney, noted none of subject items were mentioned in EIR. Speed bump: physical features, swale, and alignment cause people to slow. Supervisor Hap Hazard was a main proponent, but later changed his mind. Undue expense was added when it was horrendously difficult to move any development forward. Housing: Stark provides "affordable housing" in both counties. Manufactured home projects are cost-effective. Mono Supervisors (BOS) already dealt with affordability. Recreation fees: \$45,000 is a lot of money. BOS eliminated fees, so developer should be entitled to that consideration as well.

What would recreation fees be used for? *Upgrading Chalfant park (added by prior Public Works director).*

Scott Burns indicated development impact fees repealed by BOS included recreation components.

How does Mono get impact fees? *In the process. Housing mitigation ordinance at the time had not yet been adopted, but tried to fit it to this project.*

Burns noted original Housing Element required mitigation, but shifted to ordinance, which was suspended. Requirement no longer exists.

If Development Impact Fees (DIF) were rescinded, why discuss? *Le Francois noted DIF were quasi-legislative, remove language from Specific Plan.*

Bob Stark, developer, mentioned turn lane on US 6 or traffic circle to slow traffic, but traffic study since then found 45 cars/5 hr, nobody over 45 mph. Evening mail pickup slows traffic. Dip is 18" over 30' area, protects tract. Retirees don't speed that much. He felt obligated to do what he was told. He indicated that he has provided housing at fair prices since 1998. **CLOSE PUBLIC COMMENT.**

DISCUSSION: None.

MOTION: Approve Resolution R12-06 recommending 1) adoption of the addendum to the Final EIR for the White Mountain Estates Specific Plan (SP); 2) approval of amendment to the White Mountain Estates SP, Policy 2B, Program 2B (housing mitigation), Program 5-D (tabletop speed bump), and Policy 17A and Program 17A (per-lot recreation fee); and 3) modification to Tentative Tract Map 37-46 mitigation Monitoring Program and Conditions #2 and #31 with supporting findings. *(Bush/Roberts. Ayes: 5-0.)*

5. WORKSHOPS: None.

6. REPORTS:

A. DIRECTOR: 1) MP-1 appeals: To BOS Nov. 13; 2) Transient rental overlay: To BOS in December, part of final GPA of 2012; 3) Dec. 13 meeting: Possibly cancel in couple of weeks; 4) Bridgeport striping: Will morph into further community facilities planning; 5) Dog Sleds: BOS is debating other uses for dog sleds use permit.

B. COMMISSIONERS: Roberts attended state conference of county planning commissioners at Suisun City, which went through redevelopment, good networking. Toured Solano County's Marine base, prefab homes on steel frames that fold up for transit. Prepared summary of entire meeting, as requested. Roberts was elected vice-president of the state organization.

7. INFORMATIONAL: No items.

8. ADJOURN at 12:45 p.m.

Prepared by C.D. Ritter, commission secretary

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Community Development Department
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January 10, 2013

To: Mono County Planning Commission

From: Wendy Sugimura, Associate Analyst
Scott Burns, Director

Re: Initiation of a Comprehensive General Plan Update

RECOMMENDATION

1. Provide input and direction to staff on the General Plan Update scope of work, and
2. Recommend the Board of Supervisors approve the initiation of General Plan Amendment 13-01 for a comprehensive update of the General Plan.

BACKGROUND & DESIGN FAIR

The Mono County General Plan is adjusted on a regular basis, but the last comprehensive update with extensive public outreach was conducted in 2001 for the Land Use Element and in 1993 for four other elements. A comprehensive update benefits the public by revising policies to address current issues and new legal requirements, modernizing the document to make it more user-friendly and concise, and providing a foundation for streamlined environmental review for future private and public projects. Select components of the update have already been initiated, as proposed general plan adjustments have been identified via recent Regional Planning Advisory Committee (RPAC) reviews of policies and area plans, and staff has been updating the County's Master Environmental Assessment in preparation for the project.

Because comprehensive updates often carry a hefty price tag, even when completed primarily in-house, Mono County applied for and was awarded a \$326,514 Sustainable Communities Planning Grant by the Strategic Growth Council, a consortium of state agencies. This staff report describes the scope of work associated with the grant award and the comprehensive General Plan Update.

DISCUSSION

The complete project scope of work is attached and includes a timeline based on the three-year maximum allowed by the grant. Additional timing considerations include State-mandated deadlines for the Housing Element and the Regional Transportation Plan, which also serves as the County's Circulation Element.

Aside from grant administration and project management tasks, the update includes the following main components: public engagement, General Plan policy update, Resource Efficiency Plan, California Environmental Quality Act (CEQA) review, and implementation and adoption. The tasks are briefly summarized below, with more detail provided in the attached work plan.

Public engagement will be accomplished through countywide informational mailings, and regular outreach and discussion at RPAC meetings.

The policy update is separated into work funded by the Sustainable Communities Planning Grant and non-grant-funded work, and includes revisions to all general plan elements. Some of the revisions have

been concluded and are awaiting final adoption, such as the Bridgeport Area Plan and Mono Basin Community Plan. Policy development highlights include Main Street livability and walkability, energy and biomass efforts, completion of area plan updates, local business support through mechanisms such as revised parking standards, topic-specific development such as local food systems and last mile provider/communications, regional housing need update, hazard mitigation plan update, sage grouse conservation, trails planning, capital improvement planning, research and technical studies to develop the environmental setting, and integration of the Hazardous Waste Management element into the Integrated Waste Management Plan, just to name a few. In addition, the intention is to revise the format of the General Plan to be more user-friendly by updating graphics, revising numbering to enable clear and simple policy citations, and inserting hyperlinks to enable digital publication and jumping to targeted text.

The purpose of the Resource Efficiency Plan is to provide a technical study that targets cost savings and energy assurance for local residents while also meeting CEQA requirements related to greenhouse gas emissions. This project task will feed directly into the CEQA document needed to approve a General Plan Update, while also reducing the burden on future development by providing a greenhouse gas analysis adequate for tiering by future projects included in the update. The resulting plan, similar to the more common Climate Action Plan, will likely consist primarily of Conservation/Open Space Element updates and could also simultaneously identify measures to reduce utility costs for local residents, provide local energy assurance, and support local communities by encouraging local shopping, transit, and walkable communities. The work program follows CEQA §15183.5, which is the CEQA section addressing tiering.

CEQA review for the General Plan Update is anticipated to be an Environmental Impact Report (EIR). While direct CEQA work is not an allowable expense under the Sustainable Communities Planning Grant, many of the grant-funded technical studies and environmental research needed to support policy development will feed directly into the CEQA document, reducing the impact to the General Fund.

Implementation and adoption will consist of re-formatting the General Plan as described above, updating any affected County ordinances, establishing County and/or community priorities if appropriate, and publishing the update for public hearings and subsequent adoption.

The work program and contract for the Sustainable Communities Grant funds will be considered by the Board at its Jan. 22 meeting. This grant significantly impacts the General Plan Update, and so it is recommended they be packaged together for Board approval. Therefore, although the Planning Commission has the authority to initiate a General Plan Amendment, in this case a recommendation to the Board of Supervisors to initiate GPA 13-01 for the General Plan Update is requested.

ATTACHMENT

- Sustainable Communities Grant Work Plan

Attachment A – Work Plan and Schedule of Deliverables

STRATEGIC GROWTH COUNCIL/Department of Conservation– Sustainable Communities Planning Grant Award

Grantee: Mono County Grant Number: 3012-571

Jurisdiction: Mono County Department/Office: Community Development Department (CDD)

Project Title: Mono County Sustainable Communities Policy Project

High Level Activities/Milestones (with Deliverables and Indicators)	Responsible Parties	Timetable in months (Start year: 2012)
PROJECT PLANNING & INITIATION		
TASK 1. Sub-Task A: Staff coordination meetings to determine assignments, methodology, administration, etc. Sub-Task B: Review General Plan Update project with public and other agencies, which may include RPACs, LTC, USFS, BLM, LADWP, CDFG, etc. Sub-Task C: Initiate General Plan Amendment through Planning Commission and Board of Supervisors, including staff reports, public hearings, meetings, and revisions due to input.	County staff County staff County staff	Month 1 Month 1-3 Month 2-4
PUBLIC ENGAGEMENT AND OUTREACH		
TASK 2. Sub-Task A: Develop outreach plan and public engagement strategies. Sub-Task B: Outreach mechanisms and materials, including website development and maintenance, compiling stakeholder lists, and development and design of outreach materials, production/fabrication, and distribution/postage, etc. Sub-Task C: Translation of publicity materials and at any bilingual meetings.	County staff County staff County staff/contractor	Month 1-2 Month 2-36 Month 2-36

Attachment A – Work Plan and Schedule of Deliverables

STRATEGIC GROWTH COUNCIL/Department of Conservation– Sustainable Communities Planning Grant Award

Grantee: Mono County Grant Number: 3012-571

Jurisdiction: Mono County Department/Office: Community Development Department (CDD)

Project Title: Mono County Sustainable Communities Policy Project

TARGETED GENERAL PLAN POLICY UPDATE (SGC Funded)		
TASK 3.		
Sub-Task A: Monthly staff project management meetings to review progress, timelines, budget, work load, etc.	County staff	Month 2-36
Sub-Task B: Research, compile and synthesize project description, background, and setting.	County staff/contractor	Month 3-12 and 24-30
Sub-Task C: Contract with appropriate consultants to assist with policy development/drafting, technical studies, etc.	County staff	As needed based on timelines below
Sub-Task D: Targeted Land Use Element update	County staff/consultants	
<ul style="list-style-type: none"> i. Legal mandates ii. Area Plan Updates: Antelope Valley, Bridgeport, Swauger Creek, June Lake, Mono Basin, Upper Owens River, Mammoth Vicinity, Long Valley, Oasis iii. General policy work: refine Land Use Designations (LUDs), establish business district/transient occupancy overlays, elevate Design Guidelines, consolidate regulations, incorporate sage grouse conservation, refine development credits, refine policies to support agricultural uses, refine policies to encourage development within and adjacent to existing communities, ghg reduction policies, policies resulting from Corridor Management Plan development iv. Incorporate Landownership Adjustment Project recommendations v. Coordination with BLM and USFS (Inyo NF) plan updates vi. Incorporate Mammoth-Yosemite Airport Land Use Compatibility Plan vii. Collaboration with Public Health Department to incorporate “Health in all Policies” viii. Update Land Use Maps ix. Technical study: Food Systems Study to support small-scale agriculture production, distribution and market. x. Public education, outreach and input per outreach plan. xi. Compilation of draft revised element. 		<ul style="list-style-type: none"> i. Month 12-24 ii. Month 4-15 iii. Month 12-24 iv. Month 18 v. Based on USFS/BLM vi. Month 28-30 vii. Month 10-14 viii. Month 20-30 ix. Month 4-16 x. Month 4-30 xi. Month 24-26

Attachment A – Work Plan and Schedule of Deliverables

STRATEGIC GROWTH COUNCIL/Department of Conservation– Sustainable Communities Planning Grant Award

Grantee: Mono County

Grant Number: 3012-571

Jurisdiction: Mono County Department/Office: Community Development Department (CDD)

Project Title: Mono County Sustainable Communities Policy Project

<p>Sub-Task E: Supplement Regional Transportation Plan (RTP) to serve as Circulation Element</p> <ul style="list-style-type: none"> i. Develop capital facilities plans, incorporate development approval and prioritization process ii. Add/develop infrastructure policies, such as D395, last mile provider and communications iii. Review spheres of influence and municipal service review xii. Public education, outreach and input per outreach plan iv. Compilation of draft revised element. 	<p>County staff/consultants</p>	<ul style="list-style-type: none"> i. Month 18-20 ii. Month 18-20 iii. Month 18-20 iv. Month 6-22 v. Month 20-22
<p>Sub-Task F: Housing Element Update</p> <ul style="list-style-type: none"> i. Update based on RHNA provided by State ii. Refine policies to account for Housing Mitigation Ordinance suspension iii. Update accessory unit ordinance as directed by the Housing Authority iv. Update June Lake Area Plan Housing section v. Incorporate Landownership Adjustment Plan Recommendations vi. Public education, outreach and input per outreach plan vii. Compilation of draft revised element & submittal to HCD. viii. Edits based on HCD comments, and resubmittal for approval. ix. Incorporate HCD-approved draft into General Plan. 	<p>County staff/consultants</p>	<ul style="list-style-type: none"> i. Month 4-10 ii. Month 4-8 iii. Month 4-8 iv. Month 4-8 v. Month 4-8 vi. Month 4-12 vii. Month 10-12 viii. Month 12-15 ix. Month 15-18
<p>Sub-Task G: Targeted Conservation/Open Space Element update</p> <ul style="list-style-type: none"> i. Legal mandates, including air quality ii. Enhance sage grouse conservation policies and consider conservation mechanisms, such as a Candidate Conservation Agreement iii. Research and update energy generation/conservation policies, and other policies based on technical studies below and Resource Efficiency Plan. iv. Add GHG emission reduction policies per Resource Efficiency Plan. v. Collaboration with Public Health Department to incorporate “Health in all Policies” vi. Integration of watershed assessments, IRWMP, CASGEM data, wetlands data vii. Identification of open space for recreational purposes, and update of trails, recreation and park planning and policy. viii. Technical studies: wildlife/plant/biology resource assessments covering area plans, biomass co-generation facility feasibility study 	<p>County staff/consultants</p>	<ul style="list-style-type: none"> i. Month 20-26 ii. Month 1-14 iii. Month 12-18 iv. Month 12-16 v. Month 4-10 vi. Month 22-28 vii. Month 22-28 viii. Month 6-20

Attachment A – Work Plan and Schedule of Deliverables

STRATEGIC GROWTH COUNCIL/Department of Conservation– Sustainable Communities Planning Grant Award

Grantee: Mono County Grant Number: 3012-571

Jurisdiction: Mono County Department/Office: Community Development Department (CDD)

Project Title: Mono County Sustainable Communities Policy Project

<p>Task 4.</p> <p>Sub-Task A: Monthly staff project management meetings to review progress, timelines, budget, work load, etc.</p> <p>Sub-Task B: Contract with appropriate consultants.</p> <p>Sub-Task C: Regional Transportation Plan (RTP) update</p> <ul style="list-style-type: none"> i. Legal mandates ii. Incorporate bikeway plan, Main Street Projects for Lee Vining, Bridgeport and June Lake (walkable communities and micro-economics), trails planning, etc. iii. Research ability to adopt a Sustainable Communities Strategy under SB 375 and pursue if possible iv. Revise downtown parking standards for communities such as Bridgeport, Lee Vining and June Lake. v. Collaboration with Public Health Department to incorporate “Health in all Policies” vi. Coordination with and final review by Caltrans District 9. vii. Compilation of draft revised element. <p>Sub-Task D: Targeted Noise Element update</p> <ul style="list-style-type: none"> i. Measure noise readings, update policies ii. Compilation of draft revised element. 	<p>County staff</p> <p>County staff</p> <p>County staff/consultants</p> <p>County staff/consultants</p>	<p>Month 4-18</p> <p>Month 4-6</p> <ul style="list-style-type: none"> i. Month 6-8 ii. Month 6-8 iii. Month 6-12 iv. Month 6-14 v. Month 4-10 vi. Month 12-16 vii. Month 12-18 <ul style="list-style-type: none"> i. Month 1-6 ii. Month 6-12
<p>RESOURCE EFFICIENCY PLAN</p>		
<p>TASK 5.</p> <p>Sub-Task A: Contract with appropriate consultant to prepare plan.</p> <p>Sub-Task B: Develop greenhouse gas emissions inventory and sources.</p> <p>Sub-Task C: Develop targets, thresholds and/or projections.</p>	<p>County staff</p> <p>Consultant</p> <p>Consultant</p>	<p>Month 2-4</p> <p>Month 4-8</p> <p>Month 6-10</p>

Attachment A – Work Plan and Schedule of Deliverables

STRATEGIC GROWTH COUNCIL/Department of Conservation– Sustainable Communities Planning Grant Award

Grantee: Mono County Grant Number: 3012-571

Jurisdiction: Mono County Department/Office: Community Development Department (CDD)

Project Title: Mono County Sustainable Communities Policy Project

Sub-Task D: Develop mitigation measures, performance standards, resource/cost saving measures.	Consultant	Month 8-12
Sub-Task E: Establish monitoring mechanism.	Consultant	Month 8-12
Sub-Task F: Integrate plan results into General Plan policy development.	County staff	Month 12-14
Sub-Task G: Integrate plan into GPU process for adoption.	County staff	Month
CEQA REVIEW (non-SGC funded)		
TASK 6.		
Sub-Task A: Contract with appropriate consultant to prepare EIR.	County staff	Month 16-18
Sub-Task B: Compile recent work and update to the Master Environmental Assessment; revise MEA as necessary.	County staff/consultant	Month 3-6 and 20-30
Sub-Task C: Outline analysis based on likely GPU changes.	County staff/consultant	Month 18-20
Sub-Task D: Conduct public scoping meeting/Notice of Preparation.	County staff/consultant	Month 20
Sub-Task E: Prepare draft EIR and publish for public/agency review.	County staff/consultant	Month 20-30
Sub-Task F: Receive public/agency comments and prepare final EIR and response to comments, including proposed modifications to GPU.	County staff/consultant	Month 30-36
Sub-Task G: Package with Tasks 7D and 7E for certification.	County staff/consultant	Month 30-36
Sub-Task H: File Notice of Determination	County staff/consultant	Month 36

Attachment A – Work Plan and Schedule of Deliverables

STRATEGIC GROWTH COUNCIL/Department of Conservation– Sustainable Communities Planning Grant Award

Grantee: Mono County Grant Number: 3012-571

Jurisdiction: Mono County Department/Office: Community Development Department (CDD)

Project Title: Mono County Sustainable Communities Policy Project

IMPLEMENTATION AND ADOPTION		
<p>TASK 7.</p> <p>Sub-Task A: Consolidate all elements into a single, user-friendly and searchable document. Re-format as necessary to increase efficacy of document.</p> <p>Sub-Task B: Develop implementation priorities and/or an action plan matrix.</p> <p>Sub-Task C: Update any affected ordinances: small wind, reclamation, noise, etc.</p> <p>Sub-Task D: Publication of General Plan Update.</p> <p>Sub-Task E: Planning Commission Public Hearing and recommendation.</p> <p>Sub-Task F: Board of Supervisors Public Hearing adoption.</p>	<p>County staff</p> <p>County staff</p> <p>County staff</p> <p>County staff/CEQA consultant</p> <p>County staff/CEQA consultant</p>	<p>Month 1-6 and 24-30</p> <p>Month 24-30</p> <p>Month 24-30</p> <p>Month 30-32</p> <p>Month 32-36</p>
GRANT ADMINISTRATION		
<p>TASK 8.</p> <p>Sub-Task A: Grant administration and billing.</p> <p>Sub-Task B: Semi-annual reports.</p>	<p>County staff</p> <p>County staff</p>	<p>Month 1-36</p> <p>Month 6-36</p>

Mono County Community Development Department

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January 10, 2013

TO: Mono County Planning Commission

FROM: Heather DeBethizy, Associate Planner
Scott Burns, Director

RE: Home Occupation Regulation Workshop

RECOMMENDATION

Conduct workshop, and provide any desired direction to staff.

BACKGROUND

General Plan home occupation definitions were amended last year to allow for a more permissive expanded home occupation permit. The new permit process allows for modifications to home occupation restrictions through a planning commission public hearing and approval process (see Attachment A), and an application form has been developed to facilitate processing (see Attachment B). The application form seeks information to support Commission action on the proposed home occupation, which may include potential findings required to determine that a proposed use is similar to, and not more obnoxious to the general welfare than, the uses permitted in the underlying land use district (see Attachment C).

Several subsequent issues have highlighted the need to clarify the home occupation definition and related regulations. For example, the California Homemade Food Act (AB 1616) that took effect Jan. 1, 2013, allows for cottage food operations in residences, but provides for optional levels of permitting (see Attachment D). The recently enacted transient rental overlay district and supporting regulations also suggest that transient uses are not allowed through the home occupation permit process.

Today's workshop will review these and other issues, and seek input and recommendations from the Commission for potential adjustments/refinements to home occupation requirements.

Attachments

- A. Home Occupation Definition & Regulation
- B. Application Form
- C. Section 04.030 Findings
- D. California Homemade Food Act & FAQ

Land Use Element: Home Occupation Definition

Chapter 2- Definitions

02.590 Home occupation.

"Home occupation" means any use which can be carried on within a dwelling by the inhabitants thereof and which is clearly incidental and secondary to the residential use of the dwelling, and which:

- A. Is confined completely within the dwelling and ancillary structures, excepting two vehicles not to exceed one ton each;
- B. Involves no sales of merchandise other than that produced on the premises or merchandise directly related to and incidental to the occupation; as long as no other violation of any other subsection occurs;
- C. Is carried on by members of the family occupying the dwelling, with no other persons employed;
- D. Produces no evidence of its existence in the external appearance of the dwelling or premises, or in the creating of noise, odors, smoke or other nuisances to a greater degree than that normal for the neighborhood (i.e., no delivery trucks);
- E. Does not generate pedestrian or vehicular traffic beyond that normal in the neighborhood in which located;
- F. Requires no structural, electrical or plumbing alterations in the dwelling;
- G. Involves no equipment other than that customarily used in dwellings;
- H. Involves no outdoor storage or advertising;
- I. Modifications to the above requirements (employees, signage, exterior storage, client visits) may be permitted with an Expanded Home Occupation Permit; and
- J. Expanded Home Occupation Permits require approval by the Planning Commission at a public hearing.

Chapter 4- Development Standards

04.290 Home occupation.

Home occupations are permitted in all residential designations, subject to obtaining a business license and compliance with the following home-occupation standards. A proposed home occupation must be clearly incidental and secondary to the residential use of the parcel and must be carried on within onsite structures by inhabitants of the parcel.

In order to maintain the home occupation and the business license, the applicant shall comply with all of the following home-occupation standards at all times:

- A. The business shall be confined completely within the dwelling and ancillary structures, excepting two vehicles not to exceed one ton each.
- B. The business shall involve no sales of merchandise other than that produced on the premises or merchandise directly related to and incidental to the occupation; as long as no other violation of any other subsection occurs;
- C. The business shall be carried on by members of the family occupying the dwelling, with no other persons employed;
- D. The business shall produce no evidence of its existence in the external appearance of the dwelling or premises, or in the creating of noise, odors, smoke or other nuisances to a greater degree than that normal for the neighborhood (i.e., no delivery trucks);
- E. The business shall not generate pedestrian or vehicular traffic beyond that normal in the neighborhood in which located;
- F. The business shall require no structural, electrical or plumbing alterations in the dwelling;
- G. The business shall involve no equipment other than that customarily used in dwellings; and
- H. The business shall involve no outdoor storage or advertising.
- I. Modifications to the above requirements may be permitted with an Expanded Home Occupation Permit.
- J. Expanded Home Occupation permits require approval by the Planning Commission at a public hearing.

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EXPANDED HOME OCCUPATION APPLICATION

APPLICATION # _____	FEE \$ _____
DATE RECEIVED _____	RECEIVED BY _____
RECEIPT # _____	CHECK # _____ (NO CASH)

APPLICANT _____

ADDRESS _____ **CITY/STATE/ZIP** _____

TELEPHONE (_____) _____ **E-MAIL** _____

OWNER, if other than applicant _____

ADDRESS _____ **CITY/STATE/ZIP** _____

TELEPHONE (_____) _____ **E-MAIL** _____

PROPERTY DESCRIPTION:

Assessor's Parcel # _____ **Land Use Designation:** _____ **Approx. Size:** _____

PROPOSED NAME OF BUSINESS _____

BUSINESS LICENSE # (if applicable) _____

REQUIRED:

Please answer the following questions:

What are the days/hours/season of operation? _____

How is the property accessed? private road public road

Will the business be confined completely within the dwelling and ancillary structures, excepting two vehicles not to exceed one ton each? Yes No

Will the business involve no sales of merchandise other than that produced on the premises or merchandise directly related to the occupation? Yes No

Will the business be carried on by members of the family occupying the dwelling, with no other persons employed? Yes No

Revised March 2012

I CERTIFY UNDER PENALTY OF PERJURY THAT I am: legal owner(s) of the subject property (all individual owners must sign as their names appear on the deed to the land), corporate officer(s) empowered to sign for the corporation, or owner's legal agent having Power of Attorney for this action (a notarized "Power of Attorney" document must accompany the application form), AND THAT THE FOREGOING IS TRUE AND CORRECT.

Signature

Signature

Date

Mono County General Plan, Land Use Element, Chapter 04 Development Standards

04.030 Uses not listed as permitted.

A. It is recognized that in the development of comprehensive land use development standards that:

1. Not all uses can be listed nor can future uses be anticipated.
2. Uses may have been omitted from the list of those specified as permissible in each of the various land use designations described in Section IV of this Land Use Element, hence the phrase, "plus such other uses as the Commission finds to be similar and not more obnoxious or detrimental to the public health, safety and welfare.

B. Interpretation of "similar uses."

Where the term "and such other uses as the Director or Commission finds to be similar and not more obnoxious ... " is mentioned, it shall be deemed to mean other uses which, in the judgment of the Director or the Planning Commission, as evidenced by a written decision, are similar to and not more obnoxious to the general welfare than the uses listed for the same designation. If a use is found similar to a permitted use or similar to a use requiring a director review or use permit, it shall also be permitted subject to the same requirements as its most similar listed use. The Director shall make the interpretation concerning uses permitted or uses permitted subject to director review; the Planning Commission shall make the interpretation for uses permitted subject to use permit. For interpretation of uses of a potentially controversial or sensitive nature, the Director may submit the matter to the Commission for an interpretation.

Any decision may be appealed in accordance with Chapter 47, Appeals.

Prior to taking an action to find a use similar to and not more obnoxious to the general welfare than the uses listed for the same designation, the Director or the Planning Commission shall find all of the following:

1. That the proposed use is consistent with this general plan and any applicable area plans or specific plans.
2. That the proposed use is compatible with the intent of the land use designation and is applicable throughout the county in that designation.
3. That the use is capable of meeting the standards and requirements of that designation.
4. That the use will be similar to and not be more obnoxious to the general welfare (i.e., health, safety) than the uses listed within the designation.

Assembly Bill No. 1616

Passed the Assembly August 30, 2012

Chief Clerk of the Assembly

Passed the Senate August 30, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Chapter 6.1 (commencing with Section 51035) to Part 1 of Division 1 of Title 5 of the Government Code, and to amend Sections 109947, 110050, 110460, 111955, 113789, 113851, 114021, 114023, 114390, 114405, and 114409 of, to add Sections 113758 and 114088 to, and to add Chapter 11.5 (commencing with Section 114365) to Part 7 of Division 104 of, the Health and Safety Code, relating to food safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 1616, Gatto. Food safety: cottage food operations.

Existing law, the Sherman Food, Drug, and Cosmetic Law (Sherman Law), requires the State Department of Public Health to regulate the manufacture, sale, labeling, and advertising activities related to food, drugs, devices, and cosmetics in conformity with the Federal Food, Drug, and Cosmetic Act. The Sherman Law makes it unlawful to manufacture, sell, deliver, hold, or offer for sale any food that is misbranded. Food is misbranded if its labeling does not conform to specified federal labeling requirements regarding nutrition, nutrient content or health claims, and food allergens. Violation of this law is a misdemeanor.

The existing California Retail Food Code provides for the regulation of health and sanitation standards for retail food facilities, as defined, by the State Department of Public Health. Under existing law, local health agencies are primarily responsible for enforcing the California Retail Food Code. That law exempts private homes from the definition of a food facility, and prohibits food stored or prepared in a private home from being used or offered for sale in a food facility. That law also requires food that is offered for human consumption to be honestly presented, as specified. A violation of these provisions is a misdemeanor.

This bill would include a cottage food operation, as defined, that is registered or has a permit within the private home exemption of the California Retail Food Code. The bill would also exclude a cottage food operation from specified food processing establishment and Sherman Law requirements. This bill would require a cottage food operation to meet specified requirements

relating to training, sanitation, preparation, labeling, and permissible types of sales and would subject a cottage food operation to inspections under specified circumstances. The bill would require a food facility that serves a cottage food product without packaging or labeling to identify it as homemade. The bill would establish various zoning and permit requirements relating to cottage food operations.

This bill would incorporate additional changes in Section 113789 of the Health and Safety Code, proposed by AB 2297, to be operative only if AB 2297 and this bill are both chaptered and become effective January 1, 2013, and this bill is chaptered last.

By imposing duties on local officials and adding new crimes, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Small businesses have played an important role in helping slow economies recover and prosper as an engine of job creation. During the 1990s, small businesses created the majority of new jobs and now account for 65 percent of United States employment.

(b) California, and the United States as a whole, are facing growing obesity and obesity-related disease epidemics.

(1) Two-thirds of American adults and nearly one-third of children and teens are obese or overweight, placing them at risk for developing chronic diseases such as diabetes, heart disease, and cancer.

(2) One in every nine California children, one in three teens, and over half of adults are already overweight or obese. This epidemic affects virtually all Californians.

(3) These health conditions are preventable and curable through lifestyle choices that include consumption of healthy fresh foods.

(c) For decades, low-income and rural communities have faced limited opportunities to purchase healthy foods. Often, without cars or convenient public transportation options, low-income residents in these areas must rely for much of their shopping on expensive, fatty, processed foods sold at convenience and corner stores.

(d) There is a growing movement in California to support community-based food production, sometimes referred to as “cottage food,” “artisanal food,” “slow food,” “locally based food,” or “urban agriculture” movements. These movements seek to connect food to local communities, small businesses, and environmental sustainability.

(e) Increased opportunities for entrepreneur development through microenterprises can help to supplement household incomes, prevent poverty and hunger, and strengthen local economies.

(f) At least 32 other states have passed laws that allow small business entrepreneurs to use their home kitchens to prepare, for sale, foods that are not potentially hazardous.

(g) Even some bake sales are currently illegal in California.

(h) It is the intent of the Legislature to enact a homemade food act specifically designed to help address these challenges and opportunities.

SEC. 2. Chapter 6.1 (commencing with Section 51035) is added to Part 1 of Division 1 of Title 5 of the Government Code, to read:

CHAPTER 6.1. COTTAGE FOOD OPERATIONS

51035. (a) A city, county, or city and county shall not prohibit a cottage food operation, as defined in Section 113758 of the Health and Safety Code, in any residential dwellings, but shall do one of the following:

(1) Classify a cottage food operation as a permitted use of residential property for zoning purposes.

(2) Grant a nondiscretionary permit to use a residence as any cottage food operation that complies with local ordinances prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to those homes. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan. The permit issued pursuant to this paragraph shall be granted by the zoning administrator, or if there is no zoning administrator, by the person or persons designated by the planning agency to grant these permits, upon the certification without a hearing.

(3) Require any cottage food operation to apply for a permit to use a residence for its operation. The zoning administrator, or if there is no zoning administrator, the person or persons designated by the planning agency to handle the use permits, shall review and decide the applications. The use permit shall be granted if the cottage food operation complies with local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning the following factors: spacing and concentration, traffic control, parking, and noise control relating to those homes. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan. The local government shall process any required permit as economically as possible. Fees charged for review shall not exceed the costs of the review and permit process. An applicant may request a verification of fees, and the city, county, or city and county shall provide the applicant with a written breakdown within 45 days of the request. The application form for cottage food operation permits shall include a statement of the applicant's right to request the written fee verification.

(b) In connection with any action taken pursuant to paragraph (2) or (3) of subdivision (a), a city, county, or city and county shall do all of the following:

(1) Upon the request of an applicant, provide a list of the permits and fees that are required by the city, county, or city and county, including information about other permits that may be required by other departments in the city, county, or city and county, or by other public agencies. The city, county, or city and county shall, upon request of any applicant, also provide information about the

anticipated length of time for reviewing and processing the permit application.

(2) Upon the request of an applicant, provide information on the breakdown of any individual fees charged in connection with the issuance of the permit.

(3) If a deposit is required to cover the cost of the permit, provide information to the applicant about the estimated final cost to the applicant of the permit, and procedures for receiving a refund from the portion of the deposit not used.

(c) Use of a residence for the purposes of a cottage food operation shall not constitute a change of occupancy for purposes of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code), or for purposes of local building and fire codes.

(d) Cottage food operations shall be considered residences for the purposes of the State Uniform Building Standards Code and local building and fire codes.

SEC. 3. Section 109947 of the Health and Safety Code is amended to read:

109947. "Food processing facility" means any facility operated for the purposes of manufacturing, packing, or holding processed food. Food processing facility does not include a food facility as defined in Section 113785, a cottage food operation that is registered or has a permit pursuant to Section 114365, or any facility exclusively storing, handling, or processing dried beans.

SEC. 4. Section 110050 of the Health and Safety Code is amended to read:

110050. The Food Safety Fund is hereby created as a special fund in the State Treasury. All moneys collected by the department under subdivision (c) of Section 110466 and Sections 110470, 110471, 110485, 114365, 114365.6, 111130, and 113717, and under Article 7 (commencing with Section 110810) of Chapter 5 shall be deposited in the fund, for use by the department, upon appropriation by the Legislature, for the purposes of providing funds necessary to carry out and implement the inspection provisions of this part relating to food, licensing, inspection, enforcement, and other provisions of Article 12 (commencing with Section 111070) relating to water, the provisions relating to education and training in the prevention of microbial contamination pursuant to Section 110485, and the registration provisions of

Article 7 (commencing with Section 110810) of Chapter 5, and to carry out and implement the provisions of the California Retail Food Code (Part 7 (commencing with Section 113700) of Division 104).

SEC. 5. Section 110460 of the Health and Safety Code is amended to read:

110460. No person shall engage in the manufacture, packing, or holding of any processed food in this state unless the person has a valid registration from the department, except those engaged exclusively in the storing, handling, or processing of dried beans. The registration shall be valid for one calendar year from the date of issue, unless it is revoked. The registration shall not be transferable. This section shall not apply to a cottage food operation that is registered or has a permit pursuant to Section 114365.

SEC. 6. Section 111955 of the Health and Safety Code is amended to read:

111955. "Food processing establishment," as used in this chapter, shall mean any room, building, or place or portion thereof, maintained, used, or operated for the purpose of commercially storing, packaging, making, cooking, mixing, processing, bottling, canning, packing, slaughtering, or otherwise preparing or handling food except restaurants. "Food processing establishment" shall not include a cottage food operation that is registered or has a permit pursuant to Section 114365.

SEC. 7. Section 113758 is added to the Health and Safety Code, to read:

113758. (a) "Cottage food operation" means an enterprise that has not more than the amount in gross annual sales that is specified in this subdivision, is operated by a cottage food operator, and has not more than one full-time equivalent cottage food employee, not including a family member or household member of the cottage food operator, within the registered or permitted area of a private home where the cottage food operator resides and where cottage food products are prepared or packaged for direct, indirect, or direct and indirect sale to consumers pursuant to this part. In 2013, the enterprise shall not have more than thirty-five thousand dollar (\$35,000) in gross annual sales in the calendar year. In 2014, the enterprise shall not have more than forty-five thousand dollars (\$45,000) in gross annual sales in the calendar year. Commencing in 2015, and each subsequent year thereafter, the enterprise shall

not have more than fifty thousand dollars (\$50,000) in gross annual sales in the calendar year. A cottage food operation includes both of the following:

(1) A “Class A” cottage food operation, which is a cottage food operation that may engage only in direct sales of cottage food products from the cottage food operation or other direct sales venues described in paragraph (4) of subdivision (b).

(2) A “Class B” cottage food operation, which is a cottage food operation that may engage in both direct sales and indirect sales of cottage food products from the cottage food operation, from direct sales venues described in paragraph (4) of subdivision (b), from offsite events, or from a third-party retail food facility described in paragraph (5) of subdivision (b).

(b) For purposes of this section, the following definitions shall apply:

(1) “Cottage food employee” means an individual, paid or volunteer, who is involved in the preparation, packaging, handling, and storage of a cottage food product, or otherwise works for the cottage food operation. An employee does not include an immediate family member or household member of the cottage food operator.

(2) “Cottage food operator” means an individual who operates a cottage food operation in his or her private home and is the owner of the cottage food operation.

(3) “Cottage food products” means nonpotentially hazardous foods, including foods that are described in Section 114365.5 and that are prepared for sale in the kitchen of a cottage food operation.

(4) “Direct sale” means a transaction between a cottage food operation operator and a consumer, where the consumer purchases the cottage food product directly from the cottage food operation. Direct sales include, but are not limited to, transactions at holiday bazaars or other temporary events, such as bake sales or food swaps, transactions at farm stands, certified farmers’ markets, or through community-supported agriculture subscriptions, and transactions occurring in person in the cottage food operation.

(5) “Indirect sale” means an interaction between a cottage food operation, a third-party retailer, and a consumer, where the consumer purchases cottage food products made by the cottage food operation from a third-party retailer that holds a valid permit issued pursuant to Section 114381. Indirect sales include, but are

not limited to, sales made to retail shops or to retail food facilities where food may be immediately consumed on the premises.

(6) "Private home" means a dwelling, including an apartment or other leased space, where individuals reside.

(7) "Registered or permitted area" means the portion of a private home that contains the private home's kitchen used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, and attached rooms within the home that are used exclusively for storage.

SEC. 8. Section 113789 of the Health and Safety Code is amended to read:

113789. (a) "Food facility" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) Any place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) "Food facility" includes permanent and nonpermanent food facilities, including, but not limited to, the following:

(1) Public and private school cafeterias.

(2) Restricted food service facilities.

(3) Licensed health care facilities.

(4) Commissaries.

(5) Mobile food facilities.

(6) Mobile support units.

(7) Temporary food facilities.

(8) Vending machines.

(9) Certified farmers' markets, for purposes of permitting and enforcement pursuant to Section 114370.

(10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(c) "Food facility" does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home, including a cottage food operation that is registered or has a permit pursuant to Section 114365.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code and in the regulations adopted pursuant to that section, that comply with Section 118375, regardless of whether there is a charge for the wine tasting, if no other beverage, except for bottles of wine and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption and no food, except for crackers, is served.

(6) Premises operated by a producer, selling or offering for sale only whole produce grown by the producer, or shell eggs, or both, provided the sales are conducted on premises controlled by the producer.

(7) A commercial food processing plant as defined in Section 111955.

(8) A child day care facility, as defined in Section 1596.750.

(9) A community care facility, as defined in Section 1502.

(10) A residential care facility for the elderly, as defined in Section 1569.2.

(11) A residential care facility for the chronically ill, which has the same meaning as a residential care facility, as defined in Section 1568.01.

(12) Premises set aside by a beer manufacturer, as defined in Section 25000.2 of the Business and Professions Code, that comply with Section 118375, for the purposes of beer tasting, regardless of whether there is a charge for the beer tasting, if no other beverage, except for beer and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption, and no food, except for crackers or pretzels, is served.

SEC. 8.5. Section 113789 of the Health and Safety Code is amended to read:

113789. (a) “Food facility” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) Any place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) “Food facility” includes permanent and nonpermanent food facilities, including, but not limited to, the following:

(1) Public and private school cafeterias.

(2) Restricted food service facilities.

(3) Licensed health care facilities, except as provided in paragraph (13) of subdivision (c).

(4) Commissaries.

(5) Mobile food facilities.

(6) Mobile support units.

(7) Temporary food facilities.

(8) Vending machines.

(9) Certified farmers’ markets, for purposes of permitting and enforcement pursuant to Section 114370.

(10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(c) “Food facility” does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home, including a cottage food operation that is registered or has a permit pursuant to Section 114365.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code and in the

regulations adopted pursuant to that section, that comply with Section 118375, regardless of whether there is a charge for the wine tasting, if no other beverage, except for bottles of wine and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption and no food, except for crackers, is served.

(6) Premises operated by a producer, selling or offering for sale only whole produce grown by the producer, or shell eggs, or both, provided the sales are conducted on premises controlled by the producer.

(7) A commercial food processing plant as defined in Section 111955.

(8) A child day care facility, as defined in Section 1596.750.

(9) A community care facility, as defined in Section 1502.

(10) A residential care facility for the elderly, as defined in Section 1569.2.

(11) A residential care facility for the chronically ill, which has the same meaning as a residential care facility, as defined in Section 1568.01.

(12) Premises set aside by a beer manufacturer, as defined in Section 25000.2 of the Business and Professions Code, that comply with Section 118375, for the purposes of beer tasting, regardless of whether there is a charge for the beer tasting, if no other beverage, except for beer and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption, and no food, except for crackers or pretzels, is served.

(13) (A) An intermediate care facility for the developmentally disabled, as defined in subdivisions (e), (h), and (m) of Section 1250, with a capacity of six beds or fewer.

(B) A facility described in subparagraph (A) shall report any foodborne illness or outbreak to the local health department and to the State Department of Public Health within 24 hours of the illness or outbreak.

SEC. 9. Section 113851 of the Health and Safety Code is amended to read:

113851. (a) “Permit” means the document issued by the enforcement agency that authorizes a person to operate a food facility or cottage food operation.

(b) “Registration” shall have the same meaning as permit for purposes of implementation and enforcement of this part.

SEC. 10. Section 114021 of the Health and Safety Code is amended to read:

114021. (a) Food shall be obtained from sources that comply with all applicable laws.

(b) Food stored or prepared in a private home shall not be used or offered for sale in a food facility, unless that food is prepared by a cottage food operation that is registered or has a permit pursuant to Section 114365.

SEC. 11. Section 114023 of the Health and Safety Code is amended to read:

114023. Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant, or from a cottage food operation that produces jams, jellies, and preserves and that is registered or has a permit pursuant to Section 114365.

SEC. 12. Section 114088 is added to the Health and Safety Code, to read:

114088. A cottage food product, as defined in Section 113758, that is served by a food facility without packaging or labeling, as described in Section 114365, shall be identified to the consumer as homemade on the menu, menu board, or other location that would reasonably inform a consumer of its homemade status.

SEC. 13. Chapter 11.5 (commencing with Section 114365) is added to Part 7 of Division 104 of the Health and Safety Code, to read:

CHAPTER 11.5. COTTAGE FOOD OPERATIONS

114365. (a) (1) (A) A “Class A” cottage food operation shall not be open for business unless it is registered with the local enforcement agency and has submitted a completed, self-certification checklist approved by the local enforcement agency. The self-certification checklist shall verify that the cottage food operation conforms to this chapter, including the following requirements:

(i) No cottage food preparation, packaging, or handling may occur in the home kitchen concurrent with any other domestic activities, such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment.

(ii) No infants, small children, or pets may be in the home kitchen during the preparation, packaging, or handling of any cottage food products.

(iii) Kitchen equipment and utensils used to produce cottage food products shall be clean and maintained in a good state of repair.

(iv) All food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any cottage food products shall be washed, rinsed, and sanitized before each use.

(v) All food preparation and food and equipment storage areas shall be maintained free of rodents and insects.

(vi) Smoking shall be prohibited in the portion of a private home used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, while cottage food products are being prepared, packaged, stored, or handled.

(B) (i) The department shall post the requirements described in subparagraph (A) on its Internet Web site.

(ii) The local enforcement agency shall issue a registration number to a "Class A" cottage food operation that meets the requirements of subparagraph (A).

(C) (i) Except as provided in (ii), a "Class A" cottage food operation shall not be subject to initial or routine inspections.

(ii) For purposes of determining compliance with this chapter, a representative of a local enforcement agency may access, for inspection purposes, the registered area of a private home where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation or that the cottage food operation has violated this chapter.

(iii) Access under this subparagraph is limited to the registered area and solely for the purpose of enforcing or administering this chapter.

(iv) A local enforcement agency may seek recovery from a "Class A" cottage food operation of an amount that does not exceed the local enforcement agency's reasonable costs of inspecting the "Class A" cottage food operation for compliance with this chapter, if the "Class A" cottage food operation is found to be in violation of this chapter.

(2) (A) A “Class B” cottage food operation shall not be open for business unless it obtains a permit from the local enforcement agency in a manner approved by the local enforcement agency to engage in the direct and indirect sale of cottage food products.

(B) (i) A “Class B” cottage food operation shall comply with the requirements described in clauses (i) to (vi), inclusive, of subparagraph (A) of paragraph (1) in addition to the other requirements of this chapter.

(ii) The local enforcement agency shall issue a permit number after an initial inspection has determined that the proposed “Class B” cottage food operation and its method of operation conform to this chapter.

(C) Except as provided in this subparagraph, a “Class B” cottage food operation shall not be subject to more than one inspection per year by the local enforcement agency.

(i) For purposes of determining compliance with this chapter, a representative of a local enforcement agency, for inspection purposes, may access the permitted area of a private home where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation, or that the cottage food operation has violated this chapter.

(ii) Access under this subparagraph is limited to the permitted area and solely for the purpose of enforcing or administering this chapter.

(D) (i) A “Class B” cottage food operation shall be authorized to engage in the indirect sales of cottage food products within the county in which the “Class B” cottage food operation is permitted.

(ii) A county may agree to allow a “Class B” cottage food operation permitted in another county to engage in the indirect sales of cottage food products in the county.

(b) A registration or permit, once issued, is nontransferable. A registration or permit shall be valid only for the person, location, type of food sales, and distribution activity specified by that registration or permit, and, unless suspended or revoked for cause, for the time period indicated.

114365.2. A cottage food operation that is registered or has a permit issued pursuant to Section 114365 shall be considered a restricted food service facility for purposes of, and subject to,

Sections 113953.3, 114259.5, 114285, and 114286. A cottage food operation that is registered or has a permit also shall be subject to Sections 113967, 113973, 113980, 114259.5, 114405, 114407, 114409, 114411, and 114413, and to all of the following requirements:

(a) A person with a contagious illness shall refrain from work in the registered or permitted area of the cottage food operation.

(b) A person involved in the preparation or packaging of cottage food products shall keep his or her hands and exposed portions of his or her arms clean and shall wash his or her hands before any food preparation or packaging activity in a cottage food operation.

(c) Water used during the preparation of cottage food products shall meet the potable drinking water standards described in Section 113869, except that a cottage food operation shall not be required to have an indirect sewer connection. Water used during the preparation of cottage food products includes all of the following:

(1) The washing, sanitizing, and drying of any equipment used in the preparation of a cottage food product.

(2) The washing, sanitizing, and drying of hands and arms.

(3) Water used as an ingredient.

(d) A person who prepares or packages cottage food products shall complete a food processor course instructed by the department to protect the public health within three months of becoming registered. The course shall not exceed four hours in length. The department shall work with the local enforcement agency to ensure that cottage food operators are properly notified of the location, date, and time of the classes offered.

(e) A cottage food operation shall properly label all cottage food products in compliance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343 et seq.). Additionally, to the extent permitted by federal law, the label shall include, but is not limited to, all of the following:

(1) The words "Made in a Home Kitchen" in 12-point type on the cottage food product's primary display panel.

(2) The name commonly used for the food product or an adequately descriptive name.

(3) The name of the cottage food operation which produced the cottage food product.

(4) The registration or permit number of the "Class A" or "Class B" cottage food operation, respectively, which produced the cottage

food product and, in the case of a “Class B” cottage food operation, the name of the county of the local enforcement agency that issued the permit number.

(5) The ingredients of the cottage food product, in descending order of predominance by weight, if the product contains two or more ingredients.

114365.5. (a) The department shall adopt and post on its Internet Web site a list of not potentially hazardous foods and their ethnic variations that are approved for sale by a cottage food operation. A cottage food product shall not be potentially hazardous food, as defined in Section 113871.

(b) This list of nonpotentially hazardous foods shall include, but not be limited to, all of the following:

(1) Baked goods without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas.

(2) Candy, such as brittle and toffee.

(3) Chocolate-covered nonperishable foods, such as nuts and dried fruit.

(4) Dried fruit.

(5) Dried pasta.

(6) Dry baking mixes.

(7) Fruit pies, fruit empanadas, and fruit tamales.

(8) Granola, cereals, and trail mixes.

(9) Herb blends and dried mole paste.

(10) Honey and sweet sorghum syrup.

(11) Jams, jellies, preserves, and fruit butter that comply with the standard described in Part 150 of Title 21 of the Code of Federal Regulations.

(12) Nut mixes and nut butters.

(13) Popcorn.

(14) Vinegar and mustard.

(15) Roasted coffee and dried tea.

(16) Waffle cones and pizelles.

(c) (1) The State Public Health Officer may add or delete food products to or from the list described in subdivision (b), which shall be known as the approved food products list. Notice of any change to the approved food products list shall be posted on the department’s cottage food program Internet Web site, to also be known as the program Internet Web site for purposes of this chapter. Any change to the approved food products list shall

become effective 30 days after the notice is posted. The notice shall state the reason for the change, the authority for the change, and the nature of the change. The notice will provide an opportunity for written comment by indicating the address to which to submit the comment and the deadline by which the comment is required to be received by the department. The address to which the comment is to be submitted may be an electronic site. The notice shall allow at least 20 calendar days for comments to be submitted. The department shall consider all comments submitted before the due date. The department may withdraw the proposed change at any time by notification on the program Internet Web site or through notification by other electronic means. The approved food products list described in subdivision (b), and any updates to the list, shall not be subject to the administrative rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) The State Public Health Officer shall not remove any items from the approved food products list unless the State Public Health Officer also posts information on the program Internet Web site explaining the basis upon which the removed food item has been determined to be potentially hazardous.

114365.6. (a) The State Public Health Officer shall provide technical assistance, and develop, maintain, and deliver commodity-specific training related to the safe processing and packaging of cottage food products to local enforcement agencies.

(b) Local enforcement agencies may collect a surcharge fee in addition to any permit fees collected for "Class B" cottage food operations. The surcharge fee shall not exceed the reasonable costs that the department incurs through the administration of the training described in subdivision (a) to protect the public health. The surcharge fees collected shall be transmitted to the department in a manner established by the department to be deposited in the Food Safety Fund. The department shall use the surcharge fees only to develop and deliver the training described in subdivision (a) to local enforcement agency personnel on an ongoing basis.

SEC. 14. Section 114390 of the Health and Safety Code is amended to read:

114390. (a) Enforcement officers shall enforce this part and all regulations adopted pursuant to this part.

(b) (1) For purposes of enforcement, any authorized enforcement officer may, during the facility's hours of operation and other reasonable times, enter, inspect, issue citations to, and secure any sample, photographs, or other evidence from a food facility, cottage food operation, or any facility suspected of being a food facility or cottage food operation, or a vehicle transporting food to or from a retail food facility, when the vehicle is stationary at an agricultural inspection station, a border crossing, or at any food facility under the jurisdiction of the enforcement agency, or upon the request of an incident commander.

(2) If a food facility is operating under an HACCP plan, the enforcement officer may, for the purpose of determining compliance with the plan, secure as evidence any documents, or copies of documents, relating to the facility's adherence to the HACCP plan. Inspection may, for the purpose of determining compliance with this part, include any record, file, paper, process, HACCP plan, invoice, or receipt bearing on whether food, equipment, or utensils are in violation of this part.

(c) Notwithstanding subdivision (a), an employee may refuse entry to an enforcement officer who is unable to present official identification showing the enforcement officer's picture and enforcement agency name. In the absence of the identification card, a business card showing the enforcement agency's name plus a picture identification card such as a driver's license shall meet this requirement.

(d) It is a violation of this part for any person to refuse to permit entry or inspection, the taking of samples or other evidence, access to copy any record as authorized by this part, to conceal any samples or evidence, withhold evidence concerning them, or interfere with the performance of the duties of an enforcement officer, including making verbal or physical threats or sexual or discriminatory harassment.

(e) A written report of the inspection shall be made and a copy shall be supplied or mailed to the owner, manager, or operator of the food facility.

SEC. 15. Section 114405 of the Health and Safety Code is amended to read:

114405. (a) A permit may be suspended or revoked by a local enforcement officer for a violation of this part. Any food facility or cottage food operation for which the permit has been suspended

shall close and remain closed until the permit has been reinstated. Any food facility or cottage food operation for which the permit has been revoked shall close and remain closed until a new permit has been issued.

(b) Whenever a local enforcement officer finds that a food facility or cottage food operation is not in compliance with the requirements of this part, a written notice to comply shall be issued to the permitholder. If the permitholder fails to comply, the local enforcement officer shall issue to the permitholder a notice setting forth the acts or omissions with which the permitholder is charged, and informing him or her of a right to a hearing, if requested, to show cause why the permit should not be suspended or revoked. A written request for a hearing shall be made by the permitholder within 15 calendar days after receipt of the notice. A failure to request a hearing within 15 calendar days after receipt of the notice shall be deemed a waiver of the right to a hearing. When circumstances warrant, the hearing officer may order a hearing at any reasonable time within this 15-day period to expedite the permit suspension or revocation process.

(c) The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. Upon written request of the permitholder, the hearing officer may postpone any hearing date, if circumstances warrant the action.

SEC. 16. Section 114409 of the Health and Safety Code is amended to read:

114409. (a) If any imminent health hazard is found, unless the hazard is immediately corrected, an enforcement officer may temporarily suspend the permit and order the food facility or cottage food operation immediately closed.

(b) Whenever a permit is suspended as the result of an imminent health hazard, the enforcement officer shall issue to the permitholder a notice setting forth the acts or omissions with which the permitholder is charged, specifying the pertinent code section, and informing the permitholder of the right to a hearing.

(c) At any time within 15 calendar days after service of a notice pursuant to subdivision (b), the permitholder may request in writing a hearing before a hearing officer to show cause why the permit suspension is not warranted. The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. A failure to

request a hearing within 15 calendar days shall be deemed a waiver of the right to a hearing.

SEC. 17. Section 8.5 of this bill incorporates amendments to Section 113789 of the Health and Safety Code proposed by both this bill and Assembly Bill 2297. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 113789 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 2297, in which case Section 8 of this bill shall not become operative.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2012

Governor



California Conference
of Directors of
Environmental Health

CALIFORNIA HOMEMADE FOOD ACT

FREQUENTLY ASKED QUESTIONS

AB 1616 (GATTO) – COTTAGE FOOD OPERATIONS

1. When does the new law go into effect?

The new law becomes effective January 1, 2013. The law requires the California Department of Public Health to carry out certain tasks associated with implementation, and imposes certain responsibilities on local planning and environmental health jurisdictions. The California Conference of Directors of Environmental Health (CCDEH) is working with other stakeholders to ensure that the law is implemented in an orderly and effective manner. Further information regarding the status of implementation can be obtained from your local environmental health agency.

Note: The information in this FAQ handout is intended to provide a uniform statewide response to questions posed and will be updated as needed. The questions & answers were evaluated by the CCDEH Ad Hoc AB 1616 Implementation Workgroup. This information should not be construed as a legal interpretation.

AB1616 Chaptered Law: http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1601-1650/ab_1616_bill_20120921_chaptered.pdf

2. What is a Cottage Food Operation (CFO)?

A CFO is an enterprise at a private home where low-risk food products are prepared or packaged for sale to consumers.

3. What is meant by “private home?”

“Private home” means a dwelling, including an apartment or other leased space, where individuals reside.

4. Are there limitations on the size of CFO’s sales?

- \$35,000 or less in gross sales in 2013
- \$45,000 or less in gross sales in 2014
- \$50,000 or less in gross sales in 2015 and beyond

5. Can a CFO have employees?

A CFO can have one full-time equivalent employee (not counting family members or household members).

6. What cottage food categories are permitted at a CFO?

Only foods that are defined as “non-potentially hazardous” are approved for preparation by CFO’s. These are foods that do not require refrigeration to keep them safe from bacterial growth that could make people sick. The California Department of Public Health will establish and maintain a list of approved cottage food categories on their website and will establish a process by which new foods can be added to the list and other foods can be challenged and removed. The initial list included in the new law includes:

- 1) Baked goods without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas
- 2) Candy, such as brittle and toffee
- 3) Chocolate-covered nonperishable foods, such as nuts and dried fruit
- 4) Dried fruit
- 5) Dried pasta
- 6) Dry baking mixes
- 7) Fruit pies, fruit empanadas, and fruit tamales
- 8) Granola, cereals, and trail mixes
- 9) Herb blends and dried mole paste
- 10) Honey and sweet sorghum syrup
- 11) Jams, jellies, preserves, and fruit butter that comply with the standard described in Part 150 of Title 21 of the Code of Federal Regulations (These should be fruit products to assure that they are not potentially hazardous).
- 12) Nut mixes and nut butters
- 13) Popcorn
- 14) Vinegar and mustard
- 15) Roasted coffee and dried tea
- 16) Waffle cones and pizzelles

7. What are the two classifications of CFOs?

- Class A** CFO’s are only allowed to engage in “**direct sale**” of cottage food.
- Class B** CFO’s may engage in both “**direct sale**” and “**indirect sale**” of cottage food.

8. What is meant by “Direct Sale” of cottage food?

“Direct Sale” means a transaction between a CFO operator and a consumer, where the consumer purchases the cottage food product directly from the CFO. Direct sales include, but are not limited to, transactions at holiday bazaars or other temporary events, such as bake sales or food swaps, transactions at farm stands, certified farmers’ markets, or through community-supported agriculture subscriptions, and transactions occurring in person in the cottage food operation.

9. What is meant by “Indirect Sale” of cottage food?

“Indirect Sale” means an interaction between a CFO, a third-party retailer, and a consumer, where the consumer purchases cottage food products made by the CFO from a third-party retailer that holds a valid permit issued by the local environmental health agency in their jurisdiction. Indirect sales include, but are not limited to, sales made to retail shops or to retail food facilities where food may be immediately consumed on the premises.

10. Do I need any special Training or Certification to prepare Cottage foods?

A person who prepares or packages cottage food products must complete a food processor course instructed by the California Department of Public Health within three months of being registered or permitted.

11. Does a CFO need a permit to operate?

- Planning/Zoning:** All CFO’s need to obtain approval from their local city or county planning department. The Homemade Food Act gives planning departments several options to consider, so planning department requirements may vary between jurisdictions.
- Environmental Health:**
 - For “**Class A**” CFO’s (direct sale only), **registration** with the local enforcement agency and submission of a completed “self-certification checklist” approved by the local environmental health agency.
 - For “**Class B**” CFO’s (direct and indirect), a **permit** from the local environmental health agency is required.
- Other Requirements:** Check on other state or local requirements that may be applicable
- Registrations and permits are not transferable between:
 - Persons
 - Locations
 - Type of food sales [i.e., direct sales (Class A) vs. indirect sales (class B)]
 - Type of distribution

12. How much will the registration or permit cost the CFO?

Each local jurisdiction will establish fees that are not to exceed the cost of providing the service. Additional fees may be charged for inspection and/or enforcement activities if the cottage food operation is found to be in violation of California food safety laws on cottage food operations.

13. Will my CFO Registration/Permit allow me to sell at other retail venues?

There may be health permits required to sell at other locations, such as Certified Farmer’s Markets or Swap Meets. Please check with your local enforcement agency for additional permit requirements.

14. How often will a CFO be inspected?

- ❑ **Class A** CFO kitchens and food storage areas (referenced in the law as the “registered or permitted area”) are not subject to initial or routine inspections.
- ❑ **Class B** CFO kitchens and food storage areas are inspected initially prior to permit issuance, and then annually after that.
- ❑ **Class A or B (Other Inspections)** The local environmental health agency may access, for inspection purposes, the registered or permitted area where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation or that the cottage food operation is found to be in violation of California food safety laws on cottage food operations.

15. What are the CFO’s operational requirements

- ❑ All CFOs must comply with the following:
 - No domestic activity in kitchen during cottage food preparation
 - No infants, small children, or pets in kitchen during cottage food preparation
 - Kitchen equipment and utensils kept clean and in good repair
 - All food contact surfaces and utensils washed, rinsed, and sanitized before each use
 - All food preparation and storage areas free of rodents and insects
 - No smoking in kitchen area during preparation or processing of cottage food
 - A person with a contagious illness shall refrain from working
 - Proper hand-washing shall be completed prior to any food preparation or packaging
 - Water used in the preparation of cottage food products must be potable. Cottage food preparation activities include:
 - Washing, rinsing, and sanitizing of any equipment used in food preparation.
 - Washing and sanitizing hands and arms.
 - Water used as an ingredient of cottage food.

16. What would be my food labeling requirements?

- ❑ All cottage food products must be properly labeled in compliance with the Federal, Food, Drug, and Cosmetic Act ([21 U.S.C. Sec. 343 et seq.](#)) The label shall include:
 - The words “Made in a Home Kitchen” in 12-point type
 - The name commonly used for the food product
 - Name of CFO which produced the food product
 - The registration or permit number of the cottage food operation which produced the cottage food product and the name of the local enforcement agency that issued the number
 - Product ingredients in descending order by weight
- ❑ In a permitted food facility, cottage food products served without packaging or labeling shall be identified to the customer as homemade on the menu, menu board or other easily accessible location.



MONO COUNTY DEPARTMENT OF PUBLIC WORKS

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DEVELOPMENT IN MONO COUNTY WITHIN A FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOODPLAIN

Mono County is a participant in the National Flood Insurance Program (NFIP) which enables property owners to purchase insurance protection against losses from flooding. Participation in the NFIP requires Mono County to adopt and enforce a floodplain management ordinance to reduce flood risks to new construction in Special Flood Hazard Areas (SFHA). Excerpts from the County's adopted floodplain regulations are printed on the reverse side.

The Director of Public Works serves as the Floodplain Administrator in Mono County. To determine if your parcel is located within a SFHA where floodplain regulations apply, please contact the Department of Public Works as indicated above. You will need to have the Assessor's Parcel Number and the name of the property owner(s) to obtain a floodplain determination on a parcel.

Typically, development within a floodplain triggers minimum elevation requirements, flood-resistant construction below the base flood elevation, venting of storage areas or under-floor spaces, and protection of utilities. These issues will need to be addressed on the building plans submitted with a building permit application. In areas where base flood elevations are available, a preliminary elevation certificate will also be required. The certificate needs to be prepared by a registered professional engineer or land surveyor.

In some areas of Mono County, a floodway has also been identified by FEMA. A floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential. Encroachments in the floodway (including fill, new construction, substantial improvements, and other development) are prohibited unless certification from a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood (100-year) discharge.

MONO COUNTY DEVELOPMENT STANDARDS FLOODPLAIN REGULATIONS

(excerpted from Chapter 21, Mono County General Plan, Land Use Element)

21.160 Standards of Construction

In all areas of special flood hazard, the following standards are required:

- A. Anchoring
 - 1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movements of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - 2. All manufactured homes shall meet the anchoring standards of Section 21.190.
- B. Construction Materials and Methods
 - 1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - 2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - 3. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding.
- C. Elevations and Floodproofing
 - 1. New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the base flood elevation (i.e., the depth number specified in feet on the FIRM), or at least two feet above the highest adjacent grade if no depth number is specified. Non-residential structures may meet the standards in Section 21.160.C.2. Upon the completion of the structure the elevation of the lowest floor including basement, shall be certified by a registered professional engineer or surveyor, or verified by the county building inspector to be properly elevated. Such certification or verification shall be provided to the Floodplain Administrator.
 - 2. Non-residential construction shall either be elevated in conformance with Section 21.160.C.1. together with attendant utility and sanitary facilities:
 - a. Be floodproofed so that, below the base flood level, the structure is watertight with walls substantially impermeable to the passage of water.
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
 - c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the Floodplain Administrator.
 - 3. Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. Either a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the entry and exit of flood waters; or,
 - b. Be certified to comply with a local floodproofing standard approved by the Federal Insurance Administration.
 - 4. Manufactured homes shall also meet the standards in Section 21.190.

21.170 Standards for Utilities

- A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- B. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

CALIFORNIA
MODEL
FLOODPLAIN MANAGEMENT
ORDINANCE
FOR
NONCOASTAL COMMUNITIES

December 2006

This California Model Floodplain Management Ordinance has been developed as a tool to help communities meet the minimum requirements of the National Flood Insurance Program (NFIP). Communities choosing not to use this model ordinance must ensure their ordinance meets the minimum requirements of the NFIP.

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MODEL ORDINANCE

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Instructions for Creating Your Community's Ordinance

1) PROVIDE COMMUNITY SPECIFIC INFORMATION AS REQUESTED IN BRACKETS.

This model ordinance contains **{brackets}** that must be replaced with community specific information such as your community's name, address, or name of the responsible party.

2) ACCESSORY STRUCTURES.

This model ordinance contains the definition for accessory structures and construction requirements in Section 5.1.C.5 to allow for the permitting of an “**Accessory structure**” within special flood hazard areas **without a variance**.

3) UPDATE CROSS REFERENCES.

Cross references and bracketed items throughout this document are underlined in red and bolded only to facilitate locating to ensure changes are made and to match actual numbering used by your community and not intended to reflect a suggested final format.

4) DETERMINE IF YOUR COMMUNITY WANTS TO ADOPT HIGHER STANDARDS RECOMMENDED BY THE STATE OF CALIFORNIA.

This model ordinance meets the minimum standards required to participate in the National Flood Insurance Program. Community adoption of higher standards can be applied towards credit under the Community Rating System (CRS) program and result in reduced premiums for the entire community. The State of California recommends:

- **Freeboard**. See Appendix 2.0.A, page 22.
- **Determining BFE's in Unnumbered A Zones**. See Appendix 2.0.B, page 22.
- **Determining Market Value of Existing Structures**. See Appendix 2.0.C, page 22.
- **Increased Cost of Compliance (ICC) Coverage—Repetitive Loss Provisions**. See Appendix 2.0.D, page 23.
- **Non-conversion of Enclosed Areas Below the Lowest Floor**. See Appendix 2.0.E, page 23.

5) DETERMINE IF YOUR COMMUNITY HAS SPECIAL REQUIREMENTS

- **Alluvial Fan Advisory**.
See Appendix 1.0, page 21.
- **Crawlspace Construction**.
See Appendix 3.0.A, page 24.
- **Mudslide (i.e., mudflow) Prone Areas**. (Zone M)
See Appendix 3.0.B, page 25.
- **Erosion Prone Areas**. (Zone E)
See Appendix 3.0.C, page 26.

6) PRIOR TO ADOPTION, SUBMIT DRAFT TO:

- Other community departments, including Attorney's office.
- Department of Water Resources or FEMA Region IX for review and approval.

7) AFTER ADOPTION, SEND A COPY OF THE ADOPTED ORDINANCE CERTIFIED BY THE

CITY/COUNTY CLERK TO FEMA REGION IX AND A COPY TO DWR.

**SECTION 1.0
STATUTORY AUTHORIZATION,
FINDINGS OF FACT,
PURPOSE AND METHODS**

1.1 STATUTORY AUTHORIZATION.

The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the **{community governing body}** of **{name of county or municipality}** does hereby adopt the following floodplain management regulations.

1.2 FINDINGS OF FACT.

- A. The flood hazard areas of **{name of county or municipality}** are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses are caused by uses that are inadequately elevated, floodproofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contributes to flood losses.

1.3 STATEMENT OF PURPOSE.

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the community to all publicly and privately owned land within flood prone, mudslide [i.e. mudflow] or flood related erosion areas. These regulations are designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

1.4 METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this ordinance includes regulations to:

- A.** Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
- B.** Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C.** Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D.** Control filling, grading, dredging, and other development which may increase flood damage;
- E.** Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas; and

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"A zone" - see **"Special flood hazard area"**.

"Accessory structure" means a structure that is either:

1. Solely for the parking of no more than 2 cars; or
2. A small, low cost shed for limited storage, less than 150 square feet and \$1,500 in value.

"Accessory use" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

"Alluvial fan" means a geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

"Apex" means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

"Area of shallow flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" - See "Special flood hazard area."

"Base flood" means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this ordinance.

"Base flood elevation" (BFE) means the elevation shown on the Flood Insurance Rate Map for Zones AE, AH, A1-30, VE and V1-V30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade - i.e., below ground level - on all sides.

"Building" - see **"Structure"**.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"Encroachment" means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before **{insert date your first floodplain management ordinance was adopted}**.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood, flooding, or flood water" means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and
2. The condition resulting from flood-related erosion.

"Flood Boundary and Floodway Map (FBFM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

"Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source - see **"Flooding."**

"Floodplain Administrator" is the community official designated by title to administer and enforce the floodplain management regulations.

"Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

"Floodplain management regulations" means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved

in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "Regulatory Floodway."

"Floodway fringe" is that area of the floodplain on either side of the "Regulatory Floodway" where encroachment may be permitted.

"Fraud and victimization" as related to [Section 6.0](#) of this ordinance, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the **{community governing body}** will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one-hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

"Governing body" is the local governing unit, i.e. county or municipality, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

"Hardship" as related to [Section 6](#) of this ordinance means the exceptional hardship that would result from a failure to grant the requested variance. The **{community governing body}** requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance

with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

"Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

"Lowest floor" means the lowest floor of the lowest enclosed area, including basement (see **"Basement"** definition).

1. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:
 - a. The flood openings standard in [Section 5.1.C.3](#);
 - b. The anchoring standards in [Section 5.1.A](#);
 - c. The construction materials and methods standards in [Section 5.1.B](#); and
 - d. The standards for utilities in [Section 5.2](#).
2. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see **"Basement"** definition). This prohibition includes below-grade garages and storage areas.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Market value" is defined in the [{name of county or municipality}](#) substantial damage/improvement procedures. See [Section 4.2.B.1](#).

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"New construction", for floodplain management purposes, means structures for which the "start of construction" commenced on or after [{insert date your first floodplain management ordinance was adopted}](#), and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after [{insert date your first floodplain management ordinance was adopted}](#).

"Obstruction" includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to

snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

"One-hundred-year flood" or "100-year flood" - see **"Base flood."**

"Program deficiency" means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.

"Public safety and nuisance" as related to [Section 6](#) of this ordinance, means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Recreational vehicle" means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Remedy a violation" means to bring the structure or other development into compliance with State or local floodplain management regulations, or if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing State or Federal financial exposure with regard to the structure or other development.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Sheet flow area" - see **"Area of shallow flooding."**

"Special flood hazard area (SFHA)" means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.

"Start of construction" includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"Variance" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

"Violation" means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

"Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of **{name of county or municipality}**.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the "Flood Insurance Study (FIS) for **{name of county or municipality (exact title of study)}**" dated **{date}**, with accompanying Flood Insurance Rate Maps (FIRM's) and Flood Boundary and Floodway Maps (FBFM's), dated **{date}**, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this ordinance. This FIS and attendant mapping is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the **{community governing body}** by the Floodplain Administrator. The study, FIRM's and FBFM's are on file at **{department, address}**.

3.3 COMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards) shall constitute a misdemeanor. Nothing herein shall prevent the **{community governing body}** from taking such lawful action as is necessary to prevent or remedy any violation.

3.4 ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

3.5 INTERPRETATION.

In the interpretation and application of this ordinance, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

3.6 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of **{community governing body}**, any officer or employee thereof, the State of California, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

3.7 SEVERABILITY.

This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this

ordinance be declared by the courts 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 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.

The {e.g., **City Manager, Director of Planning, Public Works, or Building Official, etc.**} is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accord with its provisions.

4.2 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

A. Permit Review.

Review all development permits to determine:

1. Permit requirements of this ordinance have been satisfied, including determination of substantial improvement and substantial damage of existing structures;
2. All other required state and federal permits have been obtained;
3. The site is reasonably safe from flooding;
4. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than 1 foot at any point within the **{name of county or municipality}**; and
5. All Letters of Map Revision (LOMR's) for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

B. Development of Substantial Improvement and Substantial Damage Procedures.

1. Using FEMA publication FEMA 213, "Answers to Questions About Substantially Damaged Buildings," develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "Market Value."
2. Assure procedures are coordinated with other departments/divisions and implemented by community staff.

C. Review, Use and Development of Other Base Flood Data.

When base flood elevation data has not been provided in accordance with **Section 3.2**, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer **Section 5**.

NOTE: A base flood elevation may be obtained using one of two methods from the FEMA publication, FEMA 265, "Managing Floodplain Development in Approximate Zone A Areas – A Guide for Obtaining and Developing Base (100-year) Flood Elevations" dated July 1995.

D. Notification of Other Agencies.

1. Alteration or relocation of a watercourse:
 - a. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
 - b. Submit evidence of such notification to the Federal Emergency Management Agency; and
 - c. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.
2. Base Flood Elevation changes due to physical alterations:
 - a. Within 6 months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).
 - b. All LOMR's for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

3. Changes in corporate boundaries:

Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

E. Documentation of Floodplain Development.

Obtain and maintain for public inspection and make available as needed the following:

1. Certification required by [Section 5.1.C.1 and Section 5.4](#) (lowest floor elevations);
2. Certification required by [Section 5.1.C.2](#) (elevation or floodproofing of nonresidential structures);
3. Certification required by [Sections 5.1.C.3](#) (wet floodproofing standard);
4. Certification of elevation required by [Section 5.3.A.3](#) (subdivisions and other proposed development standards);
5. Certification required by [Section 5.6.B](#) (floodway encroachments); and
6. Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

F. Map Determination.

Make interpretations where needed, as to the exact location of the boundaries of the areas of special

flood hazard, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in [Section 4.4](#).

F. Remedial Action.

Take action to remedy violations of this ordinance as specified in [Section 3.3](#).

G. Biennial Report.

Complete and submit Biennial Report to FEMA.

H. Planning.

Assure community's General Plan is consistent with floodplain management objectives herein.

4.3 DEVELOPMENT PERMIT.

A development permit shall be obtained before any construction or other development, including manufactured homes, within any area of special flood hazard established in [Section 3.2](#). Application for a development permit shall be made on forms furnished by the **{name of community}**. The applicant shall provide the following minimum information:

- A.** Plans in duplicate, drawn to scale, showing:
1. Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;
 2. Proposed locations of water supply, sanitary sewer, and other utilities;
 3. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;
 4. Location of the regulatory floodway when applicable;
 5. Base flood elevation information as specified in [Section 3.2 or Section 4.2.C](#);
 6. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and
 7. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in [Section 5.1.C.2](#) of this ordinance and detailed in FEMA Technical Bulletin TB 3-93.
- B.** Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in [Section 5.1.C.2](#).
- C.** For a crawl-space foundation, location and total net area of foundation openings as required in [Section 5.1.C.3](#) of this ordinance and detailed in FEMA Technical Bulletins 1-93 and 7-93.
- D.** Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- E.** All appropriate certifications listed in [Section 4.2.E](#) of this ordinance.

4.4 APPEALS.

The **{community governing body}** of **{name of county or municipality}** shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain

Administrator in the enforcement or administration of this ordinance.

**SECTION 5.0
PROVISIONS FOR FLOOD HAZARD REDUCTION**

5.1 STANDARDS OF CONSTRUCTION.

In all areas of special flood hazards the following standards are required:

A. Anchoring.

All new construction and substantial improvements of structures, including manufactured homes, shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

B. Construction Materials and Methods.

All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:

1. With flood resistant materials, and utility equipment resistant to flood damage for areas below the base flood elevation;
2. Using methods and practices that minimize flood damage;
3. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
4. Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

C. Elevation and Floodproofing.

1. **Residential construction.**

All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:

- a. In AE, AH, A1-30 Zones, elevated to or above the base flood elevation.
- b. In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least 2 feet above the highest adjacent grade if no depth number is specified.
- c. In an A zone, without BFE's specified on the FIRM [unnumbered A zone], elevated to or above the base flood elevation; as determined under [Section 4.2.C](#).

Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

2. **Nonresidential construction.**

All new construction or substantial improvements of nonresidential structures shall either be elevated to conform with **Section 5.1.C.1** or:

- a. Be floodproofed, together with attendant utility and sanitary facilities, below the elevation recommended under **Section 5.1.C.1**, so that the structure is watertight with walls substantially impermeable to the passage of water;
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- c. Be certified by a registered civil engineer or architect that the standards of **Section 5.1 C.2.a & b** are satisfied. Such certification shall be provided to the Floodplain Administrator.

3. **Flood openings.**

All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must meet the following minimum criteria:

- a. For non-engineered openings:
 1. Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 2. The bottom of all openings shall be no higher than one foot above grade;
 3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and
 4. Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter; or
- b. Be certified by a registered civil engineer or architect.

4. **Manufactured homes.**

- a. See **Section 5.4.**

5. **Garages and low cost accessory structures.**

- a. Attached garages.
 1. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of flood waters. See **Section 5.1.C.3.** Areas of the garage below the BFE must be constructed with flood resistant materials. See **Section 5.1.B.**
 2. A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. For guidance on below grade parking areas, see FEMA Technical Bulletin TB-6.
- b. Detached garages and accessory structures.
 1. "Accessory structures" used solely for parking (2 car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in **Section 2,** may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:
 - a) Use of the accessory structure must be limited to parking or limited storage;
 - b) The portions of the accessory structure located below the BFE must be built using flood-resistant materials;
 - c) The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;
 - d) Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;
 - e) The accessory structure must comply with floodplain encroachment provisions in **Section 5.6;** and
 - f) The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with **Section 5.1.C.3.**
 2. Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in **Section 5.1.**

5.2 STANDARDS FOR UTILITIES.

- A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
 1. Infiltration of flood waters into the systems; and
 2. Discharge from the systems into flood waters.
- B. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

5.3 STANDARDS FOR SUBDIVISIONS AND OTHER PROPOSED DEVELOPMENT.

- A.** All new subdivisions proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than 50 lots or 5 acres, whichever is the lesser, shall:
1. Identify the Special Flood Hazard Areas (SFHA) and Base Flood Elevations (BFE).
 2. Identify the elevations of lowest floors of all proposed structures and pads on the final plans.
 3. If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to the Floodplain Administrator:
 - a. Lowest floor elevation.
 - b. Pad elevation.
 - c. Lowest adjacent grade.
- B.** All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.
- C.** All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- D.** All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.

5.4 STANDARDS FOR MANUFACTURED HOMES.

- A.** All manufactured homes that are placed or substantially improved, on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:
1. Within Zones A1-30, AH, and AE on the community's Flood Insurance Rate Map, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- B.** All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the community's Flood Insurance Rate Map that are not subject to the provisions of [Section 5.4.A](#) will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:
1. Lowest floor of the manufactured home is at or above the base flood elevation; or
 2. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

5.5 STANDARDS FOR RECREATIONAL VEHICLES.

- A.** All recreational vehicles placed in Zones A1-30, AH, and AE will either:
1. Be on the site for fewer than 180 consecutive days; or
 2. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 3. Meet the permit requirements of **Section 4.3** of this ordinance and the elevation and anchoring requirements for manufactured homes in **Section 5.4.A.**

5.6 FLOODWAYS.

Since floodways are an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A.** Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within Zones A1-30 and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than 1 foot at any point within the **{name of county or municipality}**.
- B.** Within an adopted regulatory floodway, the **{name of county or municipality}** shall prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- C.** If **Sections 5.6.A & B** are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of **Section 5.**

SECTION 6.0 VARIANCE PROCEDURE

6.1 NATURE OF VARIANCES.

The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.

The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the **{community governing body}** to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

6.2 CONDITIONS FOR VARIANCES.

- A. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of **Sections 4 and 5** of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of "**historic structures**" (as defined in **Section 2** of this ordinance) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon a determination that the variance is the "minimum necessary" considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the **{community governing body}** need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the **{community governing body}** believes will both provide relief and preserve the integrity of the local ordinance.

- E. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
 2. Such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the Floodplain Administrator in the Office of the **{name of county}** Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- F. The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

6.3 APPEAL BOARD.

- A. In passing upon requests for variances, the **{community governing body}** shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and the:
1. Danger that materials may be swept onto other lands to the injury of others;
 2. Danger of life and property due to flooding or erosion damage;
 3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
 4. Importance of the services provided by the proposed facility to the community;
 5. Necessity to the facility of a waterfront location, where applicable;
 6. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 7. Compatibility of the proposed use with existing and anticipated development;
 8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 9. Safety of access to the property in time of flood for ordinary and emergency vehicles;
 10. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
 11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

- B.** Variances shall only be issued upon a:
1. Showing of good and sufficient cause;
 2. Determination that failure to grant the variance would result in exceptional "**hardship**" to the applicant; and
 3. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (see "**Public safety and nuisance**"), cause "**fraud and victimization**" of the public, or conflict with existing local laws or ordinances.
- C.** Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of **Sections 6.3.A through 6.3.D** are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.
- D.** Upon consideration of the factors of **Section 6.2.A** and the purposes of this ordinance, the **{community governing body}** may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

APPENDIX

Appendices

1.0 ALLUVIAL FAN ADVISORY

Hazards of Alluvial Fan Development

Alluvial fans present a unique flood hazard environment where the combination of sediment, slope, and topography create an ultra hazardous condition for which elevation on fill will not provide reliable protection. Active alluvial fan flooding is characterized by flow path uncertainty combined with abrupt deposition and erosion. As a result, any area of an alluvial fan may be subject to intense flood hazards.

The technology of mathematically modeling the hydrodynamics of water and debris flows for alluvial fans is still in the early development stage. The Federal Emergency Management Agency (FEMA) has formulated a mapping procedure for the purpose of defining the likelihood of flood hazards on inundated alluvial fan zones to be used for flood insurance purposes and general floodplain regulation, referred to as the FEMA alluvial fan methodology.

An active alluvial fan flooding hazard is indicated by three related criteria:

- a. Flow path uncertainty below the hydrographic apex;
- b. Abrupt deposition and ensuing erosion of sediment as a stream or debris flow loses its competence to carry material eroded from a steeper, upstream source area; and
- c. An environment where the combination of sediment availability, slope, and topography creates an ultra hazardous condition for which elevation on fill will not reliably mitigate the risk.

Inactive alluvial fan flooding is similar to traditional riverine flood hazards, but occurs only on alluvial fans. It is characterized by flow paths with a higher degree of certainty in realistic assessments of flood risk or in the reliable mitigation of the hazard. Counter to active alluvial fan flooding hazards, an inactive alluvial fan flooding hazard is characterized by relatively stable flow paths. However, areas of inactive alluvial fan flooding, as with active alluvial fan flooding, may be subject to sediment deposition and erosion, but to a degree that does not cause flow path instability and uncertainty.

An alluvial fan may exhibit both active alluvial fan flooding and inactive alluvial fan flooding hazards. The hazards may vary spatially or vary at the same location, contingent on the level of flow discharge. Spatially, for example, upstream inactive portions of the alluvial fan may distribute flood flow to active areas at the distal part of the alluvial fan. Hazards may vary at the same location, for example, with a flow path that may be stable for lower flows, but become unstable at higher flows.

More detailed information can be found at FEMA's website: "Guidelines for Determining Flood Hazards on Alluvial Fans" at http://www.fema.gov/fhm/ft_afgd2.shtm#1.

Alluvial Fans and LOMR's

The NFIP does not allow for the removal of land from the floodplain based on the placement of fill (LOMR-F) in alluvial fan flood hazard areas. The NFIP will credit a major structural flood control project, through the LOMR process, that will effectively eliminate alluvial fan flood hazards from the protected area. Details about map revisions for alluvial fan areas can be found in the Code of Federal Regulations at Title 44, Part 65.13.

Alluvial Fan Task Force

As stated in AB 2141 (Longville, Chapter 878, Statutes of 2004), the State of California Department of Water Resources will convene an Alluvial Fan Task Force (AFTF). The AFTF will produce an alluvial fan model

ordinance for local communities and a recommendations report to the legislature. As of March 2006, the model ordinance and report are projected to be completed by 2007.

2.0 HIGHER STANDARDS RECOMMENDED BY THE STATE OF CALIFORNIA

This model ordinance meets the minimum standards required to participate in the National Flood Insurance Program. Community adoption of higher standards can be applied towards credit under the Community Rating System (CRS) program and result in reduced premiums for all flood insurance policy holders within the entire community. The State of California recommends:

A. Freeboard.

- To elevate at least 2 feet above the minimum required base flood elevation, make the following changes:
 1. Modify Sections 5.1.C.1.a, 5.1.C.1.c, and 5.4.A.1 by replacing “elevated to or above” with “elevated 2 feet above.”
 2. Modify Section 5.4.B.1 by replacing “at or above” with “at least 2 feet above.”
 3. Replace Section 5.1.C.1.b with:

In an AO zone, elevated above the highest adjacent grade to a height 2 feet above the depth number specified in feet on the FIRM, or elevated at least 4 feet above the highest adjacent grade if no depth number is specified.

B. Determining BFE’s in Unnumbered A Zones.

- Replace “may” with “shall” in the second paragraph of Section 4.2.C to read:
 “NOTE: A base flood elevation shall....”

C. Determining Market Value of Existing Structures.

- Replace the “Market value” definition in Section 2 with:

“**Market value**” shall be determined by estimating the cost to replace the structure in new condition and adjusting that cost figure by the amount of depreciation which has accrued since the structure was constructed.

1. The cost of replacement of the structure shall be based on a square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry.
2. The amount of depreciation shall be determined by taking into account the age and physical deterioration of the structure and functional obsolescence as approved by the floodplain administrator, but shall not include economic or other forms of external obsolescence.

Use of replacement costs or accrued depreciation factors different from those contained in recognized building cost estimating guides may be considered only if such factors are included in a report prepared by an independent professional appraiser and supported by a written explanation of the differences.

D. Increased Cost of Compliance (ICC) Coverage—Repetitive Loss Provisions.

This provision allows communities the opportunity for flood insurance policy holders to have ICC coverage made available in repetitive loss situations.

- Modify the definition of “Substantial damage” as follows:

“**Substantial damage**” means:

1. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred; or
2. Flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. This is also known as “repetitive loss.”

E. Non-conversion of Enclosed Areas Below the Lowest Floor.

- Insert/add the following section as Section 4.2.J.

A. Non-conversion of Enclosed Areas Below the Lowest Floor.

To ensure that the areas below the BFE shall be used solely for parking vehicles, limited storage, or access to the building and not be finished for use as human habitation without first becoming fully compliant with the floodplain management ordinance in effect at the time of conversion, the Floodplain Administrator shall:

1. Determine which applicants for new construction and/or substantial improvements have fully enclosed areas below the lowest floor that are 5 feet or higher;
2. Enter into a “NON-CONVERSION AGREEMENT FOR CONSTRUCTION WITHIN FLOOD HAZARD AREAS” or equivalent with the **{name of county or municipality}**. The agreement shall be recorded with the **{name of county}** County Recorder as a deed restriction. The non-conversion agreement shall be in a form acceptable to the Floodplain Administrator and County Counsel; and
3. Have the authority to inspect any area of a structure below the base flood elevation to ensure compliance upon prior notice of at least 72 hours.

3.0 SPECIAL REQUIREMENTS

A. Crawlspace Construction.

Communities with construction practices that result in crawl spaces with interior floors up to 2 feet below grade have historically been in violation of the NFIP requirements. FEMA Technical Bulletin 11-01 now provides accommodation for these practices.

- Remove the following from “Lowest floor” definition in Section 2:
 2. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see “**Basement**” definition). This prohibition includes below-grade garages and storage areas.
- Add the following section into your ordinance at Section 5.1.C:

5.1.C.~~(X)~~ Crawlspace Construction.

This sub-section applies to buildings with crawl spaces up to 2 feet below grade. Below-grade crawl space construction in accordance with the requirements listed below will not be considered basements.

- a. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Crawl space construction is not allowed in areas with flood velocities greater than 5 feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer;
- b. The crawl space is an enclosed area below the BFE and, as such, must have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. For guidance on flood openings, see FEMA Technical Bulletin 1-93;
- c. Crawl space construction is not permitted in V zones. Open pile or column foundations that withstand storm surge and wave forces are required in V zones;
- d. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawl space used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE; and
- e. Any building utility systems within the crawl space must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions.
- f. Requirements for all below-grade crawl space construction, in addition to the above requirements, to include the following:
 1. The interior grade of a crawl space below the BFE must not be more than 2 feet below the lowest adjacent exterior grade (LAG), shown as D in figure 3 of Technical Bulletin 11-01;

2. The height of the below-grade crawl space, measured from the interior grade of the crawl space to the top of the crawl space foundation wall must not exceed 4 feet (shown as L in figure 3 of Technical Bulletin 11-01) at any point;
3. There must be an adequate drainage system that removes floodwaters from the interior area of the crawl space within a reasonable period of time after a flood event, not to exceed 72 hours; and
4. The velocity of floodwaters at the site should not exceed 5 feet per second for any crawl space. For velocities in excess of 5 feet per second, other foundation types should be used.

B. Mudslide (i.e., Mudflow) Prone Areas. (Zone M)

- Communities with mudslide prone areas shall insert the following:

1. Definitions to Section 2:

"Area of special mudslide (i.e., mudflow) hazard" is the area subject to severe mudslides (i.e., mudflows). The area is designated as Zone M on the Flood Insurance Rate Map (FIRM).

"Mudslide" describes a condition where there is a river, flow or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain.

"Mudslide (i.e., mudflow) prone area" means an area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.

2. Section **~~5.~~ Mudslide (i.e., Mudflow) Prone Areas**:

~~5.~~ Mudslide (i.e., Mudflow) Prone Areas.

- A. The Floodplain Administrator shall review permits for proposed construction of other development to determine if it is proposed within a mudslide area.
- B. Permits shall be reviewed to determine that the proposed site and improvement will be reasonably safe from mudslide hazards. Factors to be considered in making this determination include, but are not limited to:
 1. The type and quality of soils;
 2. Evidence of ground water or surface water problems;
 3. Depth and quality of any fill;
 4. Overall slope of the site; and
 5. Weight that any proposed development will impose on the slope.

- C. Within areas which may have mudslide hazards, the Floodplain Administrator shall require:
1. A site investigation and further review by persons qualified in geology and soils engineering;
 2. The proposed grading, excavation, new construction, and substantial improvement be adequately designed and protected against mudslide damages;
 3. The proposed grading, excavations, new construction, and substantial improvement not aggravate the existing hazard by creating either on-site or off-site disturbances; and
 4. Drainage, planting, watering, and maintenance not endanger slope stability.

C. **Erosion-prone areas.** (Zone E)

- Communities with erosion prone areas shall insert the following:

1. Definitions into Section 2:

"Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Insurance Rate Map (FIRM).

"Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical level or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusually and unforeseeable event which results in flooding.

"Flood-related erosion area" or **"Flood-related erosion prone area"** means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

"Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and floodplain management regulations.

2. Section "~~5.(X)~~ FLOOD-RELATED EROSION-PRONE AREA" into Section 5:

5.(X) FLOOD-RELATED EROSION-PRONE AREA

- A. The Floodplain Administrator shall require permits for proposed construction and other development within all flood-related erosion-prone areas known to the community.
- B. Permit applications shall be reviewed to determine whether the proposed site alterations and improvements will be reasonably safe from flood-related erosion, and will not cause flood-related erosion hazards or otherwise aggravate the existing hazard.
- C. If a proposed improvement is found to be in the path of flood-related erosion or would increase the erosion hazard, such improvement shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard.
- D. Within Zone E on the Flood Insurance Rate Map, a setback is required for all new development from the ocean, lake, bay, riverfront or other body of water to create a safety buffer consisting of a natural vegetative or contour strip. This buffer shall be designated according to the flood-related erosion hazard and erosion rate, in relation to the anticipated "useful life" of structures, and depending upon the geologic, hydrologic, topographic, and climatic characteristics of the land. The buffer may be used for suitable open space purposes, such as for agricultural, forestry, outdoor recreation and wildlife habitat areas, and for other activities using temporary and portable structures only.

Mono County Community Development Department

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January 10, 2013

TO: Mono County Planning Commission

FROM: Brent Calloway, CDD Analyst

RE: Parking Requirements Workshop

RECOMMENDATION

Conduct workshop and provide any desired direction to staff.

BACKGROUND

Chapter 6 of the General Plan, Land Use Element details the minimum parking standards required for new and expanding uses. In certain parts of the county, particularly the “main street” commercial portions of Bridgeport, Lee Vining and June Lake, these parking standards may discourage new investment, threaten the existing pedestrian scale of the communities, and prove counterproductive to the creation of thriving tourist-serving commercial districts. This workshop will examine the existing development standards, investigate current parking trends in similar communities, and discuss several options for modernizing the regulations including expanded provisions for shared parking, off-site parking, and alternative parking management strategies.

ATTACHMENT

- General Plan, Land Use Element, Chapter 6 – Parking

DEVELOPMENT STANDARDS

CHAPTER 06 – PARKING

Sections.

06.010	Minimum parking requirements.
06.020	Development.
06.030	Accessibility.
06.040	Tandem parking.
06.050	Parking size.
06.060	Parking layout.
06.070	Handicapped requirements.
06.080	On site.
06.090	Off site.
06.100	Joint use.
06.110	Minimum requirements.

06.010 Minimum parking requirements.

- A. The standards for providing parking shall apply at the time of erection of any main building or when off-site parking is established. These standards shall also be complied with when an existing building is altered or enlarged by the addition of dwelling units or guest rooms, or where the use is intensified by the addition of floor space, seating capacity, seats, or changed to a use requiring additional parking.
- B. No parking area or parking space which is provided for the purpose of complying with the provisions of this chapter shall hereafter be relinquished, reduced or altered in any manner below the requirements established herein, unless equivalent spaces are provided elsewhere, the location of which is approved by the Commission.

06.020 Development.

- A. Any land hereafter used for parking lots, or car or trailer sales lots shall be developed with paving, drainage and painting (lighting and wheel stops as determined by the Commission) according to the specifications of the county departments of Planning and Public Works.
- B. All parking spaces shall be paved except as shown in the Table 06.010.
- C. Modification of Requirements. The Planning Commission or Director may waive, modify or increase the parking and driveway standards of this section. The requirements in Table 06.010 are minimums.

06.030 Accessibility.

All parking spaces, whether in a garage or open area shall be located to be accessible and usable for the parking of motor vehicles. The minimum turning radius shall be 25 feet.

06.040 Tandem parking.

Tandem parking is prohibited for all multiple residential, commercial, and industrial projects.

06.050 Parking size.

- A. Covered parking. The minimum size of parking spaces shall be 9 feet in width by 20 feet in length.
- B. Uncovered parking. The minimum size of parking spaces shall be 10 feet in width by 20 feet in length; in areas below 7,000' in elevation, the parking stall dimensions may be reduced to 9' x 18'. If a finding of necessity can be made for parking spaces directly accessed from a street, then the length of the parking space shall be 33 feet.

06.060 Parking layout.

The method of providing parking shall be clearly shown on any site plan or building plan submitted for consideration.

06.070 Handicapped requirements.

- A. Individual handicapped parking
The minimum size shall be 14 feet wide lined to provide a 9-foot parking space and a 5-foot loading area, by 20 feet in length.
- B. Double.
For two handicapped parking spaces, the minimum size shall be 23 feet wide lined to provide two 9-foot parking spaces and one 5-foot loading area shared between the spaces.

All handicapped parking shall be signed with surface identification symbol and with either a wall mounted or freestanding sign in accordance with the provisions of Title 24, 2-33240.

All parking shall be designed and maintained to permit full utilization of all spaces shown on the submittal. Covered parking may be incorporated in the design of the main building or buildings or may be permitted in separate parking structures.

06.080 On site.

All parking spaces shall be on site unless provided in accordance with the provisions of Section 06.090.

06.090 Off site.

- A. When parking is to be provided off the regularly subdivided lot on which the structure or uses or portions thereof are located, the owner or lessee of record shall furnish satisfactory evidence to the Director that he owns or has available sufficient property to provide the minimum parking required by this chapter.
- B. When parking is to be provided on property other than that being developed or used, there shall have been recorded in the office of the county recorder, prior to the issuance of any permit to construct, erect, add to or alter, a covenant executed by the owners of the property for the benefit of the County in a form approved by the County Counsel to the effect that the owners shall continue to maintain such parking so long as such structure, improvement or use exists. Such covenant shall also recite that the title to and right to use the lots upon which the parking space is to be provided will be subservient to the title to the premises upon which the structure is to be erected or the use maintained and shall warrant that such lots are not and will not be made subject to any other covenant or contract for such use without the prior written consent of the County.

In the event the owners of such structure should thereafter provide parking space equal in area and under the same conditions as to ownership upon the lot or lots other than the premises made subservient in a prior such covenant, the County will, upon written application, accompanied by a filing of a similar covenant, release such original subservient premises from such prior covenant.

06.100 Joint use.

Joint use of parking facilities on the same site may be allowed under the following conditions:

- A. When there is no conflict at time of use;
- B. When there is sufficient parking for all uses at any particular time.

06.110 Minimum requirements.

The following off-street parking requirements shall apply to all buildings, new uses commenced and to any areas of expanded uses commenced after the effective date of this ordinance. For any uses not specifically mentioned herein, the Commission shall determine the number or amount of parking required. All facilities shall be on site unless specified differently.

TABLE 06.010: PARKING SPACE REQUIREMENTS

Land Use	Number of Parking Spaces Required
Single family residences, duplexes, & multi-family residences	Two spaces per unit (either covered or uncovered), plus two spaces for manager's unit. NOTE: In June Lake, single-family residences require three parking spaces.
Accessory Dwelling Units	Two spaces per unit, in addition to that required for the primary unit. The spaces shall be side by side, not tandem. Tandem parking may be considered if all other requirements are met (see § 16.050 F. Standards for Accessory Dwelling Units).
Guest parking for multi-family residences 4-50 units 51-150 units 151+ units	One space per each six units or fraction thereof, but not less than two spaces. One space per each eight units or fraction thereof, but not less than 8 spaces. One space per each 10 units or fraction thereof, but not less than 18 spaces.
Mobile-home parks	Two spaces per unit plus one guest space for each 10 mobile-home lots or fraction thereof.
Commercial lodging; e.g., motels, hotels, bed-and-breakfast, rooming & boarding houses	One space per each sleeping room plus one space for each two employees on largest shift, plus two spaces for managers unit. One extra space for each unit with kitchen.
Public assembly facilities; e.g., churches, community centers, lodges, theaters, auditoriums, arenas	One space for each four seats, but not less than one space for each 100 sq. ft. of floor area of the largest meeting room.
Elementary schools	One and one-half spaces for each classroom and office.
High schools	Two and one-half spaces for each classroom and office.
Hospitals	One space per bed plus one space per doctor, plus one space for each two employees on the largest shift.
Social care facilities	One space for each four beds or fraction thereof, plus one space for each two employees.
Health service facilities; e.g., medical and dental offices	Five spaces for each doctor or doctor's office.

TABLE 06.010: PARKING SPACE REQUIREMENTS - continued

Land Use	Number of Spaces Required
Retail stores, services and offices	One space for each 200 sq. ft. of gross leasable floor area but not less than two spaces for each occupancy; may be off site within 300' when approved by the Commission or Director.
Bulk retail sales with a minimum of 7,000 sq. ft. or greater	One space for each 650 sq. ft. of gross leasable floor area or fraction thereof; or one space for each 400 sq. ft. of gross leasable floor area or fraction thereof; may be off site within 300' when approved by the Commission.
Restaurants (fast food)	One space for each three seats; plus one space for each 17 sq. ft. of waiting (ordering) area, plus one space for each 40 seats or fraction thereof for fast food restaurants with a drive-up window; plus one space for each two employees on the largest shift or one space for each 250 sq. ft. of floor area not used for seating or assembly, whichever is larger.
Restaurants, bars, cocktail lounges	One space for each three seats, but not less than one space for each 100 sq. ft. of floor area where customers are served; plus one space for each 250 sq. ft. of floor area not used for seating or assembly, whichever is larger; plus one space for each employee on the largest shift
Service stations	Two spaces for each working bay plus one space for each employee on the largest shift.
Bowling alleys, billiard halls	Five spaces per lane and/or two spaces per table, plus one space for each two employees on the largest shift.
Warehousing, wholesale stores	One space for each 1,000 sq. ft. of gross floor area or fraction thereof; may be off site within 300' when approved by the Commission or the Director.
Manufacturing, industrial uses, heavy commercial use; e.g., lumber yards, cabinet shops, electrical, plumbing and heating shops, bottling plants, distribution centers, storage and warehousing	Minimum of two spaces for every three employees on the largest shift, but not less than one space for each 1,000 sq. ft. of gross floor area; may be provided off site within 300' when approved by the Commission.

TABLE 06.010: PARKING SPACE REQUIREMENTS - continued

Land Use	Number of Spaces Required																								
Car wash	One space per bay.																								
Shopping centers, malls	A single commercial development project can obtain a reduction of 20% of the number of parking spaces in excess of 200, provided 100 sq. ft. of landscaping, above and beyond other requirements is provided for each parking space reduced. Motels, hotels and combined commercial residential developments are specifically excluded from the described reduction.																								
<p>Handicapped parking</p> <ol style="list-style-type: none"> 1. Handicapped spaces count as a portion of the total number of parking spaces required. 2. Not applicable to existing facilities unless occupancy is changed. 3. Handicapped spaces shall be provided, designed and signed in conformance to Title 24 of the California Administrative Code. 	<table border="0"> <tr> <td>Total # of Parking Spaces</td> <td>Handicapped Spaces Required</td> </tr> <tr> <td>1 - 25</td> <td>1</td> </tr> <tr> <td>26 - 50</td> <td>2</td> </tr> <tr> <td>51 - 75</td> <td>3</td> </tr> <tr> <td>76 - 100</td> <td>4</td> </tr> <tr> <td>101 - 150</td> <td>5</td> </tr> <tr> <td>151 - 200</td> <td>6</td> </tr> <tr> <td>201 - 300</td> <td>7</td> </tr> <tr> <td>301 - 400</td> <td>8</td> </tr> <tr> <td>401 - 500</td> <td>9</td> </tr> <tr> <td>501 - 1,000</td> <td>2% of total</td> </tr> <tr> <td>1,001 and over</td> <td>20, plus one for each 100 over 1,000</td> </tr> </table>	Total # of Parking Spaces	Handicapped Spaces Required	1 - 25	1	26 - 50	2	51 - 75	3	76 - 100	4	101 - 150	5	151 - 200	6	201 - 300	7	301 - 400	8	401 - 500	9	501 - 1,000	2% of total	1,001 and over	20, plus one for each 100 over 1,000
Total # of Parking Spaces	Handicapped Spaces Required																								
1 - 25	1																								
26 - 50	2																								
51 - 75	3																								
76 - 100	4																								
101 - 150	5																								
151 - 200	6																								
201 - 300	7																								
301 - 400	8																								
401 - 500	9																								
501 - 1,000	2% of total																								
1,001 and over	20, plus one for each 100 over 1,000																								

NOTES

1. Density bonuses are available for enclosed, covered parking, including underground or understory parking.
2. Fractional parts from 0.5 to 0.9 may be rounded to the next higher number when calculating required spaces.
3. "Gross leasable floor area" or "gross floor area" means the total floor area, not counting hallways, bathrooms or storage/utility

TABLE 06.020: PARKING STANDARDS - STALL, SIZE, PAVING, STRIPING

PARKING STALL DIMENSIONS - minimum requirements	
Covered Parking, Carport	9' wide x 20' long.
Minimum turning radius	Must have a turning radius of at least 25'.
Uncovered Parking	10' wide x 20' long. Below 7,000' elevation, the required dimensions may be reduced to 9' x 18'. If a finding of necessity can be made for parking spaces accessed directly from a street, the required length of the parking space shall be 33'.
Individual Handicapped Spaces	13' wide, lined to provide an 8' parking space and a 5' access aisle; 20' long.
Double Handicapped Spaces	21' wide, lined to provide two 8' parking spaces and one 5' access aisle shared between the spaces; 20' long.

STRIPING REQUIREMENTS

All paved parking spaces shall be striped in accordance with the approved parking layouts shown in Figure 6.020.

All handicapped parking shall be signed with a surface identification symbol and with either a wall-mounted or freestanding sign in accordance with the provisions of Title 24.

PAVING AND DRIVEWAY IMPROVEMENT STANDARDS

All parking and driveway areas shall be paved except as provided for below. In areas 7,200' or greater in elevation, all parking and driveways shall be paved to facilitate snow removal. The Planning Commission or Director may waive, modify, or increase the parking and driveway improvement standards provided below. Driveways shall also comply with applicable provisions of the Fire Safe Standards in Chapter 22 and the county Roadway Standards.

A reduction of 20% of required surface paving shall be granted in areas that use pervious surface systems for exterior patios, driveways and parking areas. Additional increased reduction may be granted if engineered plans demonstrate a permeability factor greater than 20%.

TABLE 06.020: PARKING STANDARDS - STALL SIZE, PAVING, STRIPING - continued

Land Use	Lot Size	Paved Access Road	Dirt or Gravel Access Road
Single-family residential	Less than 1/2 acre	Asphalt or similar impervious surface	Graded dirt or gravel
Single-family residential	1/2 acre or more	Graded dirt or gravel	Graded dirt or gravel
Multiple-family residential	All sizes	Asphalt or similar impervious surface	Graded crushed rock or gravel
Commercial	All sizes	Asphalt or similar impervious surface	Graded crushed rock or gravel
Industrial	All sizes	Asphalt or similar impervious surface	Graded crushed rock or gravel
Parking lots, car or trailer sales lots	Shall be developed with paving, drainage & striping (lighting & wheel stops as determined by the Commission) according to the specifications of Planning Division and Department of Public Works.		

FIGURE 12: DESIGN AND DIMENSIONS OF PARKING FACILITIES

