



**CITY OF CORNING  
CITY COUNCIL AGENDA  
TUESDAY, FEBRUARY 24, 2009  
CITY COUNCIL CHAMBERS  
794 THIRD STREET**

A. **CALL TO ORDER: 6:00 p.m.**

B. **ROLL CALL:**

**Council:**

**Hill  
Turner  
Parkins  
Leach  
Strack**

**Mayor:**

The **Brown Act** requires that the Council provide the opportunity for persons in the audience to briefly address the Council on the subject(s) scheduled for tonight's closed session. Is there anyone wanting to comment on the subject(s) the Council will be discussing in closed session? If so, please come to the podium, identify yourself and give us your comments.

C. **ADJOURN TO CLOSED SESSION:**

**CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO SECTION 54957.6:  
Agency Negotiator: William May, Labor Relations Consultant  
Public Safety Employees Bargaining Unit**

D. **RECONVENE AND REPORT ON CLOSED SESSION:**

E. **ADJOURN TO SPECIAL MEETING: 6:30 p.m.**

**CITY OF CORNING  
CITY COUNCIL SPECIAL MEETING AGENDA  
TUESDAY, FEBRUARY 24, 2009  
CITY COUNCIL CHAMBERS  
794 THIRD STREET**

F. **CALL TO ORDER:**

**1. Team-Building Workshop for City Council.  
Facilitated by City Attorney Michael Fitzpatrick.**

G. **ADJOURN TO REGULAR MEETING: 7:30 p.m.**

H. **CALL TO ORDER: 7:30 p.m.**

I. **INVOCATION AND PLEDGE OF ALLEGIANCE:**

J. **PROCLAMATIONS, RECOGNITION'S, APPOINTMENTS:**

K. **NOLAN SCHLERETH, CORNING HIGH SCHOOL LIAISON REPORT:**

L. **BUSINESS FROM THE FLOOR:** If there is anyone in the audience wanting to speak on an item not already on tonight's Agenda, if so, please come to the podium, identify yourself and briefly present your information to the Council. **A three minute time limit will apply unless the Council makes an exception due to special circumstances.** If your matter will require more time or formal action by the Council, the law requires that it be placed on the printed Agenda for a future meeting so that interested members of the public will have the chance to appear and speak on the subject.

- M. **CONSENT AGENDA:** It is recommended that items listed on the Consent Agenda be acted on simultaneously unless a Councilmember or members of the audience requests separate discussion and/or action.
2. Waive reading, except by title, of any Ordinance under consideration at this meeting for either introduction or passage, per Government Code Section 36934.
  3. Waive the Reading and Approve the Minutes of the January 27, 2009 and February 10, 2009 Meetings with any necessary corrections.
  4. February 18, 2009 Claim Warrant - \$166,918.93.
  5. February 18, 2009 Business License Report.
  6. Annual Tehama County State Fair Exhibit Contribution from the City of Corning.
  7. Authorization to Record Tax Lien for Delinquent Transient Occupancy Taxes.
  8. Accept the Safe Routes to School Cycle 7 Project Notice of Substantial Completion and Approve Release of Contract Retention in the Amount of \$30,604.53.
- N. **ITEMS REMOVED FROM THE CONSENT AGENDA:**
- O. **PUBLIC HEARINGS AND MEETINGS:** Any person may speak on items scheduled for hearing at the time the Mayor declares the Hearing open. **ALL LEGAL NOTICES PUBLISHED IN ACCORDANCE WITH LAW.**
- P. **REGULAR AGENDA:**
9. Presentation of Recreation Survey by Recreation Supervisor Kim Beck and the Corning High School ROP Leadership Class.
  10. Program and Funding Review of Corning Chamber of Commerce and Tehama Economic Development Corp.
  11. CEQA Mitigated Negative Declaration; Blackburn Avenue Widening Project.
  12. Informational Item; Dedication of Public Property from HPT PSC Properties Trust; South Avenue Interchange Project.
  13. Review of City Public Nuisance Abatement Codes to Identify Needed Changes.
- Q. **ITEMS PLACED ON THE AGENDA FROM THE FLOOR:**
- R. **COMMUNICATIONS, CORRESPONDENCE AND INFORMATION:**
- S. **REPORTS FROM MAYOR AND COUNCIL MEMBERS:**
14. Hill:
  15. Turner:
  16. Parkins:
  17. Leach:
  18. Strack:

The **Brown Act** requires that the Council provide the opportunity for persons in the audience to briefly address the Council on the subject(s) scheduled for tonight's closed session. Is there anyone wanting to comment on the subject(s) the Council will be discussing in closed session? If so, please come to the podium, identify yourself and give us your comments.

T. **ADJOURN TO CLOSED SESSION:**

**PUBLIC EMPLOYMENT:**

**Pursuant to Government Code Section 54957:  
Continuation of City Manager Evaluation**

U. **RECONVENE AND REPORT ON CLOSED SESSION:**

V. **ADJOURNMENT!:**

**POSTED: FRIDAY, FEBRUARY 20, 2009**

ITEM NO. F-1  
TEAM-BUILDING WORKSHOP  
FOR CITY COUNCIL  
FEBRUARY 24, 2009

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: CITY ATTORNEY

RE: CITY COUNCIL WORKSHOP FOR TEAM-BUILDING

**RECOMMENDATION**

The City Attorney recommends that the City Council:

**Conduct a workshop towards refining the consensus on procedural norms and expectations among and between members of the City Council, the City Manager, and the City Attorney.**

**DISCUSSION and BACKGROUND**

Some years ago, the City Council developed a consensus on procedural norms and expectations for working together with the City Manager, City Attorney and amongst the members of the City Council by adopting Rules of Procedure which are still in effect.

As there are some newer members of the Council-Manager-Attorney team since the time these procedural rules were adopted, the City Manager and the City Attorney thought the Council would appreciate the opportunity to review and refine the expectations we have of one another. The goal is to seek to be the most professional, most accountable, and most respected team we can be.

The idea of working well together is *not* to seek to be of one mind on policy, strategy, or implementation issues. It's a hallmark of a democracy that our elected officials can, and many times do, disagree with one another on many aspects of any particular issue. In fact, the different backgrounds, experiences, and expertise we each have add significant value to the whole.

Instead, the goal of refining our procedural norms and expectations is to develop a consensus on *how* we go about working together. Recalling these agreed-upon procedural norms and expectations is especially important in times of genuine disagreements on policy and implementation strategies. When reasonable policy debate becomes unreasonable or personal, it shifts our focus away from serving the citizens of Corning, whom we all ultimately work for.

There are moral codes and teachings, some thousands of years old, that serve as guides as to how we ought to behave - treat others as we would have them treat us, love your neighbor as yourself, and that we can disagree without being disagreeable. Beyond desiring to maintain basic respect for one another, there should be a mutual commitment to honest, but respectful, communications. Good internal communications is one important key to heading off problems before they grow out of proportion to the issue at hand.

With this in mind, the City Manager and City Attorney recommend that the Council discuss how we might refine our ways of working together to become the most professional, most accountable, and most respected team we can be. Ideas for possible discussion about roles are:

- The proper role for the Mayor in running City Council meetings, in serving as general spokesperson for the City Council, and in demonstrating by good example respect and courtesy for other members of the City Council and for the City Council-appointed positions of the City Manager and City Attorney.
- The proper role of a Councilmember in advocating policy ideas and goals for the City, in recognizing and appreciating that the Council as a whole is a *group* decision-making body, for engaging in responsible policy debate, and, whether on the majority or minority side of a Council decision, to be gracious if on the majority side and to be respectful of the Council's decision if on the minority side.
- The proper role of the City Manager in serving the Council as a whole, while also supporting the Mayor and individual Council members so as to assist members become the most effective elected officials they can be, both individually and collectively.
- The proper role of the City Attorney in serving the Council as a whole, while also supporting the Mayor and individual Council members so as to assist members become the most effective elected officials they can be, both individually and collectively.

Finally, what we say in making our ideas known, and in responding to others' ideas, especially in public meetings, matters a great deal in our relationships. Norms and expectations could be discussed about the following types of items:

- The need for the Mayor to run an efficient City Council meeting while allowing adequate time for each Councilmember to fully express their thoughts, especially in contentious issues. (Typically, tired, late-night decision-making stresses Council and staff relationships – should there be a generally recognized consensus time after which the Council will generally agree that any remaining matters be continued to the next meeting?)
- The expectation about what is an efficient use of the “Council Reports” portion of the agenda. (Should members report on that which is directly City business, on boards and commissions on which the member is appointed? Should members report on political activities? On not for profit or community service in which the member participates?)

- Other possible amendments to the adopted City Council rules of procedure that address Council debate and decorum.
- Meetings of individual Council members with staff to obtain information concerning issues and the best methods of providing that same information to all members of the Council.
- Improving methods of responding to the public, before, during and after Council meetings.
- Procedures to use in “educating” Council members on more complex or confusing issues, ie. how to make sense of the City’s budget; the difference between restricted and general funds; the tools available to the City to address continuing nuisance abatement problems; how the City can become more “pro-active,” anticipating and preparing for issues (ie. marihuana issues, pornography issues) before they arrive; how best to position the City to participate in stimulus funds coming from the federal government; exploring the types of public-private relationships (with private enterprise, with colleges, with hospitals, etc.) which can help both public and private interests, etc.

<b>ATTACHMENT</b>
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1. Adopted City Council Rules of Procedure (not attached but available from City Clerk)

# CITY COUNCIL PROCEDURES FOR MEETINGS

## Meeting Schedule

Regular meetings are held in the Council Chambers of City Hall, 794 Third Street, Corning, California. Regular Council Meetings are scheduled for the second and fourth Tuesday evenings of each month or as otherwise established by resolution of the City Council in January of each calendar year. The public sessions of meetings begin at 7:30 p.m. with closed sessions generally being convened earlier as needed. No Council meeting will be held in the event that a regular meeting of the Council falls on a legal holiday or the day prior to a holiday.

Annual resolution may set dates of Council meetings.

## Special Meetings

Special meetings may only be called by the Mayor or by three members of the City Council. Written notice, unless waived, must be given to the City Council and to the media 24 hours prior to a special meeting (Cal Govt Code Section 54956). The call and notice of the meeting must be posted at least 24 hours prior to the meeting in a location freely accessible to members of the public. No business other than that announced may be discussed.

The Mayor or three Council members may call a special meeting.

24 hours advance notice required.

## Adjourned Meetings/Continued Hearings

Meetings of the City Council may be adjourned from time to time. A copy of the notice of adjournment shall be posted on or near the door to the Council Chambers within 24 hours after the time of the adjournment.

Meetings may be adjourned and continued to a later date if posted.

Any hearing may be continued to any subsequent meeting of the City Council but if it is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance shall be posted immediately following the meeting at which the hearing was continued.

Study sessions are permitted as are joint meetings with Planning Commission.

### Workshop or Study Sessions

The City Council may convene its own workshop or study sessions which are not designed to make decisions for the City but are designed to train Council and staff, study various issues and facilitate the exchange of information. Such workshops or study sessions may include the Planning Commission, staff members, consultants, and others and shall comply with all of the requirements of the Ralph M. Brown Act.

Public must be allowed to participate.

### Public Participation

At all regular and special meetings, public comments must be permitted before or during consideration of any agenda item. Public comment is appropriate on any matter within the jurisdiction of the City Council. A three minute time limit shall apply unless the Council makes an exception due to special circumstances.

72 hours posted notice required for regular meetings

### Notice/Minutes

Notice requirements of the Brown Act shall be complied with for all meetings (72 hours for regular meetings); minutes of the meeting shall be taken by the City Clerk or designee and shall be available for public inspection.

### Placing Items on Agenda

City Council: A Council member may request an item be considered on a future agenda and staff will prepare a staff report if formal Council action is required. Council members may make this request during the "Council Reports" portion of a meeting or between Council meetings with the Council Clerk prior to the adopted agenda deadline.

Council members, City Manager, City Attorney, or members of the Public may place items on the agenda.

City Manager/City Attorney: Either the City Manager or the City Attorney may place matters on the agenda without special permission from the City Council.

Members of the public: A member of the public may request an item be placed on a future agenda during the public comment period of a meeting or through other communication with Council members or with staff. If the City Council or City Manager consent, such item will be agendized. To be placed on the agenda, such an item will have to be submitted by the adopted agenda deadline with sufficient details to alert the public what will be discussed or requested.

Emergency items: Emergency and non-agendized items may be added to an agenda only in accordance with state law. Emergency items are only those matters affecting public health or safety such as work stoppages, disasters and other severe emergencies. Adding an emergency

Urgency items may be added in certain limited situations following posting of the agenda.

item requires a majority vote. Emergency items are very rare.

Urgency items: On occasion, after the agenda is posted an item arises on which the Council would like to act. Non-agendized items may be added to the agenda only if the Council makes findings that (1) the need to consider the item arose after the posting of the agenda and (2) that there is a need to take immediate action at this meeting of the City Council. These findings must be approved by a 4/5 vote; if less than four members of Council are present, the findings require a unanimous vote of those present.

Closed sessions may be conducted only for subjects specified in the Brown Act.

### Order of Business

The City Council establishes the general order of meetings. This section summarizes each meeting component.

1. Closed sessions (closed to the public).

! Real Property negotiations

The ability of a City Council to conduct sessions not open to the public is restricted by state law to ensure open proceedings. Certain defined circumstances exist wherein a City Council may meet without the public in attendance. Such circumstances include:

! Litigation

a. Real Property: Closed sessions to discuss the purchase, sale, exchange or lease of real property may be conducted. The location of the real property and the identities of the City's negotiator; and the person(s) with whom the City may negotiate must be announced in open session prior to the closed session (Cal Govt Code Section 54956.8).

b. Litigation: Closed sessions may be conducted to discuss pending litigation or a significant exposure to litigation, or the decision to initiate litigation. The litigation or title must be identified in open session prior to the closed session unless the Council states that to do so would jeopardize its ability to conclude existing settlement negotiations or serve legal documents (Cal Govt Code Section 54956.9).

! Labor Negotiations  
(Ameet and confer@)

! Personnel

c. Compensation (salaries and benefits) of employees: Closed sessions may be held to discuss employee compensation; to review the City's position and instruct designated representatives (Cal Govt Code Section 54957.6).

Contents of discussion within closed sessions shall not be disclosed.

d. Personnel: Closed sessions are allowed to discuss the appointment, employment, evaluation of performance, or dismissal of a public employee, or to hear complaints against the employee unless the employee requests a public hearing (Cal Govt Code Section 54957).

e. Confidentiality: Members of the Council, employees of the City, or anyone else present shall not disclose to any person the content or substance of any discussion which takes place in a closed session unless authorized to do so by the Council or required by court order or provisions of law.

f. Scheduling: Typically closed sessions will be scheduled prior to the public portions of the meeting. This is done so that public portions of the meeting are not interrupted by closed sessions. In addition, such sessions may require the attendance of special legal

Closed session announcements are required both before and following each closed session.

counsel and consultants. In an attempt to manage the costs of these professionals, it is beneficial to conduct closed sessions at a set time.

g. Announcements: Prior to each closed session, the purpose of the closed session shall either be announced from the dais or by reference to the published agenda.

Immediately after each closed session an announcement shall be made from the dais either (1) summarizing any reportable action taken in closed session or (2) stating that no reportable action was taken. When no reportable action was taken, it is advisable to announce the general nature of the business conducted in closed session to enhance public confidence in the process.

Proclamations do not require voting unless there is an objection raised.

## 2. Proclamations, Appointments, Recognitions, Presentations.

This is the time for Council proclamations, presentations, and for special recognition of persons, organizations, activities, and events. Unless any Council member objects, in which case a vote is required, proclamations will be read aloud and considered adopted by consensus of the entire Council.

## 3. Public Participation.

a. Scheduled Citizens: Persons who have, by the deadline set for the agenda, requested to address the Council are usually given the opportunity to do so at this time. The subject they wish to discuss is identified on the agenda and any supporting materials are usually sent out with the agenda packets to the Council members.

Lengthy non-agendized items should be considered at the end of the agenda.

b. Public Comment on Non-Agendized Items: This is the time for members of the public to address the Council on non-agendized matters. If the matter is expected to take more than five minutes, it should be moved to the end of the regular agenda. The purpose for this is to avoid inconveniencing those who have planned ahead and taken the necessary steps to have their issues properly agendized. Persons who wish to raise non-agendized items should be cautioned that in most cases the Brown Act prohibits the Council from taking formal action on the item but that they will be heard and then the matter will be referred to staff for appropriate follow-up and usually agendized for the next meeting if formal Council action is necessary.

The public should be invited to comment on all items, even if no public hearings are scheduled.

c. Public Comment on Agendized Items: The Brown Act requires that the public be given the opportunity to address the Council on all matters on the agenda (matters to be discussed in either open or closed session, but not the right to enter the closed sessions) before action is taken on those items. At the beginning of each meeting, the Mayor should inform persons in the audience that they are welcome to come forward to the podium and wait to be recognized if they wish to address the Council on any items under discussion.

Time limits may be placed on speakers, but criticism of the City and its officials may not be restricted.

d. General Rules for Public Participation: No member of the public may be required to provide an address as a precondition to participation but they may be invited to do so voluntarily so that the Clerk will be able to get in touch with them if necessary. Reasonable time limits may be placed on each speaker

and limits may be placed on the number of times each person is allowed to speak. Speakers are limited to three minutes unless the Council makes an exception due to special circumstances. Speakers may be directed not to use profanity or make personal attacks on Council members or staff, but speakers cannot be restricted from being critical of Council, staff or other public officials. They may not be prohibited from "criticizing the policies, procedures, programs or services of the City or the acts or omissions" of City officials.

#### 4. Approval/Correction of Minutes.

Minutes of the City Council meetings shall be submitted to the Council for approval and/or correction in draft form at a subsequent regular meeting. It is the policy of the City Council that only members of the Council and the City Clerk have the authority to make revisions to the minutes subject to a majority vote of the City Council. Council members having only typographical corrections to minutes are encouraged to provide such corrections to the City Clerk directly and need not wait to submit such corrections at a meeting.

Council members or members of the public may remove items from the consent calendar for discussion.

#### 5. Consent Calendar.

Those items on the Council agenda which are considered to be of a routine and non-controversial nature by the City Manager are placed on the "Consent Calendar". These items shall be approved, adopted, accepted, etc., by one motion of the Council. For example, final reading and adoption of ordinances, various resolutions approving agreements, minor budgetary items, status reports, and routine city operations are usually on the consent agenda.

the consent agenda.

Council members or members of the public may request that any item listed under "Consent Calendar" be removed from the Consent Calendar, and Council will then take action separately on this item. An item does not have to be pulled from the consent calendar to register a dissenting vote.

Items which are removed ("pulled") by members of the Council for discussion will typically be heard immediately following adoption of the Consent Calendar unless the Council chooses to move such items to a later place in the agenda.

Minor questions: A Council member may ask questions on any item on the Consent Calendar. When a Council member has a minor question for clarification concerning a consent item which will not involve extended discussion, the question will be addressed before adoption of the Consent Calendar. Council members are encouraged to seek clarifications prior to the meeting, if possible.

No vote: When a Council member wishes to pull an item simply to register a dissenting vote, the Council member shall inform the presiding officer that he or she wishes to register a dissenting vote without discussion. This item will be handled along with the rest of the Consent Calendar, and the City Clerk will register this member's "no" vote in the minutes on this particular item even though such member then votes to approve the Consent Calendar.

A standard procedure should ordinarily be followed when conducting public hearings.

## 6. Public Hearings.

The City Council schedules "public hearings" from time to time on various issues, usually because of legal requirements that special opportunities

to be given to the public, or to certain segments of the public specially affected by the matter, to listen to the discussion and to provide input to the Council before a decision is made.

When a public hearing is scheduled, staff should be asked to present a staff report first; then the public hearing should be opened and the public should be invited to speak; then the public hearing should be closed and the matter returned to the Council for discussion and action.

Once the public hearing has been closed, persons from the audience should not be allowed to participate in the Council discussions unless in response to a specific question posed by a member of the Council to someone in the audience.

Although it is proper to do so, there is no legal requirement to structure the public hearing so that proponents of the measure or project speak first followed by those in opposition with a conclusion [or rebuttal] by the proponents. However, if the Mayor or Council prefers to conduct the hearing in this manner it may prove useful to do so when there are several different speakers and extended debate.

#### 7. Regular Business Items.

Regular items are shown on the agenda in the order they will be considered unless, before discussion of regular agenda items begins, a motion is made and passes which will change the order of the agenda to accommodate a request and to change the order of the agenda.

#### 8. Staff and Council Reports.

The order of the agenda may be changed.

Staff and Council reports should be brief and no formal action should be requested in such reports.

This time on the agenda provides members of the Council an opportunity to briefly discuss matters not specifically agendized including brief announcements, questions of staff and requests for items to be placed on the agenda at a future meeting. Examples of appropriate communications would be sharing of information of general interest received from outside agencies, sharing comments or inquiries received from individuals or from the public, raising requests to agendize future items, making reports of his or her own activities or making announcements of general interest to the public.

The Vice-Mayor shall be selected by seniority and serve a two year term.

State law provides that Council can take action only on such matters which have been noticed at least three days in advance of the meeting unless special circumstances are found to exist (as mentioned above). Formal action or approval on non-agendized items is not allowed and such items should normally be placed on the agenda of the next regular meeting if formal Council action is required.

## General Procedures of the Council

### 1. Vice-Mayor: Rotation.

The Council shall select a Vice-Mayor from its membership by seniority (time in office) with the position being held for a two year term. The selection shall be held bi-annually at the regular Council meeting held on the first Tuesday in December. Vacancies in such positions shall be filled by the Council in the same manner for the unexpired portion of the term.

The Mayor makes unilateral appointments subject to Council approval or disapproval.

## 2. Duties of Presiding Officer.

The Mayor is the presiding officer and acts as the Chair at all Council meetings. In the absence of the Mayor, the Vice-Mayor serves as the presiding officer. The Mayor states every question coming before the Council before it takes action, announces the decision of the Council on each vote, maintains order during the meetings, conducts any public hearings, explains the purpose and order of the proceedings to the public in attendance, greets and thanks all participants and, with the assistance of the City Attorney, decides questions of order. The Mayor also makes any legally required announcements including, but not limited to, the announcements required by the Brown Act.

The Mayor appears at public functions to represent the City unless the Council designates another person to do so with regard to a specific event.

The Mayor has authority to unilaterally make appointments to committees, commissions and boards subject to Council approval or disapproval. Council member appointments to committees, commissions and boards do not require Council action.

## 3. Signing of City Documents.

The Mayor, unless unavailable, shall sign all ordinances, resolutions, contracts and other documents which have been adopted by the City Council and require an official signature except in those cases where the City Manager or another individual has been specifically authorized by Council action to sign particular documents. In the event the

The Mayor signs all official documents unless the Council designates someone else to do so.

3/5 is a quorum.

Agendas must be posted at least 72 hours before each Council meeting.

Mayor is unavailable, the Vice-Mayor is authorized to sign on behalf of the City in his or her place.

4. Quorum.

Three-fifths of the Council members constitutes a quorum for the transaction of business.

Closed session announcements are legally required.

5. Distribution of Agenda and Written Materials.

At least 72 hours prior to regular meetings of the Council (and 24 hours prior to any special meetings), an agenda must be posted which contains a brief general description of each item to be transacted or discussed at the Council meeting. Copies of that agenda will be mailed before each meeting to each Council member and to members of the public and the press who have requested to receive copies.

Closed sessions are confidential.

Writings which are public records distributed during Council meetings shall be made available to the public in attendance at that same meeting if such documents were prepared by City staff or City officials. If prepared by some other person, copies of such documents will be made available following the meeting. A reasonable fee may be charged to offset the actual cost of making such copies.

6. Closed Session Procedures and Announcements.

Prior to any closed session, the Mayor or his or her designee shall generally describe the subjects to be discussed in such session or shall refer the public to the numbered item on the

The Mayor directs the meetings. Direct questioning of staff from members of the public should be avoided.

agenda which describes the subject.

At the conclusion of each closed session, the Council shall reconvene and the Mayor shall announce any final decisions made on subjects required to be reported or, if there are no such subjects, shall generally describe what the Council did in closed session without compromising the integrity and confidentiality of what was discussed.

Council members, outside of closed session, shall not inform others about the content of any closed session discussions or decisions unless authorized to do so by the Council or required to do so by court order or provisions of law.

7. Discussion and Voting Rules.

Discussion:

a. Obtaining the floor: A member of the City Council or staff shall first address the Mayor and gain recognition. Comments and questions should be limited to the issue before the Council. Members of the public should not be allowed to directly question staff members in attendance but all such questions should be addressed through the Mayor for response.

b. Questions of staff: The Mayor, or any member of the Council upon being recognized by the Mayor, may direct questions to any member of the staff who is in attendance.

c. Interruptions: Once recognized, a Council member should not be interrupted while speaking except to

Robert=s Rules have been simplified--See attached chart.

All Council members not abstaining must vote.

Silence is a Ayes@ vote.

Motions die without being seconded.

A member seconding a motion isn=t indicating he or she favors such motion.

The Mayor may make or second motions.

make a point of order or personal privilege. If a Council member is called to order while speaking, the individual should cease speaking until the question of order is determined.

d. Tabling procedures: A motion to table immediately stops discussion and causes a vote to postpone the matter indefinitely or to a date and time certain.

Voting:

e. Procedures used for motions:

The Council follows a simplified version of Robert's Rules of Order. Those rules are summarized in a chart attached hereto and are hereby adopted as governing the precedence and administration of motions.

If a member abstains, he or she should explain why and then leave the Chambers.

f. Requirement to vote: All Council members present who are not abstaining are required to vote. It shall be the duty of the recording clerk to ensure that a vote is taken on every matter requiring formal action and that each and every non-abstaining member actually casts a vote which such clerk then records in the minutes of the meeting. Silence when a vote is called for shall be interpreted as a Ayes@ vote.

g. Requirement of a second: A second is required on all matters before they can proceed to a vote. If no second is received, the motion dies for lack of a second. Seconding a motion does not indicate or imply that the member doing so will vote in favor of the motion. It simply allows the matter to be discussed and proceed to a vote.

Tie votes leave the status unchanged.

h. Motions and votes by presiding officer: The presiding officer, whether it be the Mayor or Vice-Mayor or

whether it be the Mayor or Vice-Mayor or any other member of the Council, is allowed to make and second motions and to cast votes in the same manner as any other member of the Council.

Tie votes on appeals are the equivalent of a denial of the appeal.

i. Roll call votes: Any member of the Council may request that a matter being voted on be handled by roll call vote. Upon such a request being made, the clerk shall poll the Council and record the votes being cast.

j. Right of protest: A Council member is never required to state the reason for a dissenting vote.

k. Disqualification and abstention from voting: Members of the Council are required to vote on all matters coming before the entire Council for a vote unless an individual member is disqualified due to a conflict of interest as defined in the City's "Conflict of Interest Code". If a member has a question whether or not he or she has a conflict, he or she should discuss that issue with the City Attorney or seek advice from the Fair Political Practices Commission before the meeting whenever time permits. If a member abstains due to a conflict, he or she shall state the general nature of the conflict so that the audience is aware of what is occurring and then he or she shall leave the Council chambers until the matter then before the Council has been resolved.

Some actions may be taken by consensus.

l. Tie votes: A tie vote is equivalent to a vote which has failed. A tie vote to grant or approve something doesn't represent consent nor does it represent denial of permission to act. It leaves the status unchanged and, if the proponent of the action requires

Most actions require a vote on

the proponent of the action requires permission to move forward, he or she has simply failed to obtain it. a motion, resolution, or ordinance.

On the other hand, a tie vote to deny or disapprove something does not represent either approval or denial. It also leaves the situation unchanged and, if the proponent of the action requires permission to move forward, he or she has again failed to obtain it. Resolutions require at least 3 votes in favor of adoption.

If a tie vote occurs on an appeal of an action coming up from the Planning Commission, the appeal has neither been granted nor denied. Since the status quo is unchanged, the end result is the equivalent of a denial of the appeal since the appellant in order to overturn the action taken by the Planning Commission must obtain some action at Council level. A tie vote is the equivalent of no action, except insofar as it satisfies the legal requirement that the matter be presented to the Council for consideration. Ordinances require at least 3 votes in favor of adoption.

If a tie vote occurs with the fifth member of the Council absent from the meeting and not due to the abstention of such member, the matter will automatically be continued until the next Council meeting when such member can be present to cast a vote unless there is a time limit imposed by law which precludes such a continuance.

m. Public participation following a motion: Public participation in the discussion should be avoided in most cases after a motion has been made unless it is specifically invited by a member of the Council.

Proper to take positions on Alegislative@ matters at any time.

8. Consensus, Motions, Resolutions and Ordinances.

a. Consensus: Occasionally it is appropriate for the Mayor to simply request a "consensus" of the Council on routine issues such as referring matters to staff without taking a formal vote. Proclamations are considered to be adopted by consensus without a vote unless any member of the Council requests a vote be conducted.

b. Motions: Most actions of the City Council may be taken by motion on a voice vote. With some exceptions, motions pass upon the affirmative vote of a majority of the members voting. For example, if two members are absent or abstain from voting, a 2-1 vote is sufficient to adopt most motions.

c. Resolutions: Resolutions are a more formal way of memorializing actions of the City Council. A resolution, rather than a motion, is only necessary when required by law and requires at least three votes for approval. Condemnation resolutions require the affirmative vote of at least four members.

d. Ordinances: With the exception of urgency matters, ordinances cannot be adopted until at least five days following their introduction and can only be adopted at a regular City Council meeting. Changes to an ordinance once introduced, except for minor clerical changes, require the ordinance to be reintroduced and at least five more days to pass before adoption. Ordinances require the affirmative vote of at least three Council members. Ordinances do not have to be read in full at the time of

Quasi-Judicial matters require members to avoid considering information except when presented during the hearing.

AFindings@ are usually required to be made to support quasi-judicial decisions.

introduction or adoption (they may be read by "short title" only) if the Council votes to read only the title. The Council usually votes to do so as one of the items on its "Consent Calendar." Ordinances become effective 30 days after their adoption except for urgency ordinances, ordinances calling elections, improvement proceeding ordinances and certain other ordinances which take effect immediately.

#### 10. Rules for Hearings.

a. Legislative Matters: When the Council has a "legislative" matter before it, the individual Council members may investigate the issue before the meeting, discuss the matter with whomever they wish and, if they consider it politically expedient, even announce their "position" on the issue before the meeting of the entire Council. They, of course, cannot seek a consensus on the issue before the meeting by contacting a majority of the other members of the Council [either personally or by contacting one and, in turn, having that one contact another ("seriatim meetings")].

b. Quasi-Judicial Matters: When the matter coming before the Council is of a "quasi-judicial" nature (i.e. appeals from Planning Commission matters such as use permits; consideration of tentative parcel maps; etc. ), the individual members of the Council must scrupulously avoid discussing such matters with proponents, opponents or others before the meeting. If any Council member happens to receive information outside of the meeting which

such member will take into account in making a decision, he or she must report that information to the rest of the Council in public during the discussion period.

If FINDINGS are required to be made, Council members should be careful to declare precisely what evidence they have considered which allows them to make the required findings. In doing so, they can refer to information in the staff report and adopt that information as a part of their motion. However, they should keep in mind that the staff report was prepared prior to the public hearing and that new information not previously known to staff may come out during the hearing. Council may rely on staff to outline what findings are required to be made to support a particular motion, but the Council itself is responsible to state on the record what facts it has considered which supports each of the required findings.



**CITY OF CORNING  
CITY COUNCIL MINUTES**

**TUESDAY, JANUARY 27, 2009  
CITY COUNCIL CHAMBERS  
794 THIRD STREET**

**A. CALL TO ORDER: 7:30 p.m.**

**B. ROLL CALL:**

**Council:**

**Hill**

**Turner**

**Parkins**

**Leach**

**Strack**

**Mayor:**

All members of Council were present.

**C. INVOCATION AND PLEDGE OF ALLEGIANCE:**

Councilor Leach gave the invocation and City Manager Stephen Kimbrough led the Pledge of Allegiance.

**D. PROCLAMATIONS, RECOGNITION'S, APPOINTMENTS: None.**

**E. NOLAN SCHLERETH, CORNING HIGH SCHOOL LIAISON REPORT:**

Nolan Schlereth, Corning High School Liaison updated the Council on the High School basketball teams, and stated that the soccer team is currently undefeated. He also stated that the Basketball Homecoming is Friday night.

**F. BUSINESS FROM THE FLOOR:**

**Noble Engle:** Stated that he owns a 10-acre property on Palm Avenue and proposes to use this property for solar power generation. He stated he was seeking a "feel" from the Council on this proposed use. Mr. Engle stated that this possible project would benefit the City, and would require no water or sewer usage. He would provide security fencing.

**Joe DeScala:** Presented a copy of the back page of the City's Encroachment Permit for 2120 Loleta Avenue signed by Dewey Lucero and copies of various emails between himself and Public Works Director John Brewer to members of Council. Mr. DeScala then stated he would like to clarify what construction requirements are necessary for the driveway approach at 2120 Loleta in order to satisfy the City under the terms of the Encroachment Permit.

**Gene May:** Approached the Council regarding neighboring property stating the vacant lot has tarps over fence with a "Tent City" appearance. He stated he isn't finding any assistance from the City Council. He stated that we need a stronger public nuisance ordinance with a timeframe to clean the property, and a penalty if not done by that time. He added that this will be his last effort tonight. Mr. May stated that it is time to look for a new City Manager, City Attorney, and Police Chief and stated that he will seek assistance from another agency outside the City that may bring some help. Councilor Leach responded asking if a citation is issued, what is the timeframe for action, and Councilor Parkins requested a report on the existing public nuisance ordinance at the next meeting. Fire Chief Spannaus stated that he has been to Mr. Turner's business and spoken with him regarding a prior complaint about his business on Solano Street, and Mr. Turner has taken steps to clean up the front of his business.

**Dean Cofer:** A couple of years ago he was at a meeting at the High School regarding mandatory garbage, which he was opposed to. He asked all to drive by the location Gene May is speaking about and requests that the City get their ordinance people out there and do something about this.

Numerous members of the Community (**Corine Maday, Beth Birk (Tehama County Dept. of Education Recreation Specialist for SERF), Bud Gott, CUESD Superintendent Stephen Kelish, and High School Teacher/ROP Instructor Jeff Nelson**) voiced their support for Recreation Director Kim Beck and the Recreation Department stating that she is doing an excellent job. Mr. Gott also stated that he strongly opposes reducing funding to the Recreation Department and the Chamber of Commerce. He stated that the Chamber of Commerce ranks up there with the City Council when it comes to trying to perpetuate, promote and come up with results which are positive and desirable for the City and it is vital to the Community. Mr. Kelish stated that the Corning Elementary School is still committed to supporting the Recreation District and will not charge for the Recreation District or any group for the use of School Facilities. He also spoke about the new uniform program to be initiated at the Elementary School District next year.

Mayor Strack thanked the School's for their support of the Recreation Department.

**G. CONSENT AGENDA:** It is recommended that items listed on the Consent Agenda be acted on simultaneously unless a Councilmember or members of the audience requests separate discussion and/or action.

1. **Waive reading, except by title, of any Ordinance under consideration at this meeting for either introduction or passage, per Government Code Section 36934.**
2. **January 23, 2009 Claim Warrant - \$211,606.31.**
3. **Business License Report – January 23, 2009.**
4. **Ordinance No. 633; Rezone No. 2008-2, An Ordinance Amending the Minimum Height, Bulk and Space Requirements for Residential Zoned Parcels. (Second Reading)**
5. **Approve Re-Allocation of Indian Gaming Funds.**

Mayor Strack introduced items listed on the Consent Agenda by title and asked if any member of Council or the audience would like an item pulled for further discussion; with no response he called for a motion on these items. Councilor Hill moved to approve Consent Items 1-5 and Councilor Leach seconded the motion. **Ayes: Strack, Hill, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None. Motion approved by vote of 5-0.**

**H. ITEMS REMOVED FROM THE CONSENT AGENDA:** None.

**I. PUBLIC HEARINGS AND MEETINGS:** None.

**J. REGULAR AGENDA:**

6. **Presentation and Acceptance of Annual City Audit for Fiscal-Year 2007-2008.**

After Mayor Strack introduce this item by title, Don Reynolds, CPA and City Auditor presented the Annual City Audit for Fiscal-Year 2007-2008. Mr. Reynolds stated line items are normal to go over and under, this City is in good hands with City CPA Roy Seiler. He explained and discussed the letter contained in the audit (pages 1-4 of the audit). Mr. Reynolds informed the Council of no difficulties in the audit stating that the City's CPA Roy Seiler keeps everything in order.

Councilor Turner asked Mr. Reynolds if it was a common practice of his company not to furnish a management letter accompanying the audit stating that there have been errors in the past corrected, or corrected criticisms, or problems that may rear there ugly heads. Mr. Reynolds stated not only is it policy, it is required now by statements on auditors standards (stads) 112 and 113. He stated that it wasn't included because of the short period of time between the time audit was

approved and time that the meeting was scheduled. Mr. Reynolds complimented City CPA Roy Seiler and City Finance Staff. He noted that there were no significant deficiencies.

Councilor Parkins moved to receive and accept the Annual Audit for Fiscal Year Ending June 30, 2008. Councilor Hill seconded the motion. **Ayes: Strack, Hill, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None. Motion approved by a vote of 5-0.**

#### **7. Mid-Year Budget Review and General Discussion.**

Mayor Strack introduced this item by title. City Manager Kimbrough stated that the City General Fund is proceeding as we had expected, we have not yet received the vehicle registration, property tax revenues, or the revenues from the "Triple Flip". He stated that the sales tax revenues were a little higher than last year and the TOT (Transient Occupancy Tax) is a little low because of a delinquent Hotel not current on their TOT's.

Councilor Turner asked the length of time before the City notifies the Hotel owner of the delinquency; City Manager Kimbrough stated they are contacted the same month, immediately. He stated that the City continues to work with the Hotel owner to bring them current on their TOT's. The Finance Department has the Delinquent Hotels pay their TOT's monthly, rather than the standard quarterly payments until current on payments.

City Manager Kimbrough reported that the General Fund is \$200,000 lower than last year. In reference to funding received from the State, Mr. Kimbrough stated that no one can predict what the State will do at this point.

Mayor Strack stated that with the Flying J reimbursement for street improvements paid; those funds should be noticed in the next budget year, City Manager Kimbrough stated it should be an estimated a \$110,000.

City Manager Kimbrough complimented City Contracted CPA Roy Seiler and the Finance Department for their work.

Councilor Turner asked the status of the COPS Funding. City Manager Kimbrough responded stating they are sending the revenues quarterly now instead of annually.

**Discussion item only, no Council action required.**

#### **8. Report on City Employee Salaries and Benefits.**

Mayor Strack introduced this item by title stating this was information requested by a member of the City Council.

**Discussion item only, no action required of the Council.**

**K. ITEMS PLACED ON THE AGENDA FROM THE FLOOR: None**

**L. COMMUNICATIONS, CORRESPONDENCE AND INFORMATION:** Mayor Strack announced that Saturday, January 24<sup>th</sup> an electronic waste dump site will be held at the Tehama County Social Services parking lot, on February 6<sup>th</sup> Olive View is having a ribbon cutting. Curriel Orchards provided a statement on the Olive Crop at Woodson Park, they have donated all proceeds (\$264) minus the picking costs.

**M. REPORTS FROM MAYOR AND COUNCIL MEMBERS:**

**9. Hill:** Reported on her attendance at the Admin. Service Policy meeting, she provided information to City Attorney Mike Fitzpatrick who will prepare a report on some of the information she received at this meeting. She discussed FPPC rules regarding gifts. She also stated that the Senior Center serves many people and suggested the Council consider purchasing additional plates, bread saucers and spoons for the Center, with a cost of roughly \$1,000. Mayor asked if the Senior Center has remaining Ridell funds

remaining that could possibly fund this; City Manager Kimbrough stated that he believes they are using these funds for cash flow, however we can request budget information from the Center and prepare a Staff Report.

10. **Turner:** Reported on his final attendance as the City's representative at the JPA II meeting, he now serves as the City's representative to LAFCO and will be attending those meetings. During discussion of the JPA II meeting it was stated that the City needs a place to recycle batteries, Council directed Staff to look into a recycling location for batteries.
11. **Parkins:** Thanked the City for sending her to the League Training and stated her wish to assist Mr. May.
12. **Leach:** Reported that he had attended his first League Conference, received training in Public Officials Code of Ethics.
13. **Strack:** Spoke about scheduling Ethics training for City Council and Staff.

**N. ADJOURN TO CLOSED SESSION: 8:57 p.m.**

**PUBLIC EMPLOYMENT:**

**Pursuant to Government Code Section 54957:  
City Manager Evaluation**

**O. RECONVENE AND REPORT ON CLOSED SESSION: 9:55 p.m.**

Mayor Strack reconvened the meeting and Councilor Hill read the following statement:  
During the closed session, a vote was taken to place City Manager Stephen Kimbrough on administrative leave (allowed by City Ordinance 609 adopted in May of 2004). This action can only be taken 90 days following the last election of new council members (Nov. 4, 2008) which would be February 4, 2009. Therefore this action would release him of his position 30 days following afore mentioned date of February 4, 2009. A vote was taken and counted as follows:

Ross Turner:	Yes
Becky Hill	No
Toni Parkins	No
John Leach	Yes
Gary Strack	No

Council then scheduled a closed session to further evaluate and bring back goals for the City Manager at the February 10, 2009 City Council Meeting.

**P. ADJOURNMENT!: 10:00 p.m.**

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**Lisa M. Linnet, City Clerk**



**CITY OF CORNING  
CITY COUNCIL MINUTES**

**TUESDAY, FEBRUARY 10, 2009  
CITY COUNCIL CHAMBERS  
794 THIRD STREET**

**A. CALL TO ORDER: 6:30 p.m.**

**B. ROLL CALL:**

**Council:**

**Hill  
Turner  
Parkins  
Leach  
Strack**

**Mayor:**

All Council members were present.

**Public Comment:**

**Dean Coffey:** Spoke regarding the negotiations with the Police Unit, stating he believes the City should consider longevity pay, limited retirement benefits for the interim between retirement and qualifying for Social Security, and contract with Officers whose attendance at the Academy is paid for or subsidized by the City that stating they will work for the City for a certain number of years or pay the City back for Academy Funding expenses.

**Bucky Bowen:** Would like to see something that will address issues to encourage retention of the Police Officers.

**C. ADJOURN TO CLOSED SESSION: 6:33 p.m.**

**CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO SECTION 54957.6:  
Agency Negotiator: William May, Labor Relations Consultant  
Public Safety Employees Bargaining Unit**

**D. RECONVENE AND REPORT ON CLOSED SESSION: 7:30 p.m.**

Mayor Strack stated that the Council met in Closed Session and gave the Labor Negotiator direction.

**E. INVOCATION AND PLEDGE OF ALLEGIANCE:**

Councilman John Leach gave the invocation and City Manager Stephen Kimbrough led the Pledge of Allegiance.

**F. PROCLAMATIONS, RECOGNITION'S, APPOINTMENTS: None**

**G. NOLAN SCHLERETH, CORNING HIGH SCHOOL LIAISON REPORT:**

Congratulated Jessica Flores for becoming the Homecoming Queen. He stated that today was the first day of Spirit Week and this Friday is Basketball Homecoming.

**H. BUSINESS FROM THE FLOOR:**

**Joe DeScala:** Addressed the Council stating that he has spoken with the City Attorney regarding the approach for his property off of Loleta Avenue.

**Gene May:** Addressed the Council related to rumors from Steve Kimbrough to Council about pictures he has taken of other people's property.

**I. CONSENT AGENDA: It is recommended that items listed on the Consent Agenda be acted on simultaneously unless a Councilmember or members of the audience requests separate discussion and/or action.**

1. Waive reading, except by title, of any Ordinance under consideration at this meeting for either introduction or passage, per Government Code Section 36934.
2. Waive the Reading and Approve the Minutes of the January 13, 2009 Meeting with any necessary corrections.
3. January 2009 Wages and Salaries - \$481,536.34.
4. February 4, 2009 Claim Warrant - \$148,768.73.
5. Business License Report – February 4, 2009.
6. January 2009 Treasurer's Report.
7. January 2009 Building Permit Valuation - \$542,914.
8. City of Corning Wastewater Operation Summary Report – January 2009.
9. Tehama County Transportation Commission Agreement to Reimburse City for Installation of Bus Shelters and Benches.
10. Approve Progress Pay Estimate 4 for \$45,893.50 to Thomas Williams Construction for the Safe Routes to School Cycle 7 Project.

Councilor Hill moved to approve Consent Items 1-10. Councilor Parkins seconded the motion. **Ayes: Strack, Hill, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None.** Motion approved by 5-0 vote.

J. **ITEMS REMOVED FROM THE CONSENT AGENDA:** None

K. **PUBLIC HEARINGS AND MEETINGS:** Any person may speak on items scheduled for hearing at the time the Mayor declares the Hearing open. **ALL LEGAL NOTICES PUBLISHED IN ACCORDANCE WITH LAW.**

11. Tentative Tract Map 08-1003, Gallelli & Sons, LLC; Proposal to subdivide a 9.07 acre parcel and create 7 commercial parcels ranging in size from 0.75 acres to 1.32 acres with a 1.08 acre common parcel to be used as a Drainage Detention Basin. Proposed property is located within the City Limits west of I-5 along the east side of Barham Avenue approximately 200 ft. southeast of the Corning Road/Barham Avenue Intersection (APN's 69-210-43 & 49 and 69-220-01 & 08).

Mayor Strack introduced this item stating that this is the parcel around Bartel's. Councilor Turner stated that he does not benefit from proceeds of orchard he manages near this property.

John Stoufer addressed the Council stating that he had received a letter from the County Public Works Department making a recommendation for a drainage study for impacts to Jewett Creek; Mr. Stoufer explained that such a study has been done. He further stated that the Developer is present tonight and that the Planning Commission has recommended 68 Conditions of Approval. Mayor Strack then opened the public hearing. Councilor Turner asked about limitations relating to spraying, Mr. Stoufer responded. Walter Dodd stated that the public responses are a public document and copies should be available for those in the audience. Mayor Strack confirmed that this proposal allows developer to create 7 parcels only at this time and that the Developer will provide a water and sewer line to the west side of Interstate 5.

An audience member stated that this property does get flooded and the City is opening the possibility for future litigation. Councilor Hill asked if the detention basin/pond planned would be sufficient to handle runoff from Freeway and mitigate flooding issues. John stated that the information they have at this time confirms that it will under the City's current standards of 25-year duration with a 4-hour duration. Councilor Turner asked about the required building height in comparison to the flood plain, Mr. Stoufer responded.

With no further questions the Mayor then closed the public hearing.

Parkins moved to adopt the the 9 Subfindings and Findings as presented in the Staff Report for Tentative Tract Map 08-1003, to adopt the Mitigated Negative Declaration filed on Tentative Tract Map 08-1003 as meeting the requirements of CEQA and it's guidelines, and approve Tentative Tract Map 08-1003 subject to the 68 listed Conditions of Approval. Councilor Hill seconded the motion. **Ayes: Strack, Hill, Turner and Parkins. Opposed: Leach (stated he had not had time to read the entire report). Absent/Abstain: None. Approved by vote of 4-1 with Leach opposing.**

**L. REGULAR AGENDA:**

**12. Authorize Change Order No. 2 for the Safe Routes to School Cycle 7 Project to Include East Street Facilities; Approve Appropriation of \$35,545 from the General Fund, and Approve Appropriation of \$52,690 from Street Maintenance Fund 115 for the completion of the Marguerite Avenue Paving Project.**

Mayor Strack introduced this item by title and Public Works Director John Brewer gave a brief explanation of the request. He stated that the City will have grant funding remaining upon completion of the original approved work, therefore Staff would like authorization to utilize the remaining funds with additional funding from the City to proceed with facility improvements on the east side of East Avenue.

Councilor Turner stated that the report should read East Street, not East Avenue. Mayor Strack requested an explanation of the Street Maintenance Fund No. 115. City Manager Kimbrough responded explaining the funding source and stating that these funds will come from the projected balance of \$75,000 budgeted in Fund 115.

With no further questions, Councilor Hill moved to authorize the expansion of the Safe Routes to School Project (Cycle 7) to include pedestrian and related facilities along East Street for a total cost of \$129,128, to authorize appropriation of \$35,545 from the General Fund to Safe Routes to School Project Account No. 001-7402-9013, and authorize appropriation of \$52,690 from the funds available in the Street Maintenance Fund 115 for the Marguerite Avenue Paving Project to the Street Projects Account No. 115-9470-3001. Councilor Turner seconded the motion with the comment that he hopes Law Enforcement will encourage use of sidewalks instead of Streets by pedestrians. Mayor Strack encouraged a program from Police Department to be presented to the Schools. **Ayes: Strack, Hill, Turner, Parkins and Leach. Opposed: None. Absent/Abstain: None. Motion approved by a 5-0 vote.**

**M. ITEMS PLACED ON THE AGENDA FROM THE FLOOR: None**

**N. COMMUNICATIONS, CORRESPONDENCE AND INFORMATION: None**

**O. REPORTS FROM MAYOR AND COUNCIL MEMBERS:**

**13. Hill:** None.

**14. Turner:** Reported on his attendance at the Los Molinos Chamber Meeting, stated that due to no agenda, the LAFCO meeting was canceled.

**15. Parkins:** None

**16. Leach:** Reported that next week is the Tripartite Strategy Meeting.

**17. Strack:** Nothing.

The **Brown Act** requires that the Council provide the opportunity for persons in the audience to briefly address the Council on the subject(s) scheduled for tonight's closed session. Is there anyone wanting to comment on the subject(s) the Council will be discussing in closed session? If so, please come to the podium, identify yourself and give us your comments.

**Dean Cofer:** Regarding issues Gene May brought up regarding comments by the City Manager about pictures Mr. May had taken...Mr. Cofer stated that he had a copy of the Friday Notes which

stated these comments. He also asked if the Friday Notes were a Public Document, he was informed that it was. He also spoke about his recent articles to the Corning and Red Bluff papers clarifying he did not write the heading.

**Sandy Powell:** Stated that many of her customers have stated their disappointment with the appearance of the downtown. She has stated that she has asked a few of the Council members what can be done about the appearance of these establishments and was told that there was nothing that the Council can do. She would like to see the City more proactive in cleaning up and the appearance of the downtown buildings.

**Bucky Bowen:** Stated his support of those that have expressed their opinions that the Council should consider a new City Manager. He requests that the City Council urgently consider replacing the existing City Manager.

**P. ADJOURN TO CLOSED SESSION: 8:16 p.m.**

**PUBLIC EMPLOYMENT:**

**Pursuant to Government Code Section 54957:  
Continuation of City Manager Evaluation**

**Q. RECONVENE AND REPORT ON CLOSED SESSION: 9:15 p.m.**

Councilor Hill reported that the Council met and had performed the City Manager evaluation and directed him to review and evaluate the City's regulations for Code Enforcement and associated penalties and report back to the City Council via a Staff Report. The City Manager evaluation was continued to a closed session following the City Council meeting on February 24, 2009.

**R. ADJOURNMENT!: 9:20 p.m.**

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**Lisa M. Linnet, City Clerk**



# MEMORANDUM

**TO:** HONORABLE MAYOR AND COUNCIL MEMBERS

**FROM:** LORI SIMS  
ACCOUNTING TECHNICIAN

**DATE:** February 18, 2009

**SUBJECT:** Cash Disbursement Detail Report for the  
Tuesday, February 24, 2009 Council Meeting

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**PROPOSED CASH DISBURSEMENTS FOR YOUR APPROVAL CONSIST OF THE FOLLOWING:**

A.	Cash Disbursements	Ending	02-18-09	\$	118,030.02
B.	Payroll Disbursements	Ending	02-11-09	\$	48,888.91
<b>GRAND TOTAL</b>				<b>\$</b>	<b><u>166,918.93</u></b>

Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Description	Payment Information
007581	02/09/09	HIN01	HINDERLITER, DE LLAMAS &	-416.24	.00	-416.24	0014743INU	Ck# 007581 Reversed	
008031	02/10/09	HYA02	HYATT REGENCY HOTEL	-643.65	.00	-643.65	090202U	Ck# 008031 Reversed	
008072	02/04/09	PRE03	PREMIER WEST BANK	-1040.91	.00	-1040.91	090204U	Ck# 008072 Reversed	
008086	02/05/09	HAW03	HAWTHORNE SUITES	478.30	.00	478.30	090205	TRAINING/EDUCATION-POLICE	
008087	02/05/09	SSD02	SSDTIF	132.00	.00	132.00	090205	TRAINING/EDUCATION-POLICE	
008088	02/06/09	PET03	PETTY CASH	289.52	.00	289.52	090206	OFFICE SUPPLIES-	
008089	02/09/09	BRE01	BREWER, JOHN	126.50	.00	126.50	090209	CONF/MTGS-PW ADMIN	
008090	02/09/09	HIN01	HINDERLITER, DE LLAMAS &	416.24	.00	416.24	014743INA	ProfServices-FINANCE	
008091	02/10/09	KIM01	KIMBROUGH, STEPHEN J.	617.25	.00	617.25	090210	CONF/MTGS-CITY ADMIN	
008092	02/11/09	WIL10	TOM WILLIAMS CONSTRUCTION	41304.15	.00	41304.15	090211	MARGUERITE O/L - SRTS	
008093	02/11/09	AIR00	AIRGAS NCN	44.63	.00	44.63	102261627	MAT & SUPPLIES-FIRE	
008094	02/11/09	AME15	AMERIGAS	324.56	.00	324.56	010063231	NATURAL GAS-ACO	
008095	02/11/09	ARA02	ARAMARK UNIFORM SRV. INC.	28.75	.00	28.75	4140517	Mat/Supplies-	
				28.75	.00	28.75	4143354	Mat/Supplies-	
			Check Total.....:	57.50	.00	57.50			
008096	02/11/09	AT&T	AT&T	164.74	.00	164.74	090203	Communications-	
008097	02/11/09	BAS01	BASIC LABORATORY, INC	86.00	.00	86.00	0901148	ProfServices Water Dept	
008098	02/11/09	COR11	CORNING SAFE & LOCK	140.83	.00	140.83	2341	MAT & SUPPLIES-WTR	
				12.68	.00	12.68	2349	VEH OP/MAINT-POLICE	
			Check Total.....:	153.51	.00	153.51			
008099	02/11/09	COR12	CORNING FORD MERCURY, INC	593.03	.00	593.03	105262	Veh Opr/Maint-	
008100	02/11/09	COR20	CORNING ELECTRONICS	14.99	.00	14.99	10079513	MAT & SUPPLIES-POLICE	
008101	02/11/09	DEF12	DEPT OF JUSTICE	64.00	.00	64.00	719813	PROF SVCS-	
008102	02/11/09	FIT01	FITZPATRICK LAW OFFICES	548.61	.00	548.61	090202	City Attny Srvs LegalServ	
008103	02/11/09	GAL02	GALL'S INC	89.04	.00	89.04	596921080	MAT & SUPPLIES-POLICE	
008104	02/11/09	HIL13	HILL, TIFFANY	220.00	.00	220.00	090211	TRAINING/EDUCATION-POLICE	

REPORT.: Feb 18 09 Wednesday  
 RUN....: Feb 18 09 Time: 14:16  
 Run By.: LORI

CITY OF CORNING  
 Cash Disbursement Detail Report  
 Check Listing for 02-09 Bank Account.: 1020

PAGE: 002  
 ID #: PY-DP  
 CTL.: COR

Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Description	Payment Information
008105	02/11/09	LNC01	LN CURTIS & SONS	1699.91	.00	1699.91	116623400	EQUIP REPLAC-FIRE	
008106	02/11/09	NOR01	NORTH VALLEY BARRICADE	273.49	.00	273.49	11850	STR SIGN REPLAC-STR	
008107	02/11/09	OFF01	OFFICE DEPOT	26.80	.00	26.80	461704931	COMPUTER EQUIP-POLICE	
				383.84	.00	383.84	462120481	Office Supplies-	
				28.95	.00	28.95	463015117	Office Supplies Policedis	
			Check Total.....	439.59	.00	439.59			
008108	02/11/09	PGE03	PG&E	22.81	.00	22.81	090201	Mat/Supplies PoliceServic	
008109	02/11/09	PGE04	PG&E	148.79	.00	148.79	090130	TranspFacility	
				693.59	.00	693.59	090130A	TranspFacility	
			Check Total.....	842.38	.00	842.38			
008110	02/11/09	PGE05	PG&E	2091.38	.00	2091.38	090130	FIRE-ELECT & GAS	
008111	02/11/09	PGE2A	PG&E	78.39	.00	78.39	090130	ELECT-MARTINI PLAZA	
				26.88	.00	26.88	090202	ELECT-CLELAND PROP	
			Check Total.....	105.27	.00	105.27			
008112	02/11/09	RED15	RED TRUCK ROCK YARD, LLC	128.70	.00	128.70	43	WOODSON PLAYGROUND-PARKS	
008113	02/11/09	ROS00	ROSS, DAWN	38.00	.00	38.00	090211	MAT & SUPPLIES-PAL	
008114	02/11/09	SWW00	SWC SERVICES, INC.	42828.52	.00	42828.52	16545	PROF SVCS-WWTP	
				2561.27	.00	2561.27	16546	PRETREATMENT PROG-SWR	
			Check Total.....	45389.79	.00	45389.79			
008115	02/11/09	USA01	USA BLUE BOOK	1423.01	.00	1423.01	753153	MAT & SUPPLIES-WTR	
008116	02/11/09	USA03	USA MOBILITY WIRELESS, INC	29.82	.00	29.82	S0159912B	COMMUNICATIONS-POLICE	
008117	02/17/09	ARA02	ARAMARK UNIFORM SRV. INC.	28.75	.00	28.75	4146189	Mat/Supplies-	
008118	02/17/09	BAS01	BASIC LABORATORY, INC	86.00	.00	86.00	0901407	ProfServices Water Dept	
008119	02/17/09	BAT01	BATTERIES PLUS	151.18	.00	151.18	100039	MAT & SUPPLIES-FIRE	
008120	02/17/09	CHE02	CHEM QUIP, INC.	1039.89	.00	1039.89	20501191N	MAT & SUPPLIES-WTR	
008121	02/17/09	COR11	CORNING SAFE & LOCK	47.31	.00	47.31	2354	BLD MAINT-PARKS	
				42.11	.00	42.11	2357	MAT & SUPPLIES-WTR	
			Check Total.....	89.42	.00	89.42			
008122	02/17/09	COR12	CORNING FORD MERCURY, INC	876.50	.00	876.50	105564	Veh Opr/Maint-WTR	

REPORT.: Feb 18 09 Wednesday  
 RUN....: Feb 18 09 Time: 14:16  
 Run By.: LORI

CITY OF CORNING  
 Cash Disbursement Detail Report  
 Check Listing for 02-09 Bank Account.: 1020

PAGE: 003  
 ID #: PY-DP  
 CTL.: COR

Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Payment Information Description
008122	02/17/09	COR12	CORNING FORD MERCURY, INC	910.27	.00	910.27	105627	Veh Opr/Maint-POLICE
Check Total.....:				1786.77	.00	1786.77		
008123	02/17/09	COR20	CORNING ELECTRONICS	96.53	.00	96.53	10079529	VEH OP/MAINT-
				96.53	.00	96.53	10079550	VEH OP/MAINT-
Check Total.....:				193.06	.00	193.06		
008124	02/17/09	GRA02	GRAINGER, W.W., INC	101.09	.00	101.09	983112138	MAT & SUPPLIES-PARKS
008125	02/17/09	LMC01	LN CURTIS & SONS	724.37	.00	724.37	116472500	EQUIP REPLC-FIRE
008126	02/17/09	NOR31	NORM'S PRINTING	49.60	.00	49.60	006437	PROF SVCS-BLD & SAFETY
008127	02/17/09	ORL00	ORLAND VETERINARY HOSP.	140.00	.00	140.00	090213	SPAY/NEUTER VOUCHER PROGR
008128	02/17/09	PAT02	PATTERSON ELECTRIC,	165.45	.00	165.45	1456	MAT & SUPPLIES-BLD MAINT
008129	02/17/09	RED15	RED TRUCK ROCK YARD, LLC	257.40	.00	257.40	44	WOODSON PLAYGROUND-PARKS
008130	02/17/09	SCH01	LES SCHWAB TIRE CENTER	8.10	.00	8.10	396306	MAT & SUPPLIES-FIRE
008131	02/17/09	SSD02	SSDTFF	172.00	.00	172.00	090217	TRAINING/EDUCATION-POLICE
008132	02/17/09	MAR04	MARTINEZ, RAYMOND	30.00	.00	30.00	090213	TRAINING/EDUCATION-POLICE
008133	02/18/09	ANT00	ANTELOPE VETERINARY	70.00	.00	70.00	119536	SPAY/NEUTER VOUCHER PROGR
008134	02/18/09	ATT09	AT&T	64.72	.00	64.72	090207	MAT & SUPPLIES-WTR
008135	02/18/09	CMI00	CMI, INC.	1166.83	.00	1166.83	736701	OTS GRANT-POLICE
				107.25	.00	107.25	736722	EQUIP MAINT-POLICE
Check Total.....:				1274.08	.00	1274.08		
008136	02/18/09	COM01	COMPUTER LOGISTICS, INC	2000.00	.00	2000.00	44748	COMMUNICATIONS-POLICE
008137	02/18/09	CON07	CONEXIS	30.00	.00	30.00	01090R348	MEDICAL INS-COBRA
008138	02/18/09	GRA02	GRAINGER, W.W., INC	240.42	.00	240.42	983657469	MAT & SUPPLIES-BLD MAINT
008139	02/18/09	HUP00	HUPP NEON LLC	358.01	.00	358.01	9617	MARQUEE-RODGERS THEATRE
008140	02/18/09	JOH06	JOHNSON'S TURBO CLEAN	792.87	.00	792.87	2442	MAT & SUPPLIES-BLD MAINT
008141	02/18/09	NOR31	NORM'S PRINTING	112.61	.00	112.61	006463	OFFICE SUPPLIES-
008142	02/18/09	OFF01	OFFICE DEPOT	102.92	.00	102.92	463368751	Office Supplies PoliceDis

REPORT.: Feb 18 09 Wednesday  
 RUN.....: Feb 18 09 Time: 14:16  
 Run By.: LORI

CITY OF CORNING

Cash Disbursement Detail Report  
 Check Listing for 02-09 Bank Account.: 1020

PAGE: 004  
 ID #: PY-DP  
 CTL.: COR

Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Payment Information
008142	02/18/09	OFF01	OFFICE DEPOT	10.52	.00	10.52	463555438	Office Supplies Policedis
			Check Total.....	113.44	.00	113.44		
008143	02/18/09	PUR02	PURCHASE POWER	5018.99	.00	5018.99	090208	COMMUNICATIONS-GEN CITY
008144	02/18/09	SEN03	SENSUS METERING SYSTEMS	1415.70	.00	1415.70	ZA9001471	EQUIP MAINT-WTR
008145	02/18/09	TEH08	COUNTY OF TEHAWA	4680.57	.00	4680.57	090215	ELECTIONS-CITY CLERK
008146	02/18/09	TEH20	TEHAWA CO DISTRICT ATTY	669.00	.00	669.00	090211	ProfServices PoliceServic
008147	02/18/09	VER04	VERIZON BUSINESS	42.18	.00	42.18	62617748	COMMUNICATIONS-
008148	02/18/09	VER05	VERIZON BUSINESS	15.60	.00	15.60	62445132	COMMUNICATIONS-
				.83	.00	.83	62458144	COMMUNICATIONS-GEN CITY
			Check Total.....	16.43	.00	16.43		
			Cash Account Total.....	118030.02	.00	118030.02		
			Total Disbursements.....	118030.02	.00	118030.02		
			Cash Account Total.....	.00	.00	.00		

Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Description	Payment Information
3841	02/11/09	BAN03	POLICE OFFICER ASSOC.	350.00	.00	350.00	A90210	POLICE OFFICER ASSOC	
3842	02/11/09	EDD01	EMPLOYMENT DEVELOPMENT	3431.48	.00	3431.48	A90210	STATE INCOME TAX	
				1107.11	.00	1107.11	1A90210	SDI	
			Check Total.....	4538.59	.00	4538.59			
3843	02/11/09	ICM01	ICMA RETIREMENT TRUST-457	1861.00	.00	1861.00	A90210	ICMA DEF. COMP	
3844	02/11/09	OEU03	OPERATING ENGINEERS	500.00	.00	500.00	A90210	CREDIT UNION SAVINGS	
3845	02/11/09	PERS1	PUBLIC EMPLOYEES RETIRE	27957.91	.00	27957.91	A90210	PERS PAYROLL REMITTANCE	
3846	02/11/09	PERS4	Cal Pers 457 Def. Comp	4060.00	.00	4060.00	A90210	PERS DEF. COMP.	
3847	02/11/09	PRE03	PREMIER WEST BANK	7876.23	.00	7876.23	A90210	HSA DEDUCTIBLE	
3848	02/11/09	VAL06	VALIC	1745.18	.00	1745.18	A90210	AIG VALIC P TAX	
Cash Account Total.....				48888.91	.00	48888.91			
Total Disbursements.....				48888.91	.00	48888.91			

Date.: Feb 18, 2009  
Time.: 2:22 pm  
Run by: LORI

CITY OF CORNING  
NEW BUSINESSES FOR CITY COUNCIL

Page.: 1  
List.: NEWS  
Group: WIFMB

Business Name	Address	CITY/STATE/ZIP	Contact Name	Business Desc. #1	Business Start Date	Primary Teleph
H&R BLOCK	1315 SOLANO ST	CORNING, CA 96021	HAYWOOD	RONDA TAX PREPARATION, BOOKKEEPING & PAYROLL S	02/06/09	(530)824-7999
MIKE LANG CONSTRUCTI	2459 EL PASO WAY	CHICO, CA 95926	LANG	MIKE CONTRACTOR - B	02/06/09	(530)342-2010
RUELAS INFORMATION C	1015 HOUGHTON AVE	CORNING, CA 96021	RUELAS	COREY WRITING SERVICE FOR SMALL BUSINESS & IND	02/06/09	(530)824-4113
SECO HEATING & AIR C	4074 CINCINNATI AVE	ROCKLIN, CA 95675	EDWARDS	DAVID S CONTRACTOR - HEATING & AIR CONDITIONING	02/06/09	(916)652-6755

ITEM NO: M-6  
ANNUAL TEHAMA COUNTY STATE  
FAIR EXHIBIT CONTRIBUTION FROM  
THE CITY OF CORNING  
FEBRUARY 24, 2009

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: STEPHEN J. KIMBROUGH, CITY MANAGER



**SUMMARY:**

Tehama County's exhibit for the California State Fair is in the works. The 2009 exhibit will be displayed at the California State Fair this summer and at the Tehama District Fair in the fall.

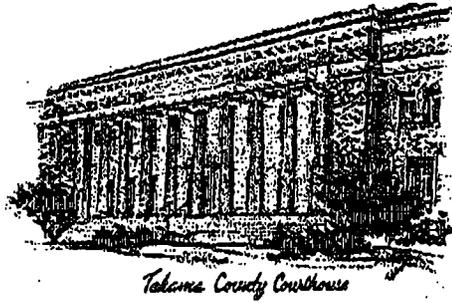
The City of Corning has customarily contributed \$200 towards the cost of constructing the exhibit.

**RECOMMENDATION:**

**MAYOR AND COUNCIL APPROVE THE CONTRIBUTION OF \$200 FROM THE CITY OF CORNING TOWARDS THE CONSTRUCTION OF THE FAIR EXHIBIT.**

*Board of Supervisors*  
**COUNTY OF TEHAMA**

District 1 – Gregg Avilla  
District 2 – George Russell  
District 3 – Charles Willard  
District 4 – Robert Williams  
District 5 – Ron Warner



Williams J. Goodwin  
Chief Administrator

February 17, 2009

Mayor Gary Strack  
and Members of the Corning City Council  
794 Third Street  
Corning, CA 96021

Re: 2009 Tehama County State Fair Exhibit

Dear Mayor Strack and Honorable Council Members:

We have begun planning for Tehama County's exhibit for the California State Fair, and we hope that the City of Corning will once again provide a generous contribution toward the cost of Tehama County's display. Your contribution for the past several years has been \$200, and a similar contribution this year would be greatly appreciated. Your check should be made payable to "County of Tehama" and mailed to 727 Oak Street, Red Bluff, CA 96080.

The 2009 exhibit will be displayed at the California State Fair next summer and then at the Tehama District Fair in the fall. The City's support and interest in the Fair exhibit are essential to this accomplishment. Thank you again for your continuing participation.

Very truly yours,

Sandra Lee  
Risk Analyst

HP LaserJet 3055

# Fax Call Report

CITY OF CORNING  
5308247039  
Feb-17-2009 2:43PM

Job	Date	Time	Type	Identification	Duration	Pages	Result
2420	2/17/2009	2:42:55PM	Receive	530 527 3764	0:36	2	OK

FEB-17-2009(TUE) 14:41 Insurance (FRX)530 527 3764 P. 001/002

**TEHAMA COUNTY RISK MANAGEMENT**  
727 OAK STREET, RED BLUFF, CA 96080  
(530) 527-4655, Ext. 3009 Fax (530) 527-3764  
slee@tehamacountyadmin.org

**FAX**

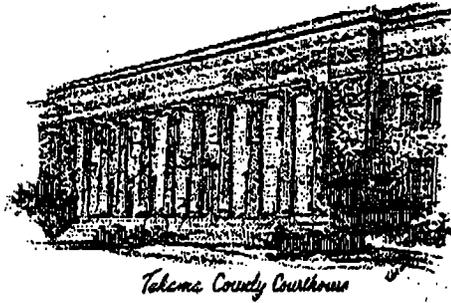
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**To:** Steve Kimbrough, City Manager **Fax #:** 824-7039  
**From:** Sandra Lee, Risk Analyst **Date:** 02/17/09  
**Re:** State Fair Exhibit **# of Pages (including cover):** 2

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*Board of Supervisors*  
**COUNTY OF TEHAMA**

District 1 – Gregg Avilla  
District 2 – George Russell  
District 3 – Charles Willard  
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Williams J. Goodwin  
Chief Administrator

February 17, 2009

Mayor Gary Strack  
and Members of the Corning City Council  
794 Third Street  
Corning, CA 96021

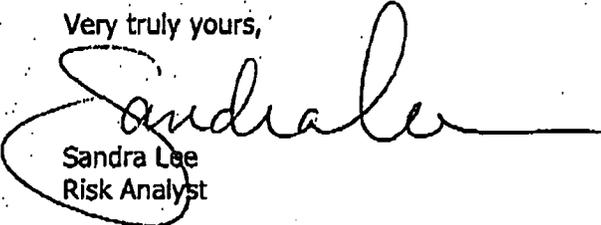
Re: 2009 Tehama County State Fair Exhibit

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Very truly yours,

  
Sandra Lee  
Risk Analyst

HP LaserJet 3055

# Fax Call Report

CITY OF CORNING  
5308247039  
Feb-17-2009 2:44PM

Job	Date	Time	Type	Identification	Duration	Pages	Result
2421	2/17/2009	2:44:20PM	Receive	530 527 3764	0:29	1	OK

FEB-17-2009(TUE) 14:43 Insurance (FAX)530 527 3764 P 001/001

*Board of Supervisors*  
**COUNTY OF TEHAMA**

District 1 – Gregg Avilla  
District 2 – George Russell  
District 3 – Charles Williams  
District 4 – Robert Williams  
District 5 – Ron Warner



Williams J. Goodwin  
Chief Administrator

February 17, 2009

Mayor Gary Strack  
and Members of the Corning City Council  
794 Third Street  
Corning, CA 96021

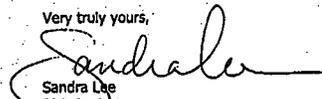
Re: 2009 Tehama County State Fair Exhibit

Dear Mayor Strack and Honorable Council Members:

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Very truly yours,

  
Sandra Lee  
Risk Analyst

**TEHAMA COUNTY RISK MANAGEMENT**

727 OAK STREET, RED BLUFF, CA 96080  
(530) 527-4655, Ext. 3009 Fax (530) 527-3764  
slee@tehamacountyadmin.org



---

**To:** Steve Kimbrough, City Manager

**Fax #:** 824-7039

**From:** Sandra Lee, Risk Analyst

**Date:** 02/17/09

**Re:** State Fair Exhibit

**# of Pages (including cover):** 2

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**ITEM NO. M-7  
RECORDING TAX LIEN  
FEBRUARY 24, 2009**

**TO: HONORABLE MAYOR AND CITY COUNCILMEMBERS**  
**FROM: STEPHEN J. KIMBROUGH, CITY MANAGER**  
**LISA M. LINNET, CITY CLERK**

**SUMMARY:**

The Council is being requested to authorize the recording of a lien on the Comfort Inn property in Corning to secure the payment of delinquent transient occupancy (motel) taxes. The owner has remained about one year behind while paying monthly on the arrears.

The Hotel has paid through December 2007, but still owes penalties and interest. January 2008 through December 2008 have not been paid. The base tax owed for 2008 is \$66,056, but all penalties and interest total \$99,980.24 through the month of February 2009.

The owner has paid January 2009 on time.

**BACKGROUND:**

In November of 2004, the Council adopted Ordinance No. 615 which authorized the Finance Director to record in the Office of the Tehama County Recorder a certificate specifying the amount of delinquent motel taxes pertaining to a local hotel or motel and thereby create a lien on the property.

The Finance Director is then authorized to issue a warrant for the enforcement of such lien and take appropriate action to have the property sold to satisfy the delinquency.

The Corning Municipal Code provides in Section 2.28.090 that if a motel operator is delinquent in paying motel taxes, the finance director may determine the amount due and provide notice to the operator of the amount assessed. The operator is then given the opportunity to request a hearing. In this case, Umakant S. and Kaushikabe U. Patel, the motel owner/operators, requested and received such a hearing before City Manager/Finance Director Steve Kimbrough and City Attorney Michael Fitzpatrick on January 21, 2009. At such hearing the estimated amounts assessed were discussed and the owner/operators were supplied records showing the actual income which was higher than the estimates. The Patels stated that they understood and that they would try to bring everything current.

The City Manager/Finance Director sent a letter to the owner/operator notifying them that the amount of \$99,980.24 is the total amount of taxes, interest and penalties found due by them following the hearing. The attached letter from the City offered them the opportunity to address the City Council tonight, prior to the recordation of the Lien.

The amount of delinquent TOT, \$99,980.24, was determined to be due through the end of February of 2009. Further administrative hearings will have to be conducted periodically to address delinquencies that occurred after that date.

**RECOMMENDATION:**

**MAYOR AND COUNCIL ADOPT RESOLUTION 02-24-09-01 APPROVING THE RECORDING OF THE RESOLUTION AND ATTACHED NOTICE OF LIEN IN THE AMOUNT OF \$99,980.24 ON THE COMFORT INN PROPERTY IN THE CITY OF CORNING TO SECURE THE PAYMENT OF DELINQUENT MOTEL TAXES THROUGH FEBRUARY 2009.**



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF CORNING, COUNTY OF TEHAMA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:**

**PARCEL A:**

Lot 2 as shown on the Record of Survey filed in the Tehama County Recorder's Office, October 7, 1997 in Book Y of Maps at page 116.

**PARCEL B:**

An easement for ingress and egress and public utilities over, under and across all that portion of Lot 1 as shown upon a Record of Survey filed October 7, 1997 in Book Y of Maps at 116 in the office of the Tehama County Recorder, located in the City of Corning, Tehama County, California, described as follows:

Beginning at the northwest corner of above mentioned Lot 1, thence south 00° 00' 37" west along the line between Lots 1 and 2 of the same map, a distance of 51.75 feet, thence south 88° 55' 03" east, a distance of 20.32 feet, thence south 1° 04' 57" west, a distance of 110.76 feet, thence north 88° 55' 07" west, a distance of 18.25 feet, thence south 00° 00' 37" west, a distance of 27.00 feet, thence south 88° 55' 07" east, a distance of 193.02 feet, more or less, to the westerly right of way line of Highway 99 W, thence north 00° 00' 37" east, a distance of 27.00 feet along said right of way line, thence north 88° 55' 07" west, a distance of 137.82 feet, thence north 42° 35' 01" west, a distance of 14.79 feet, thence north 01° 04' 57" east, a distance of 141.80 feet, more or less, to a point that is 10 feet south of the north line of Lot 1, thence south 88° 55' 07" east, a distance of 155.12 feet, more or less, to a point on a 505.93 foot radius curve, being the west right of way line of Highway 99 W, from which the radius point bears south 78° 36' 41" east, thence along said 505.93 foot radius curve to the right an arc length 10.18 feet, through a central angle of 1° 09' 12", more or less, to the north line of said Lot 1, thence north 88° 55' 07" west, a distance of 205.08 feet, more or less, along the north line of Lot 1 to the point of beginning.

**PARCEL C:**

A 10' x 10' sign easement over, under and across all that portion of Lot 1 as shown upon a Record of Survey filed October 7, 1997 in Book Y of Maps, page 116 in the office of the Tehama County Recorder, located in the City of Corning, Tehama County, California described as follows:

Beginning at a point on the westerly right of way line of Highway 99 W from which the southeast corner of above mentioned Lot 1 bears south 00° 00' 37" west, a distance of 55.51 feet, thence south 88° 55' 07" east, a distance of 50.01 feet, said point in the center of Highway 99 W, thence from said point of beginning north 00° 00' 37" east, a distance of 10.00 feet, thence north 88° 55' 57" west, a distance of 10.00 feet, more or less, to the point of beginning.

**PARCEL D:**

A variable width lighting easement over, under and across all that portion of Lot 1 as shown upon a Record of Survey filed October 7, 1997 in Book Y of Maps, page 116 in the office of

**EXHIBIT "A"**

the Tehama County Recorder, located in the City of Corning, Tehama County, California described as follows:

Beginning at a point where the south line of said Lot 1 intersects the westerly right of way line of Highway 99 W, thence north  $88^{\circ} 55' 07''$  west, a distance of 193.02 feet along the southerly line of said Lot 1 to the southwest corner of Lot 1, thence north  $00^{\circ} 00' 37''$  east, a distance of 28.50 feet along the west line Lot 1, thence south  $88^{\circ} 55' 07''$  east, a distance of 5.00 feet, thence south  $00^{\circ} 00' 37''$  west, a distance of 18.50 feet, thence south  $88^{\circ} 55' 07''$  east, a distance of 188.02 feet, more or less, to the westerly right of way line of Highway 99 W, thence south  $00^{\circ} 00' 37''$  west, a distance of 10.00 feet to the point of beginning.

**PARCEL E:**

A 10.00 foot wide strip easement for landscape maintenance over, under and across all that portion of Lot 1 as shown upon a Record of Survey filed October 7, 1997 in Book Y of Maps, page 116 in the office of the Tehama County Recorder, located in the City of Corning, Tehama County, California described as follows:

Beginning at a point where the south line of Lot 1 intersects the westerly right of way line of Highway 99 W, thence north  $00^{\circ} 00' 37''$  east, a distance of 218.03 feet along the westerly line and its projection of the north line of Lot 1, thence along the north line of Lot 1 north  $88^{\circ} 55' 07''$  west, a distance of 10.00 feet, thence south  $00^{\circ} 00' 37''$  west, a distance of 218.03 feet to the south line of said Lot 1, south  $88^{\circ} 55' 07''$  east, a distance of 10.00 feet to the point of beginning.

APN: 69-220-19

RETURN TO:  
CITY OF CORNING  
794 THIRD STREET  
CORNING, CA 96021

Exhibit B

**NOTICE OF LIEN**  
(Delinquent Uncollected Transient Occupancy Taxes)

The City of Corning, a Municipal Corporation, (hereafter "City") with offices at City Hall, 794 Third Street, Corning, California, 96021, gives notice that it claims a lien for the costs of delinquent uncollected Transient Occupancy Taxes upon the real property described below. This lien is claimed under the provisions of the City of Corning Municipal Code Section 3.28.130, adopted by the City Council on November 23, 2004.

Take notice that the City and its Mayor and Council, by action recorded in their official minutes of February 24, 2009, have assessed the amount of \$99,980.24 as the delinquent uncollected Transient Occupancy Taxes, penalties and interest through February of 2009 for the property identified below and the City claims a lien on said real property in that sum. The specified sum shall be a lien upon said real property until it has been paid in full and discharged of record. The Finance Director has complied with all provisions of Chapter 3.28 of the Corning Municipal Code in determining the amount required to be paid.

The real property upon which this lien is claimed is located in the City of Corning, County of Tehama, State of California and is described as follows:

Parcel A: Lot 2 as shown on the Record of Survey filed in the Tehama County Recorder's Office, October 7, 1997 in book Y of Maps at page 116

**Address:** 910 Highway 99-W

**Assessor's Parcel No.:** 69-220-19

**Owner:** Patel, Umakant S. and Patel, Kaushikaben U.

**Owner's Mailing Address:** 910 Highway 99-W  
Corning, CA 96021

**Resolution No.:** 02-24-09-01

**Reference:** Delinquent and Uncollected Transient Occupancy Taxes for Days Inn

---

Lisa M. Linnet, City Clerk

\*\*\*All amounts current as of February 2009\*\*\*

T.O.T. PERIOD	AMOUNT DUE	AMOUNT PAID	DATE AMOUNT IS DUE	DATE PAID	# OF MONTHS LATE	1ST 10% PENALTY	2ND 10% PENALTY	1/2% INTEREST	TOTAL INTEREST	TOTAL PENALTIES + INTEREST	TOTAL DELINQUENT AMOUNT OWED PER PERIOD
October 2006	5,290.00	5,290.00	11/30/2006	2/16/2007	3	529.00	529.00	26.45	79.35	1,137.35	1,137.35
November 2006	4,111.83	4,111.83	12/31/2006	3/12/2007	3	411.18	411.18	20.56	61.68	884.04	884.04
December 2006	5,111.47	5,111.47	1/31/2007	4/9/2007	3	511.15	511.15	25.56	76.67	1,098.97	1,098.97
January 2007	4,847.00	4,847.00	2/28/2007	6/4/2007	4	484.70	484.70	24.24	96.94	1,066.34	1,066.34
February 2007	4,260.00	4,260.00	3/31/2007	8/14/2007	5	426.00	426.00	21.30	106.50	958.50	958.50
March 2007	5,296.00	5,296.00	4/30/2007	9/6/2007	5	529.60	529.60	26.48	132.40	1,191.60	1,191.60
April 2007	4,878.00	4,878.00	5/31/2007	10/5/2007	5	487.80	487.80	24.39	121.95	1,097.55	1,097.55
May 2007	6,051.00	6,051.00	6/30/2007	10/24/2007	4	605.10	605.10	30.26	121.02	1,331.22	1,331.22
June 2007	5,723.00	5,723.00	7/31/2007	12/6/2007	5	572.30	572.30	28.62	143.08	1,287.68	1,287.68
July 2007	5,450.00	5,450.00	8/31/2007	1/28/2008	5	545.00	545.00	27.25	136.25	1,226.25	1,226.25
August 2007	8,238.00	8,238.00	9/30/2007	4/23/2008	7	823.80	823.80	41.19	288.33	1,935.93	1,935.93
September 2007	7,164.00	7,164.00	10/31/2007	7/15/2008	9	716.40	716.40	35.82	322.38	1,755.18	1,755.18
October 2007	5,698.00	5,698.00	11/30/2007	8/14/2008	9	569.80	569.80	28.49	256.41	1,396.01	1,396.01
November 2007	6,624.00	6,624.00	12/31/2007	8/14/2008	8	662.40	662.40	33.12	264.96	1,589.76	1,589.76
December 2007	4,259.00	4,259.00	1/31/2008	10/6/2008	9	425.90	425.90	21.30	191.66	1,043.46	1,043.46
January 2008	5,048.00		2/29/2008		12	504.80	504.80	25.24	302.88	1,312.48	6,360.48
February 2008	3,689.00		3/31/2008		11	368.90	368.90	18.45	202.90	940.70	4,629.70
March 2008	6,146.00		4/30/2008		10	614.60	614.60	30.73	215.11	1,444.31	7,590.31



3.28.090 Operator--Failure to collect or report tax--  
Procedure by finance director. If any operator fails or refuses to collect the tax and to make, within the time provided in this chapter, any report and remittance of the tax or any portion thereof required by this chapter, the finance director shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. The city clerk is authorized under the ordinance codified in this section and pursuant to Government Code Sections 37104 through 37109 to issue subpoenas requiring the attendance of witnesses or the production of documents in proceedings pending before it and, upon signature of a subpoena by the mayor, may have such subpoena served in accordance with California Code of Civil Procedure Section 1987 for the purpose of enforcing the provisions of this chapter. As soon as the finance director procures such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the finance director shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid addressed to the operator so assessed at his last known place of address. Such operator may within ten days after the serving or mailing of such notice make application in writing to the finance director for a hearing on the amount assessed. If application by the operator for a hearing on the amount assessed is not made within the time prescribed, the tax, interest and penalties, if any, determined by the finance director shall become final and conclusive and immediately due and payable. If such application is made, the finance director shall give not less than five days' written notice in the manner prescribed in this section to the operator to show cause at a time and place fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing, the finance director shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the

manner prescribed in this section of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen days unless an appeal is taken as provided in Section 3.28.100 of this chapter. (Ord. 615 §2, 2004; Ord. 258 §8, 1970).

3.28.100 Appeal. Any operator aggrieved by any decision of the finance director with respect to the amounts of such tax, interest and penalties, if any, may appeal to the city council by filing a notice of appeal with the city clerk within fifteen days of the serving or mailing of the determination of tax due. The city council shall fix a time and place for hearing such appeal, and the city clerk shall give notice in writing to such operator at his last known place of address. The findings of the council shall be final and conclusive and shall be served upon the appellant in the manner prescribed in Section 3.28.090 of this chapter for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice. (Ord. 258 §9, 1970).

3.28.110 Refunds. A. Whenever the amount of any tax, interest, or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the city under this chapter, it may be refunded as provided in subsections B and C of this section, provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the finance director within three years of the date of payment. The claim shall be on forms furnished by the finance director.

B. An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once, or erroneously or illegally collected or received when it is established in a manner prescribed by the finance director that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

C. A transient may obtain a refund of taxes overpaid, paid more than once, or erroneously or illegally

collected or received by the city by filing a claim in the manner provided in subsection A of this section; but only when the tax was paid to the finance director, or when the transient, having paid the tax to the operator, establishes to the satisfaction of the finance director that the transient has been unable to obtain a refund from the operator who collected the tax.

D. No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto. (Ord. 258 §11, 1970).

3.28.120 Liability. Any tax required to be paid by any transient under the provisions of this chapter shall be deemed to be a debt owed by the transient to the city. Any such tax collected by an operator which has not been paid to the city shall be deemed a debt owed by the operator to the city. Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the city for the recovery of such amount. (Ord. 258 §12, 1970).

3.28.130 Liens authorized for delinquent taxes--  
Interest and penalties. A. Recording Certificate--Lien. If any amount required to be paid to the city under this chapter is not paid when due, the finance director may, within three years after the amount is due, file for record in the office of the Tehama County recorder a certificate specifying the amount of tax, penalties and interest due, the name and address of the operator liable for the same as it appears on the records of the city, and the fact that the finance director has complied with all provisions of this chapter in the determination of the amount required to be paid. Such certificate shall constitute a lien.

B. Effective Date of Lien. From the time of the filing of the certificate of tax, penalties and interest due, the amount required to be paid, together with penalties and interest, constitutes a lien upon real property in the county owned by the operator or acquired by him afterward and before the lien expires. The lien has the force, effect and priority of a judgment lien for the payment of tax and shall continue for ten years from the time of filing the certificate unless sooner released or

otherwise discharged. This chapter does not give the city a preference over any recorded lien that was attached prior to the date when the amounts required to be paid became a lien.

C. Priority of Tax Lien on Property of Operator. The amounts required to be paid by any operator under this chapter shall be satisfied first in any of the following cases:

1. Whenever the operator is insolvent;
2. Whenever the operator makes a voluntary assignment of his or her assets;
3. Whenever the estate of the operator in the hands of executors, administrators or heirs is insufficient to pay all the debts due from the deceased; or
4. Whenever the estate and/or property of an absconding, concealed or absent operator required to pay any amount under this chapter are levied upon by process of law.

D. Warrant for Collection of Tax. At any time within three years after any operator is delinquent in the payment of any amount required to be paid under this chapter or within ten years of the last recording of a certificate of lien, the finance director may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the city under this chapter. The warrant shall be directed to any sheriff, marshal or constable and shall have the same effect as a writ of execution. The warrant and a sale made pursuant to it shall be levied in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution. The finance director may pay or advance to the sheriff, marshal or constable the same fees, commissions and expenses for his or her services as are provided by law for similar services pursuant to a writ of execution.

E. Seizure and Sale of Operator's Property. At any time within three years after any operator is delinquent in the payment of any amount required to be paid under this chapter or within three years of the last recording of a certificate of lien by the city, the finance director may forthwith collect the amount in the following manner:

The finance director shall seize any property, real or personal, of the operator and sell the property, or a sufficient part of it, at public auction to pay the amount due together with any penalties and interest imposed for

the delinquency and any costs incurred on account of the seizure and sale. Any seizure made to collect occupancy taxes due shall be only of property of the operator not exempt from execution under the provisions of the California Code of Civil Procedure or other applicable laws and regulations. The finance director shall obtain a warrant from a court of competent jurisdiction prior to entering upon the property of the operator without the permission of the operator. (Ord. 615 §3, 2004).

ITEM NO. M-8

**APPROVE AND ACCEPT THE NOTICE OF  
SUBSTANTIAL COMPLETION FOR THE  
SAFE ROUTE TO SCHOOL AND RELEASE  
OF CONTRACT RETENTION IN THE  
AMOUNT OF \$30,604.53**

**FEBRUARY 24, 2009**

**TO: HONORABLE MAYOR AND COUNCILMEMBERS OF THE CITY OF CORNING**

**FROM: STEPHEN J. KIMBROUGH, CITY MANAGER  
JOHN L. BREWER; AICP, DIRECTOR OF PUBLIC WORKS  
ED ANDERSON, CITY ENGINEER**



**SUMMARY:**

The City is now ready to accept the work and issue a "Notice of Substantial Completion" for the Safe Route to School, Cycle 7 Project. We recommend filing a "Notice of Substantial Completion", since the expanded "East Street" pedestrian facilities are uncompleted at this time.

The improvements associated with the Marguerite and Blackburn Avenue and First Street component of the project were substantially completed and put into use on February 18, 2009.

The recent wet weather has forced postponement of the construction surveying and staking for the expanded East Street facilities. The Contractor, Tom Williams, has requested release of the "retained funds" for the work completed to date. See the attached letter from Mr. Williams. Staff does not object to the release.

**BACKGROUND:**

The Safe Route to School Project including the Marguerite Overlay project cost to date is \$331,045.34. The Retention amount being held is \$33,104.53. Please see the attached letter from Thomas Williams explaining that there are two cleanup items remaining regarding the final completion of the contract. The first item being the patch paving and the second item being the replacement of a drop inlet grate, Tom Williams' proposed value of the remaining work to be done is \$2,500.00. City Staff agrees that the \$2,500.00 proposed value concurs with the actual work remaining.

The SRTS Contract was recently expanded to include East Street at the February 10, 2009 City Council Meeting. This Contract Change Order would prolong the payment of retention monies due to Tom Williams by a considerable amount of time. Staff does not find that Tom Williams request to release the retention amount minus the \$2,500 to be unreasonable.

The retention payment of \$30,604.53 will be due 35-days following the filing of the Notice of Substantial Completion. The payment of the remaining \$2,500 to be expended

upon completion of the above stated work and only after the Notice of Substantial Completion waiting period.

The Project Engineer, the Director of Public Works and Building Official have reviewed and approved the Project as "substantially completed".

**RECOMMENDATION:**

**THAT THE MAYOR AND CITY COUNCIL:**

- 1) ACCEPT THE SAFE ROUTE TO SCHOOL PROJECT AS SUBSTANTIALLY COMPLETE, AND DIRECT THE CITY CLERK TO FILE THE NOTICE OF SUBSTANTIAL COMPLETION AND,**
- 2) AUTHORIZE RELEASE OF CONTRACT RETENTION IN THE AMOUNT OF \$30,604.53 TO THOMAS WILLIAMS CONSTRUCTION.**

**WHEN RECORDED MAIL TO:**

City of Corning  
794 Third Street  
Corning, CA 96021

**NOTICE OF SUBSTANTIAL COMPLETION**

NOTICE IS HEREBY GIVEN THAT:

1. The undersigned is an owner of interest or estate in the hereafter described project, the nature of which interest is: Owner in fee of the sidewalks, curbs and gutters and streets.
2. The full name and address of the undersigned owner is: City of Corning, 794 Third Street, Corning, CA 96021.
3. There was substantially completed the construction of the Safe Route to School Project on First Street between Solano Street and Blackburn Avenue, and on Blackburn Avenue between First Street and Marguerite Avenue, and on Marguerite Avenue between Blackburn Avenue and Solano Street including the Marguerite Overlay between Blackburn Avenue and Solano Street. Consisting in general of: new sidewalk, removal and replacement of handicap accessible ramps at curb returns and related sidewalk and street work.
4. The work has been satisfactorily completed and is suitable to be put into use as of February 18, 2009, and has therefore accepted for ownership and operation by: The City Council of the City of Corning at a Regular Council Meeting, on February 24, 2009.
5. The name of the General Contractor was: Thomas H. Williams Construction, P.O. Box 7968, Chico, CA 95927 under a contract dated: October 22, 2008.
6. The property herein referred to is situated in the City of Corning, Tehama County, and State of California and more particularly described as follows: First Street between Solano Street and Blackburn Avenue, and on Blackburn Avenue between First Street and Marguerite Avenue, and on Marguerite Avenue between Blackburn Avenue and Solano Street.

\_\_\_\_\_  
Stephen J. Kimbrough  
City Manager, City of Corning

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Lisa M. Linnet, City Clerk

# THOMAS H. WILLIAMS

---

P.O. Box 7968 CHICO, CA 95927

Lic.# 821566

CONCRETE CURB, GUTTER,  
AND SIDEWALK  
*MACHINE AND HANDSET*

**RECEIVED**

**FEB 19 2009**

**CITY OF CORNING**

<b>Home:</b>	<b>Mobile:</b>	<b>Fax:</b>
530-343-7675	530-624-4342	530-343-4734

2/18/09

City Of Corning  
Attention: Ed Anderson  
City Consulting Engineer

Concerning the Corning High School Safe Routes to School Project I have substantially completed the original contract work. There are two cleanup items remaining, the patch paving and the replacement of a drop inlet grate, the value of these items is \$2,500 or less. I would like to request the payment of my retention less this amount as I have completed the original contract work. The change order work that I have just been awarded would hold up the payment of my retention for an appreciable amount of time, even though not a part of the original work.

I appreciate your consideration of this matter, if you should have any questions or concerns please give me a call.

Respectfully,

Thomas H. Williams

ITEM NO. P-10  
PROGRAM & FUNDING REVIEW OF  
CORNING CHAMBER OF COMMERCE AND  
TEHAMA ECONOMIC DEVELOPMENT CORP.  
February 24, 2009

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: STEPHEN J. KIMBROUGH, CITY MANAGER

**SUMMARY:**

City Councilor Ross Turner asked that the Council review and discuss at mid-year the programs and funding of two key economic development programs supporting Corning, the **Corning Chamber of Commerce** and the **Tehama Economic Development Corporation**.

**COMMON GOALS:**

The City of Corning, the Chamber and Tehama EDC share common goals. The small size of the City makes it financially unfeasible to provide economic development service in-house. If you look at the cost of the service in our neighboring medium size cities, Chico and Redding, you will probably find that their salary paid exceeds what we pay for a city manager.

The Corning Chamber Of Commerce is the best known of the agencies, and its stated purpose is to foster business growth in the City by promoting business, and by encouraging quality development and residential growth. The Chamber coordinates many community activities designed to bring visitors to Corning.

Tehama Local Development Corporation is the private, non-profit corporation responsible for the retention and recruitment of business and industry to the County and Cities. TLDC recruits and assists prospective developers by providing site information and building requirements, and often "holds the hand" of the perspective new business. The TLDC Executive Director acts as a county-wide team leader bringing the City and County staffs and local business representatives together as a team in order to quickly respond to development inquiries.

**FINANCIAL:**

The City of Corning budgets \$23,200 per year for support of the Chamber. The City pays \$1,600 per month for a total of \$19,200 per year in basic support, and sets aside an additional \$4,000 per year to match large corporate donor contributions to the Chamber. The matching amount in the agreement dates back to 1994, when the City Council sought to encourage the Chamber to obtain additional business contributions over and above their base dues.

Tehama EDC receives \$20,000 per year from the City of Corning; the financial support was increased from \$12,000 beginning July 1, 2008. The City of Red Bluff and the County of Tehama also provide support as does the business partners.

#### **HISTORY OF CITY SUPPORT OF CHAMBER OF COMMERCE AND TEHAMA EDC:**

A look at prior City Budgets indicates that the Corning Chamber of Commerce received funding as follows:

1991: \$31,250

1992: \$24,950

1993: \$18,333 - That year the City Council implemented the \$18,000 payment, plus \$2,000 additional dollars available for match, for a total of \$20,000.

1994: \$21,000 – The match was increased to \$3,000.

1995 to 1996: \$18,000, plus \$3,000 match.

1997 to 2006: \$18,000, plus \$3,000 match.

2007 to 2008: \$18,000, plus \$4,000 match.

2008 to 2009: \$ 19,200 plus \$4,000 match.

The Tehama Economic Development Corporation received funding as follows:

1991: \$-0-

1992: \$-0-

1993: \$6,000

1994: \$-0-

1995: \$-0-

1996: \$9,000

1997: \$9,000

1998: \$9,000

1999 - 2008: \$12,000

2008 - 2009: \$20,000

The increased funding by the City has been accompanied by a strong commitment from Tehama EDC to participate actively in economic development in Corning. The Executive Director Claudia Martin has for some time represented Tehama EDC to the Corning Chamber of Commerce.

ITEM NO. P-11  
CEQA MITIGATED NEGATIVE  
DECLARATION; BLACKBURN AVENUE  
WIDENING PROJECT; CITY OF CORNING.

DATE: FEBRUARY 24, 2009

TO: CITY COUNCIL OF THE CITY OF CORNING, CALIFORNIA  
FROM: STEPHEN J. KIMBROUGH, CITY MANAGER  
JOHN L. BREWER, AICP; PUBLIC WORKS DIRECTOR

JD  
STEVE

**SUMMARY:**

Staff recommends certification of the CEQA (California Environmental Quality Act) Mitigated Negative Declaration prepared for the Blackburn Avenue widening project. A copy of the Mitigated Negative Declaration (MND) is attached.

Staff completed the CEQA Initial Study in December, 2008. We identified some potentially significant effects that could result from the project. However, we also identified seven mitigation measures that would substantially reduce those effects. Based on that, we prepared and filed the MND with the Tehama County Clerk and the State Clearinghouse. A copy of the MND and a summary of the Mitigation Measures are attached.

Notice of the filing of the MND was provided to all adjacent property owners. Additionally, notice of this meeting was both published and mailed to the adjacent owners. To date we have received no comments regarding the document. The CEQA comment period has now closed.

Staff is also currently negotiating with the two adjacent owners to acquire additional Blackburn Avenue street width.

**BACKGROUND:**

The City of Corning received a \$1.5 million Community Development Block Grant. The grant has two separate components; widening of the current one-way section of Blackburn Avenue and a First Time Homebuyer Down Payment program.

Though CEQA contains provisions that exempt certain street widening projects that occur within street right of ways. This segment of Blackburn Avenue has insufficient right of way width (50') to accommodate the proposed widened street. The project is not exempt from CEQA, and staff prepared and circulated the attached MND. A drawing showing the proposed street cross section is included as the last page of the MND.

In addition to the CEQA process, a NEPA (National Environmental Policy Act) analysis and "Finding of No Significant Impact" (FONSI) has also been prepared (by an

independent contractor) for the widening project. One NOTABLE mitigation measure coming out of that process is mitigating the loss of “Jurisdictional Wetlands” resulting from filling and piping the Blackburn Moon Drain.

**RECOMMENDATION:**

**That the City Council adopt the following Subfinding & Finding pursuant to the California Environmental Quality Act (CEQA).**

**Subfinding:**

An Initial Study analyzing the environmental impacts associated with the Blackburn Avenue Widening Project has been prepared, a Mitigated Negative Declaration filed and circulated through the CEQA process.

**Finding:**

The Initial Study analyzed the environmental impacts associated with the project and that identified impacts have been mitigated to a Less than Significant level. The Mitigated Negative Declaration filed on the Blackburn Avenue Widening Project meets the requirements of CEQA and its Guidelines.

**SUMMARY OF MITIGATION MEASURES  
MITIGATED NEGATIVE DECLARATION-BLACKBURN AVENUE WIDENING  
PROJECT**

**MM 1. Fugitive Dust Control Permit.** Proponent shall obtain a Fugitive Dust Control Permit from the Tehama County Air Pollution Control District before commencing any onsite grading.

**MM 2. Section 401 and 404 Permitting.** Acquire Federal Section 404 and 401 permits issued from the Army Corps of Engineers and the Regional Water Quality Control Board, respectively.

**MM 3. Streambed Alteration Permit.** Obtain a Section 1602 Permit from the California Department of Fish and Game if one is required.

**MM 4. Mitigation Bank.** Compensate the loss of 0.102 acre of wetlands through the appropriate federal or state agencies.

**MM 5. Raptor Survey.** Complete a pre-construction survey for nesting raptors in the on site trees is conducted for activities occurring between March 1 and September 30<sup>th</sup>.

**MM 6. Stormwater Pollution Prevention Plan.** Prior to any site disturbance or earthmoving activities on or adjacent to the site, a construction period and post-construction period Storm Water Pollution Prevention Plan (SWPPP) shall be prepared and presented to the Central Valley Regional Water Quality Control Board and approved by the City of Corning. The objective of the plan shall be no net loss of soil (above an undisturbed natural, stable background state) from the site due to erosion. All requirements of the post construction period SWPPP shall be completed as part of the required improvement plans and shall be maintained in the same manner.

**MM 7. Pipe Inlets.** Pipe inlets shall include appropriate grates to prohibit accidental or intentional human access to the drainage pipes.

**CITY OF CORNING  
CALIFORNIA ENVIRONMENTAL QUALITY ACT  
NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION**

DATE: December 18, 2008

**SUBJECT:CEQA MITIGATED NEGATIVE DECLARATION:**  
Blackburn Avenue Street Widening Project

Pursuant to the State of California Public Resources Code and the "Guidelines for Implementation of the California Environmental Quality Act of 1970", as amended to date, a Draft Negative Declaration is hereby made on the project listed below:

The segment of Blackburn Avenue (660' long) is currently a one-way street. This condition is due to the narrow right of way width and location and width of the adjacent above ground roadside drainage ditch (Blackburn-Moon Drain).

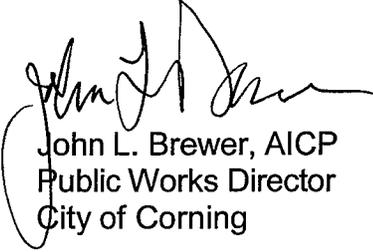
The project includes acquisition of additional street right of way and widening of this segment of Blackburn Avenue to facilitate two-way traffic, and essentially to meet City's "Minor Arterial" street standard. That standard includes a 78' overall right of way width. Planned improvements include grading and paving, piping the roadside ditch, water and sanitary sewer lines, a planted median strip, and streetlights, curbs, gutters and sidewalks. Additionally, streetlights are to be installed within the existing Blackburn Avenue planted median and the adjacent Toomes Avenue frontage of the Salado Orchard Apartment complex.

Located along Blackburn Avenue and immediately east of Edith Avenue in the City of Corning, CA.

**The reason for the determination that a Mitigated Negative Declaration is appropriate:**

The "Initial Study" has found that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described in the attached Initial Study have been added to the project and therefore a Negative Declaration has been prepared.

**The Initial Study and Mitigated Negative Declaration prepared for the Project is available for review at City Hall.** Written comments on the proposed Mitigated Negative Declaration may be presented at City Hall, City of Corning, 794 Third Street, Corning, California 90021 until 5:00 PM Thursday, January 29, 2009.

  
John L. Brewer, AICP  
Public Works Director  
City of Corning

Date Signed: 12/18/2008

# CITY OF CORNING

## Initial Study Environmental Checklist Form

1. Project title: Blackburn Avenue Widening Project
2. Lead agency name and address:  
City of Corning  
794 Third St.  
Corning, CA 96021
3. Contact person and phone number: John Brewer; (530) 824-7029
4. Project location: Blackburn Avenue, between Toomes Avenue and Edith Avenue in and adjacent to the City of Corning.
5. Project sponsor's name and address City of Corning, 794 Third St., Corning, CA 96021
6. General plan designation: R; Residential
7. Zoning: R-1
8. Description of project: See the attached map and cross-sectional diagram. The project includes acquisition of additional street right of way and widening of a 660 foot long segment of Blackburn Avenue to facilitate two-way traffic, and essentially to meet City's "Minor Arterial" street standard. That standard includes a 78' overall right of way width. Planned improvements include underground drainage, water and sanitary sewer lines, a planted median strip, and streetlights, curbs, gutters and sidewalks. Additionally, streetlights are to be installed within the existing Blackburn Avenue planted median and the adjacent Toomes Avenue frontage of the Salado Orchard Apartment complex.
9. Surrounding land uses and setting: Briefly describe the project's surroundings:  
Rural Residential, Agricultural and Public School.
10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)  
This project is being funded by a Community Development Block Grant.
11. Other Environmental Studies Referenced: The Environmental Assessment and Finding of No Significant Impact (FONSI) prepared for the Salado Orchard Apartments & Infrastructure Improvements dated March 2007 and supplemented to address this infrastructure project in November 2008.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Aesthetics                    | <input type="checkbox"/> Agriculture Resources              | <input type="checkbox"/> Air Quality            |
| <input type="checkbox"/> Biological Resources          | <input type="checkbox"/> Cultural Resources                 | <input type="checkbox"/> Geology /Soils         |
| <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology / Water Quality          | <input type="checkbox"/> Land Use / Planning    |
| <input type="checkbox"/> Mineral Resources             | <input type="checkbox"/> Noise                              | <input type="checkbox"/> Population / Housing   |
| <input type="checkbox"/> Public Services               | <input type="checkbox"/> Recreation                         | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Utilities / Service Systems   | <input type="checkbox"/> Mandatory Findings of Significance |   |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

Date

12/18/2008

## EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
  - a) Earlier Analysis Used. Identify and state where they are available for review.
  - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
  - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

P:\Documents\PUBWORKS\John BrewerSubDirectory\Blackburn Construction 2008 CDBG Grant\Blank environ Checklist.doc

- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
- a) the significance criteria or threshold, if any, used to evaluate each question; and
  - b) the mitigation measure identified, if any, to reduce the impact to less than significance

Issues:

	<b>Potentially Significant Impact</b>	<b>Less Than Significant with Mitigation Incorporation</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
<b>I. AESTHETICS -- Would the project:</b>				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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II. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

- a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?
- b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?
- c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

- a) Conflict with or obstruct implementation of the applicable air quality plan?
- b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?
- c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?
- d) Expose sensitive receptors to substantial pollutant concentrations?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IV. BIOLOGICAL RESOURCES -- Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

V. CULTURAL RESOURCES -- Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in '15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5?	<input type="checkbox"/> π	<input type="checkbox"/> π	<input type="checkbox"/> π	<input checked="" type="checkbox"/> π
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>VI. GEOLOGY AND SOILS -- Would the project:</b>				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

disposal systems where sewers are not available for the disposal of wastewater?

Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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**VII. HAZARDS AND HAZARDOUS**

**MATERIALS.** Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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VIII. HYDROLOGY AND WATER QUALITY

-- Would the project:

- |   |                          |                          |                                     |                                     |
|---|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Violate any water quality standards or waste discharge requirements?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?   | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?   | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| f) Otherwise substantially degrade water quality?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>IX. LAND USE AND PLANNING - Would the project:</b>				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>X. MINERAL RESOURCES -- Would the project:</b>				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>XI. NOISE Would the project result in:</b>				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>XII. POPULATION AND HOUSING -- Would the project:</b>				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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**XIII. PUBLIC SERVICES**

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**XIV. RECREATION --**

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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**XV. TRANSPORTATION/TRAFFIC -- Would the project:**

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>XVI. UTILITIES AND SERVICE SYSTEMS</b>				
Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

- c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?
- d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?
- e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?
- f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?
- g) Comply with federal, state, and local statutes and regulations related to solid waste?

XVII. MANDATORY FINDINGS OF SIGNIFICANCE --

- a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?
- b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?
- c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

## RESPONSES TO ISSUES IDENTIFIED ON CHECKLIST

### I. AESTHETICS.

Minimal impacts to Aesthetics are expected. The street will be constructed to City standards including median lighting a landscaped median strip.

### II. AGRICULTURAL RESOURCES.

The project will result in the loss olive trees as the street is widened. However, this loss is minimal in light of the overall number of olive trees in the greater Corning area.

### III. AIR QUALITY

#### **Mitigation Measure:**

**MM 1. Fugitive Dust Control Permit.** Proponent shall obtain a Fugitive Dust Control Permit from the Tehama County Air Pollution Control District before commencing any onsite grading.

### IV. BIOLOGICAL RESOURCES

A Biological Resources Inventory was completed for the project by Marcus Bole and Associates and dated October 3, 2008 determined the piping of the Blackburn Moon Drain roadside ditch would fill approximately 0.102 acre of jurisdictional wetlands. The wetlands impacts must be mitigated through implementation of the following measures:

#### **Mitigation Measures:**

**MM 2. Section 401 and 404 Permitting.** Acquire Federal Section 404 and 401 permits issued from the Army Corps of Engineers and the Regional Water Quality Control Board, respectively.

**MM 3. Streambed Alteration Permit.** Obtain a Section 1602 Permit from the California Department of Fish and Game if one is required.

**MM 4. Mitigation Bank.** Compensate the loss of 0.102 acre of wetlands through the appropriate federal or state agencies.

A number of olive trees must be removed to facilitate the street widening and pipe burial. The Inventory also recommended the following to assure no impacts to raptors:

#### **Mitigation Measure.**

**MM 5. Raptor Survey.** Complete a pre-construction survey for nesting raptors in the on site trees is conducted for activities occurring between March 1 and September 30<sup>th</sup>.

### V. CULTURAL RESOURCES

Attachment A of the Environmental Assessment and FONSI is titled "Historic Preservation" and contains the justification for the finding of no affect on historic resources.

### VI. GEOLOGY AND SOILS

Soil erosion could occur as a result of the project. The following measure shall be imposed:

**MM 6. Stormwater Pollution Prevention Plan.** Prior to any site disturbance or earthmoving activities on or adjacent to the site, a construction period and post-construction period Storm Water

Pollution Prevention Plan (SWPPP) shall be prepared and presented to the Central Valley Regional Water Quality Control Board and approved by the City of Corning. The objective of the plan shall be no net loss of soil (above an undisturbed natural, stable background state) from the site due to erosion. All requirements of the post construction period SWPPP shall be completed as part of the required improvement plans and shall be maintained in the same manner.

VII. HAZARDS AND HAZARDOUS MATERIALS.

The Blackburn Moon Drain will be piped along the widened street. The pipe inlets should include screens to keep debris from entering and perhaps clogging the pipes. Additionally, screens should prohibit human access to the pipes. The following mitigation measure is recommended:

**Mitigation Measure.**

**MM 7. Pipe Inlets.** Pipe inlets shall include appropriate grates to prohibit accidental or intentional human access to the drainage pipes.

VIII. HYDROLOGY AND WATER QUALITY

The site is not within a designated Flood Hazard Zone. However, the project does include the piping of the Blackburn Mood open drainage ditch. The pipe(s) must be appropriately size to convey Blackburn-Moon Drain flows without overflowing. The recently piped downstream section completed as part of the Salado Orchard Apartment project was sized based upon an engineer's analysis of the Blackburn Moon Drainage Basin. For this upstream extension, the pipe sizing shall be equivalent to the existing downstream section or as otherwise approved by the City Engineer.

IX. LAND USE AND PLANNING.

The site is appropriately zoned and the General Plan Land Use Designation is residential. No issues were identified as potentially significant.

X. NOISE

The project will have short term construction-related Noise effects, from the operation of excavation and paving equipment. But these effects are not deemed significant given their limited duration. With the widened street, Blackburn Avenue traffic will naturally increase. The increase traffic will result in a slight increase in vehicle noise. However, this increase is not considered significant due to the minimal adjacent development, the separation of existing structures from the traveled way, and the existing and proposed landscaped median.

Traffic noise effects on future development projects that might occur on APN's 69-150-47 or 71-020-01 will be specifically evaluated as part of the development review processes.

XI. POPULATION AND HOUSING

The street widening and utility installation could facilitate residential development of the adjacent properties. However, such development would be consistent with the City's General Plan that envisions the development of Blackburn Avenue as a Minor Arterial street and residential development in the area.

XII. PUBLIC SERVICES

Fire, Police, the adjacent Woodson school, and perhaps other public facilities may be temporarily interrupted while the street widening project is occurring. However, this interruption will be short

lived. Upon completion, public services will be restored to pre-construction levels. No significant effects.

XIII. RECREATION

No effects to recreation are anticipated.

XIV. TRANSPORTATION

The project is ostensibly, a transportation improvement project that will widen Blackburn Avenue, pipe the adjacent drainage ditch, install a landscaped median and curb, gutter and sidewalks, and extend water and sewer services. Since the street will be widened to provide two-way traffic, trips will naturally increase-but the increase will not overburden the street since it will be widened to comply with the City's Minor Arterial Street Standard. So, the construction will essentially mitigate its own impacts. No significant effects to transportation.

XV. UTILITIES AND SERVICE SYSTEMS

The water and sewer extension could facilitate additional residential development. That development would be consistent with the existing General Plan objectives for the area. Additionally, new development would pay development impact fees to mitigate its impacts on City facilities. Less than significant impacts to utilities and service systems.

XVI. MANDATORY FINDINGS OF SIGNIFICANCE.

a, b, & c) No impacts are expected from this project.

## BIBLIOGRAPHY

### Source:

The Environmental Assessment and Finding of No Significant Impact prepared for the Salado Orchard Apartment Project in March of 2007 and supplemented November 2008 by RL Hastings & Associates.

### City of Corning General Plan

- Land Use Element
- Circulation Element
- Open Space Element
- Housing Element
- Safety Element
- Noise Element
- Conservation Element
- Public Facilities Element
- Economic Development Element
- Highway 99-W Corridor Specific Plan

### City of Corning Municipal Code

- Zoning Code
- Subdivision Ordinance
- Building & Construction Ordinance

### State of California Regulations

- Subdivision Map Act
- California Environmental Quality Act
- Planning and Zoning Law

### Persons/Agencies Contacted

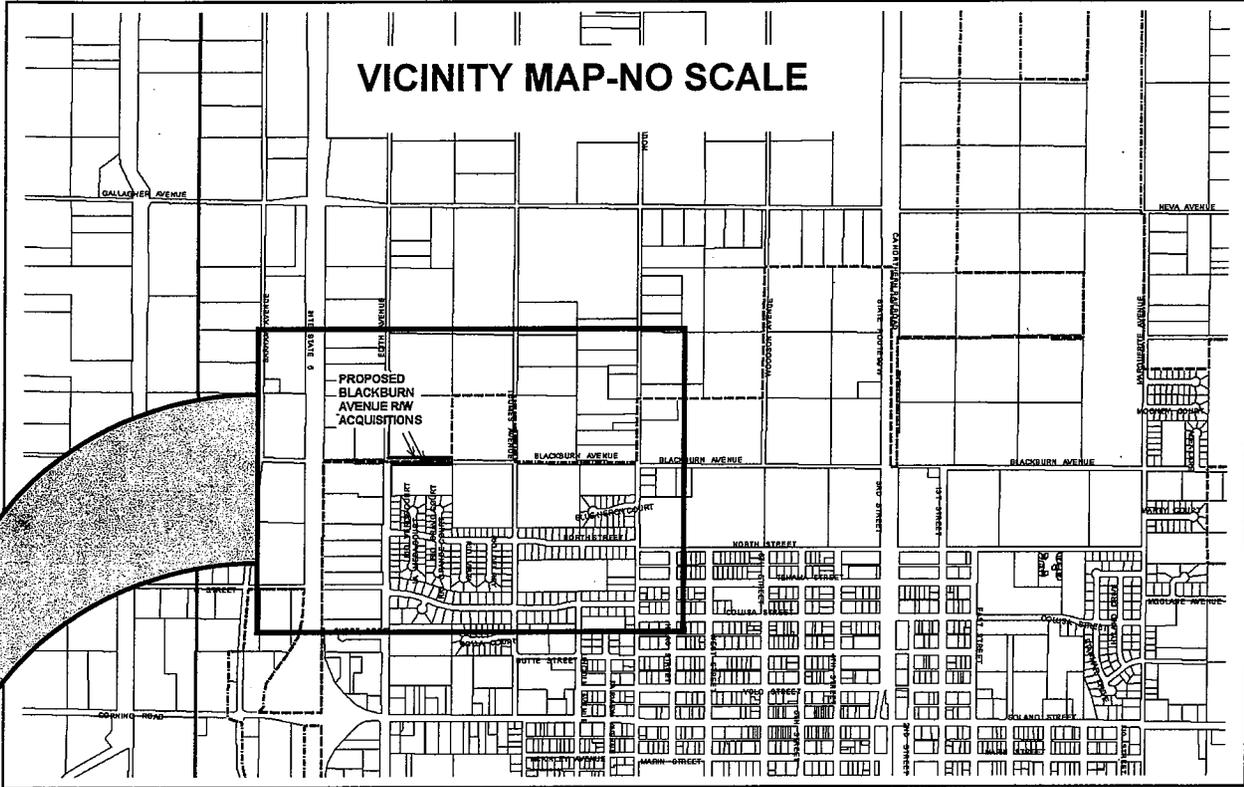
- Gary Bovee-Tehama County Air Resources Board
- Tom Russ-Corning Public Works Director
- Jack Alexander-Corning Building Official
- Bob Pryatel-Corning Fire Chief
- Tony Cardenas-Corning Police Chief
- Steve Kimbrough-Corning City Manager
- Ed Anderson-Corning City Engineer

### Principal Author:

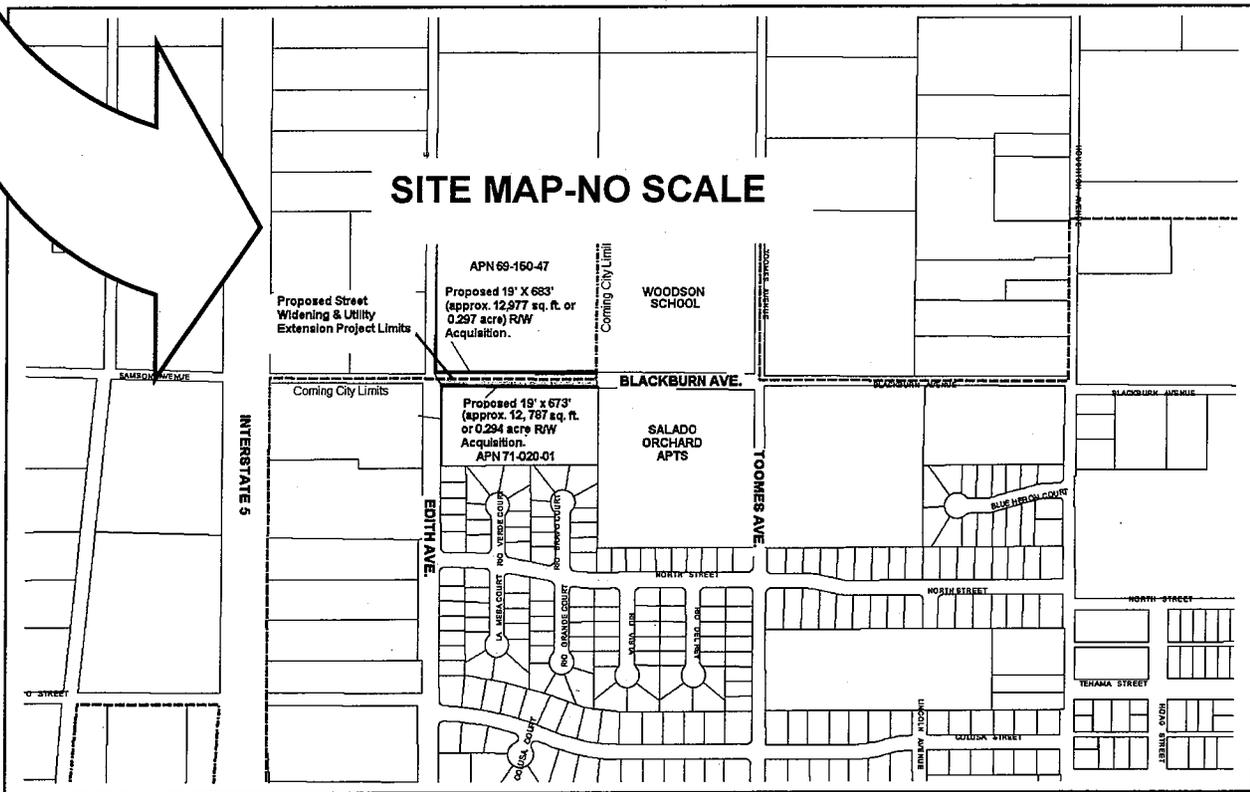
John L. Brewer, AICP-Planning Director; City of Corning

CITY OF CORNING-PROPOSED BLACKBURN AVENUE PROJECT  
DECEMBER, 2008

VICINITY MAP-NO SCALE



SITE MAP-NO SCALE



PROJECT  
SITE

BLANCHARD

BLANCHARD

COURT

COURT

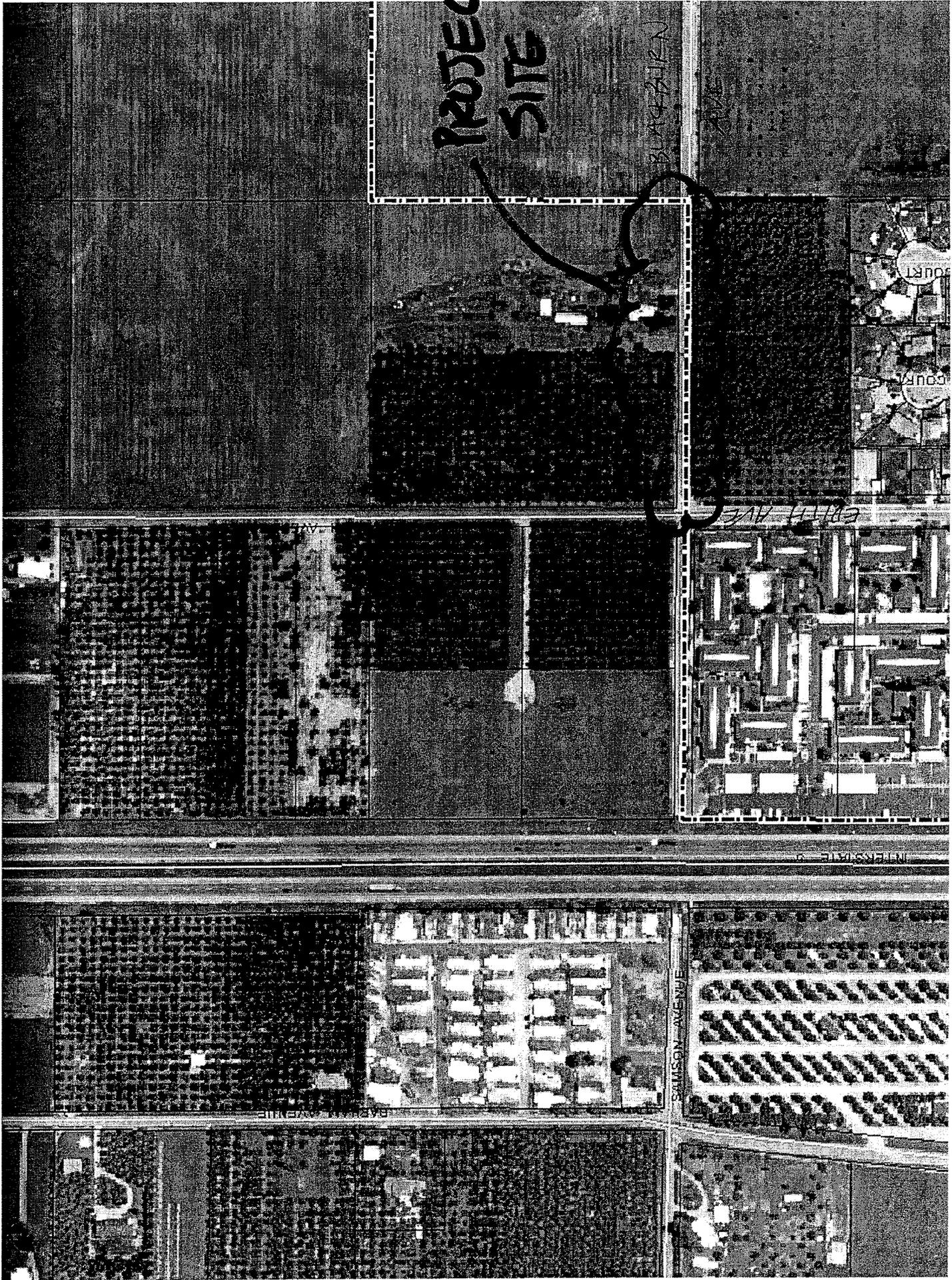
BLANCHARD

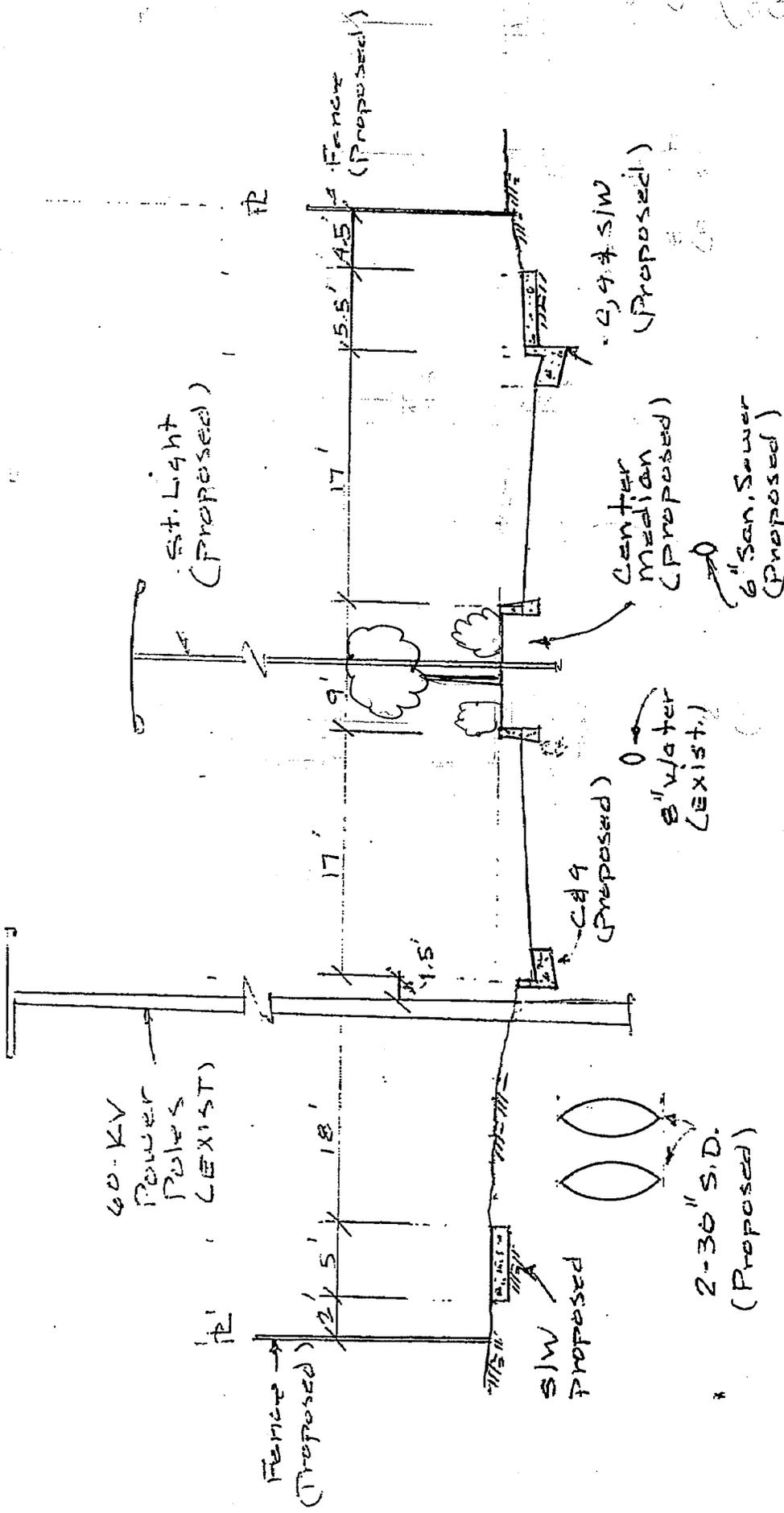
BLANCHARD

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BLANCHARD





**TYPICAL SECTION---BLACKBURN AVENUE**

Toomes Avenue to Edith Avenue  
(Looking West)

Scale: Horiz: 1" = 10"; Vert. None

**ITEM NO. P-12  
INFORMATIONAL ITEM; DEDICATION OF  
PUBLIC PROPERTY FROM HPT PSC  
PROPERTIES TRUST; SOUTH AVENUE  
INTERCHANGE PROJECT.**

**DATE: FEBRUARY 24, 2009**

**TO: CITY COUNCIL OF THE CITY OF CORNING, CALIFORNIA**

**FROM: STEPHEN J. KIMBROUGH, CITY MANAGER  
JOHN L. BREWER, AICP; PUBLIC WORKS DIRECTOR**



**SUMMARY:**

The upcoming South Avenue interchange project requires acquisition of additional properties for right of way along the interchange and at the adjacent street intersections. Caltrans Right of Way Agents are working to acquire those properties. Based on their locations, some of the properties will be acquired as State R/W, and some as City R/W.

State law requires public agencies to "accept" property offered for dedication. The attached deed from HPT PSC Trust to the City of Corning was recorded at the request of Caltrans last year. The deed grants the City of Corning a small (169 sq. ft.) triangular-shaped piece of property at the southeast corner of South Avenue and Highway 99-W. (Petro Truckstop). However, the deed was recorded without the required "acceptance" by the City of Corning.

See the attached letter from Guy Richmond, Caltrans Right of Way Agent, requesting City "acceptance" of the property.

Note that this is one of twelve such properties to be acquired as part of the interchange improvement project. Because the Mayor is authorized to "execute and accept" deeds on behalf of the City, per Resolution 05-22-07-01 (attached) no action is necessary. This matter is offered as an Information Item only.

**RECOMMENDATION:**

- **Because the Mayor is authorized to accept property on behalf of the City, this matter is presented only as an "Informational Item", no action is necessary.**

**DEPARTMENT OF TRANSPORTATION**

DISTRICT 2 – Right of Way Field Office

4300 Caterpillar Road, MS 35

Redding, CA 96003

PHONE (530) 225-3040

FAX (530) 225-3021

TTY (530) 225-2019

*Flex your power!  
Be energy efficient!*

February 10, 2009

02-Teh-5, PM 7.4

E.A. 370702

Parcel 13569

Corning City Hall  
794 3<sup>rd</sup> Street  
Corning, CA 96021  
Attn: John Stoufer  
Planning Director

Dear Mr. Stoufer:

Per our phone conversation, I am sending to you the original Highway Easement Deed for acceptance by the City of Corning. I have also included a map showing the acquired area for the I-5 South interchange project.

Upon acceptance by the city, please call me direct and I will personally take it to the recorders office for re-recording. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Guy Richmond".

GUY RICHMOND  
Right of Way Agent

PRESENTED FOR RECORDING by  
the State of California, Department of  
Transportation, under Government  
Sections 6103 and 27383-NO FEES  
CHARGED FOR RECORDING OR  
DOCUMENT TRANSFER TAX

AFTER RECORDING, RETURN TO:

Department of Transportation

Right of Way Field Office

4300 Caterpillar Road

Redding, CA 96001

Entered on R/W record map

Date 1-26-09

Certified GDC

APN 87-100-66(Portion)

Space above this line for Recorder's Use

**HIGHWAY EASEMENT  
DEED  
(INDIVIDUAL)**

District	County	Route	Postmile	Number
02	TEH	5	7.4	13569

HPT PSC Properties Trust, a Maryland real estate investment trust

Grant, convey and dedicate

to the CITY OF CORNING the right of way and incidents thereto for a public highway upon, over and across that  
certain real property, in the City of Corning, County of Tehama, State of California, described as:

That portion of PARCEL TWO of the lands conveyed to PETRO PSC PROPERTIES,  
L. P., a Delaware Limited Partnership, by deed recorded May 14, 1992 in  
Book 1379 at page 150, Official Records of Tehama County, being a portion  
of Lot 2 of Block 114 of Maywood Colony No. 15, filed March 20, 1899 in  
Book B of Maps at page 36, Tehama County Records, described as follows:

Commencing at a 3/4-inch iron pipe with brass tag stamped "LS 4545"  
marking the northeast corner of Parcel "B" as shown on Parcel Map No. 79-  
78, filed November 24, 1980 in Book 6 of Parcel Maps at page 246, Tehama  
County Records, from which a 2-inch iron pipe with brass tag stamped "RE  
3361" shown as being on the northerly line of Parcel "B" and 0.79 feet  
westerly from the west line of Highway 99-W (County Road No.708) on  
Parcel Map No. 77-286, filed January 26, 1978 in Book 4 of Parcel Maps at  
page 196, Tehama County Records, bears N 00°04'46" E, 502.96 feet;

thence, S 19°45'15" E, 246.34 feet;

thence N 53°26'59" E, 20.00 feet, to a point on the west line of said  
PARCEL TWO, being the TRUE POINT OF BEGINNING;

thence, continuing N 53°26'59" E, 26.30 feet, more or less, to a point on the south line of South Avenue;

thence, westerly along said south line to the west line of said PARCEL TWO;

thence, southerly along said west line to the TRUE POINT OF BEGINNING.

Containing 169 square feet, more or less.

Bearings and distances are based on the California Coordinate System of 1983(1991.35), Zone 1. Divide distances by 1.0000194 to obtain ground level distances.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Signature Gary D. Gogos  
Professional Land Surveyor

Date 3/20/08



Parcel 13569  
Page 3

Subject to all matters of record.

The grantor hereby further grants to grantee all trees, growths (growing or that may hereafter grow), and road building materials within said right of way, including the right to take water, together with the right to use the same in such manner and at such locations as said grantee may deem proper, needful or necessary, in the construction, reconstruction, improvement or maintenance of said highway.

The grantor, for the grantor and the grantor's successors and assigns, hereby waives any claim for any and all damages to grantor's remaining property contiguous to the right of way hereby conveyed by reason of the location, construction, landscaping or maintenance of said highway.

(As used above, the term "grantor" shall include the plural as well as the singular number.)

Dated this 16<sup>th</sup> day of October, 2008

HPT PSC Properties Trust

By: John G. Murray  
John G. Murray  
E. President

Massachusetts  
STATE OF CALIFORNIA }  
County of Middlesex } ss

PERSONAL ACKNOWLEDGMENT

On this the 16<sup>th</sup> day of October, 2008, before me, Mark R. Young, Notary Public  
Name, Title of Officer-E.G., "Jane Doe, Notary Public"

personally appeared John G. Murray  
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is is/are subscribed to the within instrument and acknowledged to me that he he/she/they executed the same in his his/her/their authorized capacity(ies), and that by his his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

[Signature]

(Notary Public's signature in and for said County and State)

Mark R. Young  
Notary Public  
My Commission Expires Nov. 14, 2008

(for notary seal or stamp)

THIS IS TO CERTIFY, That the State of California, acting by and through the Department of Transportation (pursuant to Government Code Section 27281), hereby accepts for public purposes the real property described in the within deed and consents to the recordation thereof.

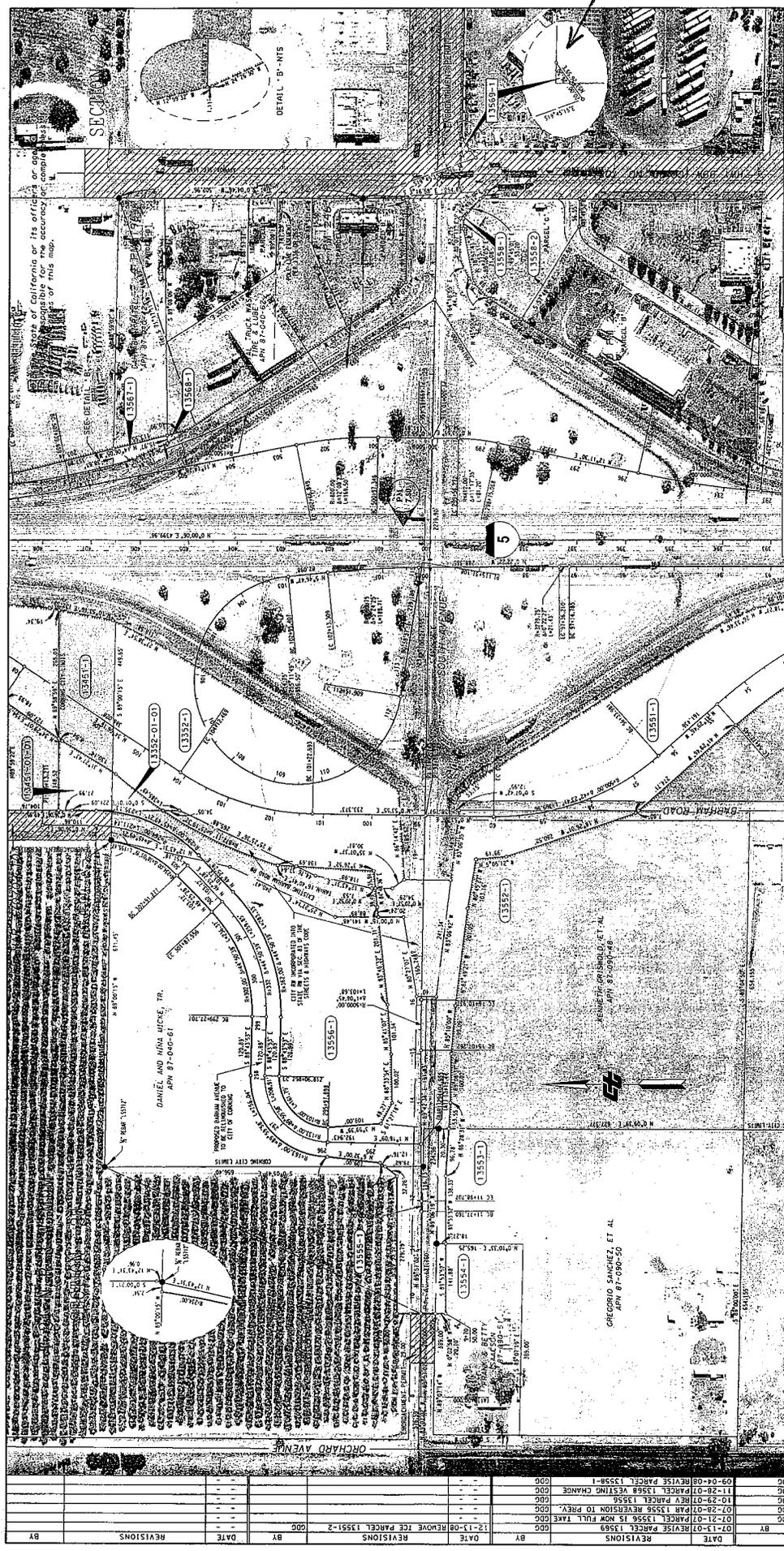
IN WITNESS WHEREOF, I have hereunto set my hand this 4<sup>th</sup> day of November, 2008

WILL KEMPTON

Director of Transportation

By Lisa Harvey  
Attorney in Fact

CITY OF CORONA



PARCEL #	TITLE	GRANTOR/GRANTEE	APR AS	REMOVED	EXCESS	REMAINER	REMARKS
13552-1		KENNETH GILSON, ET AL	9.49 AC	0.81 AC	0.28 AC	8.40 AC	
13553-1		GEORGINO SANCHEZ, ET AL	7.14 AC	0.09 AC	0.00 AC	7.05 AC	IMF EASEMENT
13554-1		JOHN HANUSCK, VARIABLE LIFE	62.44 AC	0.00 AC	0.00 AC	62.44 AC	IMF EASEMENT
13555-1		JOHN HANUSCK, VARIABLE LIFE	62.44 AC	0.00 AC	0.00 AC	62.44 AC	IMF EASEMENT
13556-1		DANIEL AND NINA WICKES, TR.	6.14 AC	1.89 AC	0.12 AC	4.13 AC	PREVIOUSLY ACQUIRED
13557-1		JUNE L. HILL, TR.	4.13 AC	0.00 AC	0.00 AC	4.13 AC	PREVIOUSLY ACQUIRED
13558-1		HPT TA PROPERTIES TR.	0.97 AC	0.04 AC	0.00 AC	0.93 AC	PREVIOUSLY ACQUIRED
13559-1		HPT TA PROPERTIES TR.	0.97 AC	0.04 AC	0.00 AC	0.93 AC	PREVIOUSLY ACQUIRED
13560-1		ROYAL BANK MAIN TRS ALIEN	1.28 AC	0.00 AC	0.00 AC	1.28 AC	
13561-1		HPT TA PROPERTIES TR.	9.02 AC	0.00 AC	0.00 AC	9.02 AC	IMF EASEMENT IN CITY'S NAME
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STATE OF CALIFORNIA  
BUSINESS, TRANSPORTATION AND HOUSING AGENCY  
DEPARTMENT OF TRANSPORTATION

**RIGHT OF WAY  
RECORD MAP**  
MAP NO. 370702.102

FOR PREVIOUS R/W INFORMATION SEE  
MAPS 8-7-248.15

TO DESIGN: / / ELSI:370202  
DISTRICT COUNTY ROUTE SHEET PM SHEET NO. TOTAL SHEETS  
02 151 3 7.5 2 3

**NOTES**  
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**RESOLUTION NO. 05-22-07-01**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORNING  
AUTHORIZING THE CITY MAYOR TO EXECUTE AND ACCEPT  
DEEDS**

**WHEREAS**, the City from time to time decides to convey interests in real property from the City to others and accept property from others to the City; and

**WHEREAS**, these property conveyances and acceptances may constitute grants in fee title, easements, rights-of-way, encroachments, licenses and other types of real property interests; and

**WHEREAS**, the County Recorder's Office requires that the recording of such deeds be accompanied by a Resolution of the City of Corning authorizing the conveyance and/or acceptance.

**NOW, THEREFORE, BE IT RESOLVED that:**

1. The Mayor of the City of Corning is hereby authorized to execute deeds of interests in real property on behalf of the City of Corning conveying any interests owned by the City to persons and entities other than the City; and

2. The Mayor of the City of Corning is hereby authorized on behalf of the City of Corning to execute documents accepting any interests in real property conveyed by persons and entities to the City of Corning; and

3. The Recorder's Office of the County in which such real property is situated is hereby authorized to accept and record such deeds, if accompanied by a Certificate duly executed by the Mayor of the City of Corning, as sufficient documentation that the City of Corning has duly authorized each such conveyance and/or acceptance.

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The foregoing resolution was passed by the City Council of the City of Corning, this 22<sup>nd</sup> day of May 2007.

**AYES:** Strack, Hill, Dickison, Zuniga and Turner

**NOES:** None.

**ABSENT:** None.

**ABSTAINING:** None.

  
\_\_\_\_\_  
Gary R. Strack, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Lisa M. Linnet, City Clerk

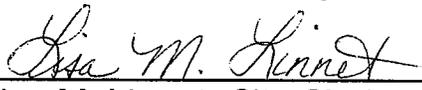
STATE OF CALIFORNIA)

COUNTY OF TEHAMA ) SS

CITY OF CORNING )

I, Lisa M. Linnet, City Clerk of the City of Corning, do hereby certify that the foregoing is a true and correct copy of Resolution No. 05-22-07-01 adopted by the City Council of the City of Corning at the May 22, 2007 regular City Council meeting by the votes listed on the attached copy of the Resolution.

ATTEST:

  
Lisa M. Linnet  
Lisa M. Linnet, City Clerk

ITEM NO: P-13  
REVIEW OF CITY PUBLIC NUISANCE  
ABATEMENT CODES TO IDENTIFY  
NEEDED CHANGES  
FEBRUARY 24, 2009

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: STEPHEN J. KIMBROUGH, CITY MANAGER



**SUMMARY:**

The City Council has emphasized the importance of public nuisance abatement in the City. Following the recent criticism of code Enforcement, City Council undertook a review of the Public Nuisance Codes. The entire Title 8 pertaining to health and safety and the portion of Title 10 relating to abandoned and inoperative vehicles are attached for review.

The Council also wants to determine if there are ways to improve the Code and if changes are needed as a result of changes in State Law and State Court Actions.

**WHERE TO FIND THE CODES:**

In the City Code, Title 8 "Health and Safety", Title 10 "Vehicles and Traffic" and Title 17 "Zoning" contain the key provisions that support Public Nuisance Abatement and Code Enforcement.

Important definitions can be found on page 90 and 91 of the Code; the public nuisances are defined on page 95-1, 95-2 and 95-3, and on page 122 the definitions and scope for abandoned vehicles can be found.

**RECOMMENDATION**

**MAYOR AND COUNCIL REVIEW CITY CODE ENFORCEMENT,**

**RESTATE THE CITY COUNCIL'S STRONG SUPPORT FOR ENFORCEMENT OF THE  
NUISANCE CODES**

**AND PROVIDE DIRECTION TO CITY STAFF OF ANY AREAS THE COUNCIL BELIEVES  
NEED TO BE STRENGTHENED.**

Title 8HEALTH AND SAFETYChapters:

- 8.01 General Provisions
- 8.02 Definitions
- 8.06 Solid Waste Disposal
- 8.08 Public Nuisances
- 8.09 Adult-Oriented Businesses
- 8.10 Public Intoxication and Drinking
- 8.12 Burning Regulations
- 8.14 Weed Abatement
- 8.16 Air Pollution Control
- 8.18 Fireworks
- 8.20 Garbage and Refuse
- 8.22 Dangerous Buildings
- 8.25 Enforcement Policies and Procedures

Chapter 8.01GENERAL PROVISIONSSections:

- 8.01.010 Introduction.
- 8.01.020 Purposes and intent.

8.01.010 Introduction. It is important for the city to be and to appear clean, well kept and generally clear of public nuisance, eyesores and unhealthy conditions. The appearance of a community weighs heavily in the decisions of prospective residents and businesses in locating in a particular area. A clean community can increase property values, provide a healthy environment and make citizens proud of the area they live in, which acts as its own encouragement to keep the community clean in the future. As such a community needs to develop a plan and a set of regulations to keep the area cleaned up, to remove unsightly conditions and prevent future problems from occurring. The following program has been designated to meet these needs, and protect the citizens health, safety

and property values from public nuisances. (Ord. 578 §2(2), 1998; Ord. 535 §1(part), 1993).

8.01.020 Purposes and intent. In accordance with the provisions of California Government Code Section 38773.5, it is the intent of the city council, by the adoption of this chapter, to provide a procedure for the abatement of

public nuisances within the city of Corning in order to effectively combat hazard to the public health, safety and welfare. (Ord. 535 §1(part), 1993).

Chapter 8.02

DEFINITIONS

Sections:

8.02.010 Definitions.

8.02.010 Definitions. For the purposes of this chapter, the words set out in this section shall have the following meanings:

A. Credentials. Proper credentials consist of any one of the following: city badge or city identification card.

B. "Garbage" includes all spoiled or waste food from a kitchen or market that is thrown away or any worthless, unnecessary or offensive matter.

C. "Grass, weeds or plants" includes grass, weeds or plants which, when mature, will attain such a large growth as to become a fire menace when dry, or which are otherwise noxious or dangerous.

D. "Grass, weeds, plants, rubbish and rubble disposal" means upon removal, the grass, weeds or plants, rubbish and rubble shall be disposed of legally and shall not be placed, deposited or dumped in the public streets, or placed, deposited or dumped between the property line and the curb line.

E. "Litter" means all improperly discarded waste material, including, but not limited to, convenience food, beverage and other product packages or containers constructed of steel, aluminum, glass, paper, plastic and other natural and synthetic materials, thrown on or deposited on the lands and waters of the city, but not including the properly discarded waste of the primary processing of agriculture, mining, logging, sawmilling or manufacturing.

F. "Nuisance" including anything which is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property, and affects at the same time the entire community or neighborhood or any considerable number of persons, although the extent of annoyance or damage inflicted upon the individual may be unequal. The terms "nuisance" and "public nuisance" shall be synonymous and either term wherever used shall have the same meaning as the other term.

G. "Owner" means the legal owner of real property fronting on any street and as used in this title the singu-

lar includes the plural, and includes an individual, a firm, an association, a corporation, a partnership, and the lessees, trustees, agents, employees, servants and representatives of any such owner.

H. "Person" means any individual, partnership, corporation, joint venture, receiver, limited liability company, trust, estate, cooperative, association or any other entity.

I. "Premises" includes a tract or parcel of land with or without habitable buildings or nonhabitable structures.

J. Prima Facie Proof From Status of Assessment Rolls. Proof of the assessment of any real property, the subject of this title, to any person or legal entity on the official assessor's rolls shall constitute prima facie evidence that said person or legal entity to whom said property is so assessed is the legal owner thereof.

K. "Public street" or "streets" means all roads, streets, avenues, boulevards, alleys, parkways and public right-of-way, or any portion thereof, of the city.

L. Removal or Destruction of Noxious or Dangerous Grass, Weeds or Plants. Every owner of real property within the corporate limits of the city of Corning shall remove and destroy all grass, weeds or plants as defined in Section 8.06.100 from said real property and from in front of said real property from the property line thereof to the curb line of the street upon which said real property abuts.

*WRONG SECTION*

M. "Removal of rubbish" means every owner of real property within the corporate limits of the city of Corning shall keep such real property free and clear of all rubbish, including the real property in front of the same, from the property line thereof to the curb line of the street.

N. "Removal of rubble" means every owner of real property within the corporate limits of the city of Corning shall keep such real property free and clear of all rubble.

O. "Rubbish" means all putrescible and nonputrescible, combustible and noncombustible solid waste, including garbage, plastics, refuse, ashes, dead animals, rubber by-products, abandoned or no longer used automobiles or parts of automobiles, junk, worthless and useless articles, which are in such a state or in such quantity as to be unsightly, against general welfare, unhealthful, dangerous to persons, or so as to interfere with the abatement of weeds.

P. Rubble. Any rubble, residue, structure or part or portions of a structure remaining after fire damage to or the demolition or partial demolition of any building or structure in the city.

Q. "Solid waste" means and includes all solid or semisolid, putrescible and nonputrescible discarded material, including garbage, rubbish and rubble as defined in Chapter 8.02 of this code.

R. "Vector" includes any insect or other arthropod, rodent or other animal capable of transmitting the causative agents of human disease or disrupting the normal enjoyment of life by adversely affecting the public health and well being. (Ord. 578 §2(1)(part), (8) and (9), 1998; Ord. 577 (part), 1997; Ord. 535 §1(part), 1993).

### Chapter 8.06

#### SOLID WASTE DISPOSAL

##### Sections:

- 8.06.010 General applicability of chapter standards.
- 8.06.020 Conformance with county waste disposal plan.
- 8.06.030 Mandatory service.
- 8.06.035 Discontinuing service upon vacancy.
- 8.06.040 Storage of solid waste.
- 8.06.050 Building designs to include specifications for anticipated handling of solid waste disposal.
- 8.06.060 Maintenance of storage containers.
- 8.06.070 Container specifications.
- 8.06.080 Identification of containers.
- 8.06.090 Tampering with container wastes.
- 8.06.100 Billing for services.
- 8.06.101 Collection rate adjustments--Approval by city council.
- 8.06.105 Rate and service disputes.
- 8.06.110 Regulation and qualifications of operators.
- 8.06.120 Ownership of waste materials.
- 8.06.130 Solid waste removal by owner, tenant or occupant.
- 8.06.140 Solid waste collection.
- 8.06.150 Burying or burning waste prohibited.
- 8.06.160 Public litter receptacles.
- 8.06.170 Violation.

8.06.010 General applicability of chapter standards.  
The standards in this chapter shall apply to land within the city and all facilities, equipment or vehicles used for storage, removal, transport and other handling of solid wastes. The General Provisions Chapter 8.02 of Corning Municipal Code also applies to this section. (Ord. 577(part), 1997; Ord. 535 §4(part), 1993).

8.06.020 Conformance with county waste disposal plan. Storage and removal of solid wastes in the city shall be in conformance with the county of Tehama solid

waste plan, as contained in Title II, Division III, Part VII, Chapter 4, Section 2840 to 2847, of the Tehama County Code. (Ord. 535 §4(part), 1993).

8.06.030 Mandatory service. The owner, tenant or occupant of every parcel with one or more businesses and/or residential buildings approved for occupancy and located within the city of Corning shall subscribe to and thereafter use regularly, the refuse collection service franchised by the city of Corning. (Ord. 577(part), 1997).

8.06.035 Discontinuing service upon vacancy. The owner, tenant or occupant of any premises required to subscribe to a refuse collection service under this chapter may discontinue service for one or more months when such premises are vacant or the occupant is traveling out of town. The owner, tenant or occupant is required to submit written notice of such vacancy to the refuse collection service franchised by the city. Monthly garbage fees shall continue to accrue until such time as notice is received by such refuse collection service.

In the event of a dispute arising under this section, such dispute shall be reviewed as set forth in Section 8.06.105, Rate and service disputes, of this chapter. (Ord. 577(part), 1997).

8.06.040 Storage of solid waste. A. The property owner or occupant shall store solid waste on his or her premises or property or shall require it to be stored or handled in such a manner so as not to promote the propagation, harborage or attraction of vectors, or the creation of a nuisance.

B. It is unlawful for any person to allow garbage, rubbish or solid waste materials to accumulate outside of an authorized garbage, rubbish or waste container. Such garbage, rubbish or waste material shall be removed weekly. (Ord. 578 §2(10)(part), 1998; Ord. 577(part), 1997).

8.06.050 Building designs to include specifications for anticipated handling of solid waste disposal. The design of any new, substantially remodeled or expanded building or other facility shall provide for proper storage or handling and which will accommodate the solid waste loading anticipated collection. The design shall demonstrate to the planning officer and building official that it includes the required provisions. (Ord. 535 §4(part), 1993).

8.06.060 Maintenance of storage containers. Where the collection operator furnishes storage containers, they are responsible for maintaining the containers in good condition. (Ord. 535 §4(part), 1993).

8.06.070 Container specifications. Property owners and tenants shall deposit all garbage and putrescible matter or mixed garbage and rubbish in containers which are nonabsorbent, watertight, vector-resistant, durable, easily cleanable and designed for the containment of refuse. Containers for garbage and rubbish shall be of an adequate size and in sufficient numbers to contain, without overflowing, all the refuse that a household or other establishment generates within the designated removal period. Containers when filled shall not exceed reasonable lifting weights for an average physically fit individual, except where mechanical loading systems are used. Containers shall be maintained in clean, sound condition free from putrescible residue. (Ord. 578 §2(11), 1998; Ord. 577(part), 1997; Ord. 535 §4(part), 1993).

8.06.080 Identification of containers. Containers of one cubic yard or more owned by the collection service operator shall be identified with the name and telephone number of the agent servicing the container. (Ord. 535 §4(part), 1993).

8.06.090 Tampering with container wastes. No person shall tamper with, modify, remove from or deposit solid wastes in any container which has not been provided for his or her use, without the permission of the container owner. (Ord. 578 §2(10)(part), 1998; Ord. 535 §4(part), 1993).

8.06.100 Billing for services. The solid waste franchised hauler shall be responsible for billing refuse collection subscribers. In the event that the solid waste franchised hauler has delinquent accounts for such services, it may submit those accounts to the city for the purposes of collection. The city shall then, pursuant to the authority contained in Government Code Section 38790.1, attempt to collect such delinquent fees in the manner described in Government Code 25831. The franchised hauler shall not cease to provide service for properties which have delinquent accounts. (Ord. 577(part), 1997).

8.06.101 Collection rate adjustments--Approval by city council. The solid waste franchised hauler shall not make any increases in the rates without first securing approval by the city council. (Ord. 577(part), 1997).

8.06.105 Rate and service disputes. Because the refuse customer service rates are based upon volume hauled, and the level of service must be determined through agreement between the solid waste franchised hauler and the customer, disagreements may from time to time occur between these parties. The customer or franchised hauler may, therefore, present the situation to the city director of

public works for resolution. The circumstances of the dispute shall be presented in letter form, clearly stating the issues disagreed upon and the solution sought. The director of public works shall review the disputed issue and make a determination which shall be final. The authority of the director of public works to administratively resolve disputes in the foregoing manner does not include authority to approve adjustments in the rates themselves which are charged for differing levels and types of service. (Ord. 577(part), 1997).

8.06.110 Regulation and qualifications of operators. The regulation and qualifications of operators shall be as set forth in the Administrative Code of California Title 14, Section 17332 and 17333. (Ord. 535 §4(part), 1993).

8.06.120 Ownership of waste materials. Solid wastes subject to collection by a collection service operator shall become the property of the collection service operator subject to the provision of this chapter and the contract or franchise conditions after such time as the authorized collector takes possession of the wastes. (Ord. 535 §4(part), 1993).

8.06.130 Solid waste removal by owner, tenant or occupant. Solid wastes may be removed by the owner, occupant or tenant of any premises for disposal only in an approved solid waste disposal site. (Ord. 577(part), 1997; Ord. 535 §4(part), 1993).

8.06.140 Solid waste collection. No person, except the employees of the city in the course of their employment, or the solid waste collection service designated by the city, shall collect solid waste in the city. (Ord. 535 §4(part), 1993).

8.06.150 Burying or burning waste prohibited. No person shall bury or burn waste at any place within the city limits. (Ord. 577(part), 1997; Ord. 535 §4(part), 1993).

8.06.160 Public litter receptacles. No person shall place household garbage or rubbish in a public litter receptacle. (Ord. 535 §4(part), 1993).

8.06.170 Violation. Any person violating any section of this chapter is guilty of an infraction and shall be punished as provided in Chapter 8.25 of this code. (Ord. 535 §4(part), 1993).

Chapter 8.08PUBLIC NUISANCESSections:

- 8.08.010 Purpose and intent.
- 8.08.020 Unlawful nuisances.
- 8.08.030 Declaration of nuisance.
- 8.08.040 Unlawful to maintain.
- 8.08.050 Violation.

8.08.010 Purpose and intent. In accordance with the provisions of California Government Code Sections 38771 et seq., it is the intent of the city council, by the adoption of this chapter, to provide a procedure for the abatement of public nuisances within the city of Corning in order to effectively combat hazards to the public health, safety and welfare. (Ord. 578 §2(12), 1998; Ord. 535 §5(part), 1993).

8.08.020 Unlawful nuisances. Each and every one of the following conditions or acts is declared to be a public nuisance:

A. Barbed Wire Fence. No barbed wire shall be permitted on any fence or part of a fence running along, and within, two feet of any sidewalk now ordered, or that may hereafter be ordered, to be put down within the city. Any such barbed wire shall be declared a public nuisance;

B. Dead Animals. No person or persons shall put any carcass of any dead animal or the offal from any slaughterhouse, corral or butcher shop in or along the streets and alleys of this city, or who allows the carcass of such dead animal, or such offal of any kind, to remain in or upon the borders of any such street or alley, or upon premises owned, leased or controlled by him/her so as to become injurious to the health or offensive to the senses of the community or neighborhood, or any considerable number of persons, so as to interfere with the comfortable enjoyment of life or property;

C. Dead Vegetation. Dead, decayed, diseased or hazardous trees, weeds or other vegetation constituting a danger to public safety and welfare or detrimental to neighboring properties;

D. Fire Hazards. All dry or dead shrub, dead tree, combustible refuse and waste or any material growing upon a street, sidewalk or private property within the city, by reason of its size, manner or growth;

E. Graffiti, or other words, letters or drawings which remain on the exterior of any building or fence for an unreasonable period and are visible from a public street;

F. Hazardous Building. Any building or structure which is vacant, abandoned, partially destroyed, structurally unsafe or left in a state of partial construction, including excavations therefor and construction sites, and is hazardous to the public health, safety or welfare. Must be abated as required in the Uniform Building Code for the Abatement of Dangerous Buildings;

G. Hazardous Pool. Any pools, ponds, excavation or other body of water which is abandoned, neglected, unattended, unfiltered or not otherwise maintained or which is lacking security fencing as required by state law. Any such hazardous pool may include a pool, pond, excavation or other body of water in such condition so that the water therein becomes polluted including, but not limited to, bacterial growth, algae, remains of insects, animals, reptiles, birds, fish or other life forms, refuse, debris, papers and any other matter resulting in a hazard to the public health, safety or welfare;

H. Hazardous Substances. Storing, discharging, holding, handling, maintaining, using or otherwise dealing with hazardous substances, as defined by applicable state or federal laws or regulations, is declared a public nuisance when carried out under any of the following conditions:

1. In violation of federal, state or local laws or regulations,
2. In such a manner to affect in any way air, soil or water quality,
3. In such a manner as to create an identifiable risk of accidental release of the substances, which might adversely affect health or safety of person, damage property or adversely affect air, soil or water quality;

I. Hedges on any corner lot may not exceed four inches in height. Hedges exceeding four inches in height shall be declared a public nuisance;

J. Illegal Keeping of Animals. No maintaining, keeping, harboring or permitting or allowing to be kept, maintained or harbored, any animal of any type or nature on any property; within the city that is in violation of the rules and regulations set forth in the Corning Municipal Code or the State Penal Code that regulates animals;

K. Illegal Storage of Vehicles. No maintaining, storing or keeping, or permitting or allowing to be maintained, stored or kept, inoperable, junked or otherwise derelict vehicles or parts stored in residential areas; any inoperable, junked trailer, boat, boat and trailer, recreational vehicle, motor vehicle, mobile equipment of any type of nature on any property in the city;

L. Improperly Harnessed Jack or Stallion. The exhibiting or exercising of any jack or stallion not properly harnessed or hitched to a wagon, cart of other vehicle, on the public streets, alleys or sidewalks is forbidden and declared to be a public nuisance;

M. Overgrown vegetation, likely to harbor rats, vermin and other public nuisances causing detriment to neighboring properties or property values, or obstructing view of drivers on public streets or private driveways and visible from a public street;

N. Polluted Water. The polluting of drainage water along the gutters of the streets and alleys, or the draining of polluted and filthy water into or along the public streets, alleys, or sidewalks of the city is forbidden and declared a public nuisance;

O. Refuse, waste and illegal storage, means maintaining, storing or keeping, or permitting or allowing to be maintained, stored or kept, machinery, equipment, or parts thereof, or furniture, household appliances, construction material, packing boxes, paper, cardboard, debris, rubbish, refuse, garbage or similar matter on any property in violation of Corning Municipal Code;

P. Swimming Pool and Hot Tubs. All swimming pools, hot tubs or pools of water shall have a barrier. A barrier can be a fence, wall, a building wall or a combination thereof which completely surrounds the swimming pool, hot tub or pool of water;

Q. Additional Public Nuisance. Anything not specified in this chapter but which falls within the definition of nuisance set forth in Chapter 8.02. (Ord. 578 §2(13), 1998; Ord. 535 §5(part), 1993).

8.08.030 Declaration of nuisance. The city council, in accordance with the provisions of California Government Code Sections 38711 et seq., finds and declares that those conditions defined in Section 8.08.020 constitute public nuisances and are subject to the abatement and enforcement procedures set forth in this chapter. (Ord. 578 §2(14), 1998).

8.08.040 Unlawful to maintain. It is unlawful for any person to maintain or to allow to be maintained a public nuisance on his or her property or to engage in any activity which constitutes a public nuisance as defined in this title. (Ord. 578 §2(1)(part), (16), 1998).

8.08.050 Violation. Public nuisance violations shall be abated in accordance with the procedures set forth in Chapter 8.25 of this code. Any person in violation of any of the provisions of this chapter is guilty of an infraction punishable as set forth in Chapter 8.25 and may be punished thereunder and/or subjected to the administrative and other civil remedies provided therein. (Ord. 578 §2(1)(part), (17), 1998; Ord. 535 §5(part), 1993).

Chapter 8.09

ADULT-ORIENTED BUSINESSES

Sections:

ARTICLE I. GENERAL PROVISIONS

- 8.09.010 Legislative purpose.
- 8.09.020 Definitions.
- 8.09.030 Permits required.

ARTICLE II. APPLICATIONS AND PERMITS

- 8.09.040 Adult-oriented business regulatory permit required.
- 8.09.050 Application.
- 8.09.060 Investigation and action on application.
- 8.09.070 Permit denial.
- 8.09.080 Transfer of adult-oriented business regulatory permits.
- 8.09.090 Adult-oriented business performer permit.
- 8.09.100 Investigation and action on application.
- 8.09.110 Suspension or revocation of adult-oriented business regulatory permits and adult-oriented business performer permits.
- 8.09.120 Appeal of denial, suspension or revocation.

ARTICLE III. FACILITIES AND EMPLOYEES

- 8.09.130 Adult-oriented business development and performance standards.
- 8.09.140 Register and permit number of employees.
- 8.09.150 Display of permit and identification cards.
- 8.09.160 Employment of and services rendered to persons under the age of eighteen years prohibited.
- 8.09.170 Inspection.
- 8.09.180 Regulations nonexclusive.
- 8.09.190 Employment of persons without permits unlawful.
- 8.09.200 Time limit for filing application for permit.
- 8.09.210 Severability.

ARTICLE I. GENERAL PROVISIONS

8.09.010 Legislative purpose. It is the purpose of the following provisions to regulate adult-oriented businesses in order to promote the health, safety, morals and general welfare of the citizens of the city of Corning. These provisions have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult-oriented materials. Similarly, it is not the intent nor effect of these provisions to restrict or deny access by adults to adult-oriented materials protected by the first amendment, nor to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market. Neither is it the intent nor effect of these provisions to condone or legitimize the distribution of obscene material. (Ord. 610 §3(part), 2004).

8.09.020 Definitions. For the purpose of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section. If a word or phrase used in this chapter is not defined herein but is defined in Chapter 17 of this code, such word or phrase when used in this chapter shall have the same meaning as described in Chapter 17.

A. Adult-Oriented Businesses. "Adult-oriented businesses" means any one of the following:

1. Adult Arcade. The term "adult arcade" as used in this chapter, means an establishment where, for any form of consideration, one or more still or motion picture projectors, or similar machines, for viewing by five or fewer persons each, are used to show films, computer generated images, motion pictures, video cassettes, slides or other photographic reproductions thirty percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

2. Adult Bookstore. The term "adult bookstore" as used in this chapter, means an establishment that has thirty percent or more of its floor area devoted to sales and display of books, magazines, periodicals or other printed matter, or of photographs, films, motion pictures, video cassettes, slides, tapes, records or other form of

visual or audio representations which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities and/or specified anatomical areas.

3. Adult Cabaret. The term "adult cabaret" as used in this chapter, means a nightclub, restaurant, or similar business establishment which:

a. Regularly features live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities;

b. Regularly features persons who appear semi-nude;

c. Shows films, computer generated images, motion pictures, video cassettes, slides, or other photographic reproductions thirty percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

4. Adult Hotel/Motel. The term "adult hotel/motel" as used in this chapter, means a hotel or motel or similar business establishment offering public accommodations for any form of consideration which:

a. Provides patrons with closed-circuit television transmissions, films, computer generated images, motion pictures, video cassettes, slides, or other photographic reproductions thirty percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; and

b. Rents, leases, or lets any room for less than a six hour period, or rents, leases, or lets any single room more than twice in a twenty-four-hour period.

5. Adult Motion Picture Theater. The term "adult motion picture theater" as used in this chapter, means a business establishment where, for any form of consideration, films, computer generated images, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and thirty percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

6. Adult Theater. The term "adult theater" as used in this chapter, means a theater, concert hall, audi-

torium, or similar establishment which, for any form of consideration regularly features live performances which are distinguished or characterized by an emphasis on the display of specified anatomical areas or specified sexual activities.

7. Modeling Studio. The term "modeling studio" as used in this chapter, means a business which provides, for pecuniary compensation, monetary or other consideration, hire or reward, figure models who, for the purposes of sexual stimulation of patrons, display "specified anatomical areas" to be or otherwise depicted by persons paying such consideration. "Modeling studio" does not include schools maintained pursuant to standards set by the State Board of Education. "Modeling studio" further does not include a studio or similar facility owned, operated, or maintained by an individual artist or group of artists, and which does not provide, permit, or make available "specified sexual activities."

B. Adult-Oriented Business Operator. "Adult-oriented business operator" (hereinafter "operator") means a person who supervises, manages, inspects, directs, organizes, controls or in any other way is responsible for or in charge of the premises of an adult-oriented business or the conduct or activities occurring on the premises thereof.

C. Applicant. A person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee or agent of an adult-oriented business.

D. Bar. For the purposes of the ordinance codified in this chapter, a bar means any commercial establishment licensed by the State Department of Alcoholic Beverage Control to serve any alcoholic beverages on the premises.

E. Distinguished or Characterized by an Emphasis Upon. As used in this chapter, the term "distinguished or characterized by an emphasis upon" means and refers to the dominant or essential theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon" the depiction or description of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or predominant character and theme are the depiction of the enumerated sexual

activities or anatomical areas. See Pringle v. City of Covina, 115 Cal.App.3 151 (1981).

F. Figure Model. "Figure model" means any person who, for pecuniary compensation, consideration, hire or reward, poses in a modeling studio to be observed, sketched, painted, drawn, sculptured, photographed or otherwise depicted.

G. Health Officer. The Health officer of the city of Corning or his or her duly authorized representative.

H. Nudity or a State of Nudity. "Nudity or a state of nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state.

I. Operate an Adult-Oriented Business. As used in this article "operate an adult-oriented business" means the supervising, managing, inspecting, directing, organizing, controlling or in any way being responsible for or in charge of the conduct of activities of an adult-oriented business or activities within an adult-oriented business.

J. Permitted. "Permitted" means the person to whom an adult-oriented business permit is issued.

K. Person. Any individual, partnership, copartnership, firm, association, joint stock company, corporation or combination of the above in whatever form or character.

L. Police Chief. The police chief of the city of Corning or the authorized representatives thereof.

M. Regularly Features. The term "regularly features" with respect to an adult theater or adult cabaret means a regular and substantial course of conduct. The fact that live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities occurs on two or more occasions within a thirty day period; three or more occasions within a sixty day period; or four or more occasions within a one hundred and eighty day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct.

N. "Semi-nude" means a state of dress in which clothing covers no more than the genitals, pubic region, buttocks, areola of the female breast, as well as portions of the body covered by supporting straps or devices.

O. Establishment of an Adult Oriented Business. As used herein, to "establish" an adult-oriented business means and includes any of the following:

1. The opening or commencement of any adult-oriented business as a new business;
2. The conversion of an existing business, whether or not an adult-oriented business, to any adult-oriented business defined herein;
3. The addition of any of the adult-oriented businesses defined herein to any other existing adult-oriented business; or
4. The relocation of any such adult-oriented business.

P. Specified Anatomical Areas. As used herein, "specified anatomical areas" means and includes any of the following:

1. Less than completely and opaquely covered human (i) genitals or pubic region; (ii) buttocks; and (iii) female breast below a point immediately above the top of the areola;
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered;
3. Any device, costume or covering that simulates any of the body parts included in subsections (P) (1) or (P) (2) of this section.

Q. Specified Sexual Activities. As used herein, "specified sexual activities" means and includes any of the following, whether performed directly or indirectly through clothing or other covering:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breast;
2. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
3. Masturbation, actual or simulated;
4. Excretory functions as part of or in connection with any of the other activities described in subsections (Q) (1) through (Q) (3) of this section. (Ord. 610 §3(part), 2004).

8.09.030 Permits required. A. It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the city of Corning, the operation of

an adult-oriented business unless the person first obtains and continues to maintain in full force and effect a permit from the city of Corning as herein required. (Adult-oriented business regulatory permit.)

B. It shall be unlawful for any person to engage in or participate in any live performance depicting specified anatomical areas or involving specified sexual activities in an adult-oriented business unless the person first obtains and continues in full force and effect a permit from the city of Corning as herein required. (Adult-oriented business performer permit.) (Ord. 610 §3(part), 2004).

## ARTICLE II. APPLICATIONS AND PERMITS

8.09.040 Adult-oriented business regulatory permit required. A. Every person who proposes to maintain, operate or conduct an adult-oriented business in the city of Corning shall file an application with the police chief upon a form provided by the city of Corning and shall pay a filing fee, as established by resolution adopted by the city council from time to time, which shall not be refundable. (Ord. 610 §3(part), 2004).

8.09.050 Application. A. Adult-oriented business regulatory permits are nontransferable, except in accordance with Section 8.09.070. Therefore, all applications shall include the following information:

1. If the applicant is an individual, the individual shall state his or her legal name, including any aliases, address, and submit satisfactory written proof that he or she is at least eighteen years of age.

2. If the applicant is a partnership, the partners shall state the partnerships complete name, address, the names of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement, if any.

3. If the applicant is a corporation, the corporation shall provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of California, the names and capacity of all officers and directors, the name of the registered corporate agent and the address of the registered office for service of process.

4. If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, an officer of the business entity or an individual with a ten percent or greater interest in the business entity shall sign the application.

5. If the applicant intends to operate the adult-oriented business under a name other than that of the applicant, the applicant shall file the fictitious name of the adult-oriented business and show proof of registration of the fictitious name.

6. A description of the type of adult-oriented business for which the permit is requested and the proposed address where the adult-oriented business will operate, plus the names and addresses of the owners and lessors of the adult-oriented business site.

7. The address to which notice of action on the application is to be mailed.

8. The names of all employees, independent contractors, and other persons who will perform at the adult-oriented business, who are required by Section 8.09.080 to obtain an adult-oriented business performer license.

9. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the adult-oriented business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

10. A certificate and straight-line drawing depicting as of the date of the application of the building and the portion thereof to be occupied by the adult-oriented business, and:

a. The property line of any other adult-oriented business within one thousand five hundred feet of the primary entrance of the adult-oriented business for which a permit is requested; and

b. The property lines of any church, school, park, residential zone or use within one thousand feet of the primary entrance of the adult-oriented business.

11. A diagram of the off-street parking areas and premises entries of the adult-oriented business show-

ing the location of the lighting system required by Section 8.09.130.

B. If the police chief determines that the applicant has completed the application improperly, the police chief shall promptly notify the applicant of such fact and, on request of the applicant of such fact and, on request of the applicant, grant the applicant an extension of time of ten days or less to complete the application properly. In addition, the applicant may request an extension, not to exceed ten days, of the time for the police chief to act on the application. The time period for granting or denying a permit shall be stayed during the period in which the applicant is granted an extension of time.

C. The fact that an applicant possesses other types of state or city permits or licenses does not exempt the applicant from the requirement of obtaining an adult-oriented business regulatory permit. (Ord. 610 §3(part), 2004).

8.09.060 Investigation and action on application.

A. Upon receipt of a completed application and payment of the application and permit fees, the police chief shall immediately stamp the application as received and promptly investigate the information contained in the application to determine whether the applicant shall be issued an adult-oriented business regulatory permit.

B. Within thirty days of receipt of the completed application, the police chief shall complete the investigation, grant or deny the application in accordance with the provisions of this section, and so notify the applicant as follows:

1. The police chief shall write or stamp "Granted" or "Denied" on the application and date and sign such notation.

2. If the application is denied, the police chief shall attach to the application a statement of the reasons for denial.

3. If the application is granted, the police chief shall attach to the application an adult-oriented business regulatory permit.

The application as granted or denied and the permit, if any, shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the address stated in the application.

4. The police chief shall grant the application and issue the adult-oriented business regulatory permit upon findings that the proposed business meets the locational criteria of Section 17.60.030; and that the applicant has met all of the development and performance standards and requirements of Section 8.09.130, unless the application is denied for one or more of the reasons set forth in Section 8.09.070. The permitted shall post the permit conspicuously in the adult-oriented business premises.

5. If the police chief grants the application or if the police chief neither grants nor denies the application within thirty days after it is stamped as received (except as provided in Section 8.09.050(B), the applicant may begin operating the adult-oriented business for which the permit was sought, subject to strict compliance with the development and performance standards and requirements of Section 8.09.130. (Ord. 610 §3(part), 2004).

8.09.070 Permit denial. The police chief shall deny the application for any of the following reasons:

A. The building, structure, equipment, or location used by the business for which an adult-oriented business regulatory permit is required do not comply with the requirements and standards of the health, zoning, fire and safety laws of the city of Corning and state of California, or with the locational or development and performance standards and requirements of these regulations.

B. The applicant, his or her employee, agent, partner, director, officer, shareholder or manager has knowingly made any false, misleading or fraudulent statement of material fact in the application for an adult business regulatory permit.

C. An applicant is under eighteen years of age.

D. The required application fee has not been paid.

E. The adult-oriented business does not comply with the zoning ordinance locational standards in Section 17.60.030.

Each adult-oriented business regulatory permit shall expire one year from the date of issuance, and may be renewed only by filing with the police chief a written request for renewal, accompanied by the annual permit fee and a copy of the permit to be renewed. The request for

renewal shall be made at least thirty days before the expiration date of the permit. When made less than thirty days before the expiration date, the expiration of the permit will not be stayed. Applications for renewal shall be acted on as provided herein for action upon initial applications for permits. (Ord. 610 §3(part), 2004).

8.09.080 Transfer of adult-oriented business regulatory permits. A. A permittee shall not operate an adult-oriented business under the authority of an adult-oriented business regulatory permit at any place other than the address of the adult-oriented business stated in the application for the permit.

B. A permittee shall not transfer ownership or control of an adult-oriented business or transfer an adult-oriented business regulatory permit to another person unless and until the transferee obtains an amendment to the permit from the police chief stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the police chief in accordance with Section 8.09.050, accompanies the application with a transfer fee in an amount set by resolution of the city council, and the police chief determines in accordance with Section 8.09.060 that the transferee would be entitled to the issuance of an original permit.

C. No permit may be transferred when the police chief has notified the permittee that the permit has been or may be suspended or revoked.

D. Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void, and the permit shall be deemed revoked. (Ord. 610 §3(part), 2004).

8.09.090 Adult-oriented business performer permit. A. No person shall engage in or participate in any live performance depicting specified anatomical areas or involving specified sexual activities in an adult-oriented business, without a valid adult-oriented business performer permit issued by the city. All persons who have been issued an adult-oriented business regulatory permit shall promptly supplement the information provided as part of the application for the permit required by Section 8.09.050, with the names of all performers required to obtain an adult-oriented

business performer permit, within thirty days of any change in the information originally submitted. Failure to submit such changes shall be grounds for suspension of the adult-oriented business regulatory permit.

B. The police chief is empowered to grant, deny, renew or deny renewal of adult-oriented business performer permits.

C. The application for a permit shall be made on a form provided by the police chief. An original and two copies of the completed and sworn permit application shall be filed with the police chief.

D. The completed application shall contain the following information and be accompanied by the following documents:

1. The applicant's legal name and any other names (including "stage names" and aliases) used by the applicant;
2. Age, date and place of birth;
3. Height, weight, hair and eye color;
4. Present residence address and telephone number;
5. Whether the applicant has ever been convicted of:
  - a. Any of the offenses set forth in Sections 315, 316, 266a, 266b, 266c, 266e, 266g, 266h, 266i, 647(a), 647(b) and 647(D) of the California Penal Code as those sections now exist or may hereafter be amended or renumbered.
  - b. The equivalent of the aforesaid offenses outside the state of California.
6. Whether such person is or has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other jurisdiction to engage in prostitution in such other jurisdiction. If any person mentioned in this subsection has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other state to engage in prostitution, a statement shall be submitted giving the place of such registration, licensing or legal authorization, and the inclusive dates during which such person was so licensed, registered, or authored to engage in prostitution.
7. State driver's license or identification number;

8. Satisfactory written proof that the applicant is at least eighteen years of age;

9. The applicant's fingerprints on a form provided by the police department, and a color photograph clearly showing the applicant's face. Any fees for the photographs and fingerprints shall be paid by the applicant;

10. If the application is made for the purpose of renewing a license, the applicant shall attach a copy of the license to be renewed.

E. The completed application shall be accompanied by a non-refundable application fee. The amount of the fee shall be set by resolution of the city council.

F. Upon receipt of an application and payment of the application fees, the police chief shall immediately stamp the application as received and promptly investigate the application.

G. If the police chief determines that the applicant has completed the application improperly, the police chief shall promptly notify the applicant of such fact and grant the applicant an extension of time of not more than ten days to complete the application properly. In addition, the applicant may request an extension, not to exceed ten days, of the time for the city manager to act on the application. The time period for granting or denying a permit shall be stayed during the period in which the applicant is granted an extension of time. (Ord. 610 §3(part), 2004).

8.09.100 Investigation and action on application.

A. Within five days after receipt of the properly completed application, the police chief shall grant or deny the application and so notify the applicant as follows:

1. The police chief shall write or stamp "Granted" or "Denied" on the application and date and sign such notation.

2. If the application is denied, the police chief shall attach to the application a statement of the reasons for denial.

3. If the application is granted, the police chief shall attach to the application an adult-oriented business regulatory permit.

4. The application as granted or denied and the permit, if any, shall be placed in the United States mail,

first class postage prepaid, addressed to the applicant at the address stated in the application.

B. The police chief shall grant the application and issue the permit unless the application is denied for one or more of the reasons set forth in subsection D of this section.

C. If the police chief grants the application or if the police chief neither grants nor denies the application within five days after it is stamped as received (except as provided in Section 8.09.090(G)) the applicant may begin performing in the capacity for which the license was sought.

D. The police chief shall deny the application for any of the following reasons:

1. The applicant has knowingly made any false, misleading or fraudulent statement of a material fact in the application for a permit or in any report or document required to be filed with the application;

2. The applicant is under eighteen years of age;

3. The adult-oriented business employee permit is to be used for performing in a business prohibited by federal, state or city law.

4. The applicant has been registered in any state as a prostitute.

5. The applicant has been convicted of any of the offenses enumerated in Section 8.09.090(D)(5)(A) or convicted of an offense outside the state of California that would have constituted any of the described offenses if committed within the state of California. A permit may be issued to any person convicted of the described crimes if the conviction occurred more than five years prior to the date of the application.

E. Each adult-oriented business performer permit shall expire one year from the date of issuance and may be renewed only by filing with the police chief a written request for renewal, accompanied by the application fee and a copy of the permit to be renewed. The request for renewal shall be made at least thirty days before the expiration date of the permit. When made less than thirty days before the expiration date, the expiration of the permit will not be stayed. Applications for renewal shall be acted on as provided herein for applications for permits. (Ord. 610 §3(part), 2004).

8.09.110 Suspension or revocation of adult-oriented business regulatory permits and adult-oriented business performer permits. An adult-oriented business regulatory permit or adult-oriented business employee permit may be suspended or revoked in accordance with the procedures and standards of this section.

A. On determining that grounds for permit revocation exist, the police chief shall furnish written notice of the proposed suspension or revocation to the permittee. Such notice shall set forth the time and place of a hearing, and the ground or grounds upon which the hearing is based, the pertinent code sections, and a brief statement of the factual matters in support thereof. The notice shall be mailed, postage prepaid, addressed to the last known address of the permittee, or shall be delivered to the permittee personally, at least ten days prior to the hearing date. Hearings shall be conducted in accordance with procedures established by the police chief, but at a minimum shall include the following:

1. All parties involved shall have a right to offer testimonial, documentary, and tangible evidence bearing on the issues; may be represented by counsel; and shall have the right to confront and cross-examine witnesses. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness. The police chief's decision may be appealed in accordance with Section 8.09.120.

B. A permittee may be subject to suspension or revocation of his or her permit, or be subject to other appropriate disciplinary action, for any of the following causes arising from the acts or omissions of the permittee, or an employee, agent, partner, director, stockholder or manager of an adult-oriented business:

1. The permittee has knowingly made any false, misleading or fraudulent statement of material facts in the application for a permit, or in any report or record required to be filed with the city.

2. The permittee, employee, agent, partner, director, stockholder, or manager of an adult-oriented business has knowingly allowed or permitted, and has failed to make a reasonable effort to prevent the occurrence of any

of the following on the premises of the adult-oriented business, or in the case of an adult-oriented business performer, the permittee has engaged in one of the activities described below while on the premises of an adult-oriented business:

a. Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation.

b. Use of the establishment as a place where unlawful solicitations for sexual intercourse sodomy, oral copulation, or masturbation openly occur.

c. Any conduct constituting a criminal offense which requires registration under Section 290 of the California Penal Code.

d. The occurrence of acts of lewdness, assignation, or prostitution, including any conduct constituting violations of Sections 315, 316, or 318 or Subdivision b of Section 647 of the California Penal Code.

e. Any act constituting a violation of provisions in the California Penal Code relating to obscene matter or distribution of harmful matter to minors including but not limited to Section 311 through 313.4.

f. Any conduct prohibited by this chapter.

3. Failure to abide by a disciplinary action previously imposed by an appropriate city official.

C. After holding the hearing in accordance with the provisions of this section, if the police chief finds and determines that there are grounds for disciplinary action, based upon the severity of the violation, the police chief shall impose one of the following:

1. A warning;

2. Suspension of the permit for a specified period not to exceed six months;

3. Revocation of the permit.

(Ord. 610 §3(part), 2004).

#### 8.09.120 Appeal of denial, suspension or revocation.

After denial of an application for an adult-oriented business regulatory permit or an adult-oriented business performer permit, or after denial of renewal of a permit, or suspension or revocation of a permit, the applicant or person to whom the permit was granted may seek review of such administrative action by the city council, or its designee, in accordance with the procedures adopted by ordinance or resolution. If the denial, suspension or revo-

cation is affirmed on review, the applicant, permittee may seek prompt judicial review of such administrative action pursuant to California Code of Civil Procedure Section 1094.5. The city shall make all reasonable efforts to expedite judicial review, if sought by the permittee. (Ord. 610 §3(part), 2004).

### ARTICLE III. FACILITIES AND EMPLOYEES

8.09.130 Adult-oriented business development and performance standards. A. Maximum occupancy load, fire exits, aisles and fire equipment shall be regulated, designed and provided in accordance with the fire department and building regulations and standards adopted by the city of Corning.

B. No adult-oriented business shall be operated in any manner that permits the observation of any material or activities depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" from any public way or from any location outside the building or area of such establishment. This provision shall apply to any display, decoration, sign, show window or other opening. No exterior door or window on the premises shall be propped or kept open at any time while the business is open, and any exterior windows shall be covered with opaque covering at all times.

C. All off-street parking areas and premise entries of the sexually-oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot candle of light on the parking surface and/or walkways. The required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually-oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.

D. The premises within which the adult-oriented business is located shall provide sufficient sound-absorbing insulation so that noise generated inside said premises shall not be audible anywhere on any adjacent property or public right-of-way or within any other building or other separate unit within the same building.

E. Except for those businesses also regulated by the California Department of Alcoholic Beverage Control, an adult-oriented business shall be open for business only between the hours of 8:00 a.m. and midnight on any particular day.

F. The building entrance to an adult-oriented business shall be clearly and legibly posted with a notice indicating that persons under eighteen years of age are precluded from entering the premises. Said notice shall be constructed and posted to the satisfaction of the city manager or designee. No person under the age of eighteen years shall be permitted within the premises at any time.

G. All indoor areas of the adult-oriented business within which patrons are permitted, except restrooms, shall be open to view by the management at all times.

H. Any adult-oriented business which is also an "adult arcade", shall comply with the following provisions:

1. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be direct line of sight from the manager's station.

2. The view area specified in subsection (H) (1) of this section, shall remain unobstructed by any doors, walls, merchandise, display racks or other materials at all times. No patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

3. No viewing room may be occupied by more than one person at any one time.

4. The walls or partitions between viewing rooms or booths shall be maintained in good repair at all times with no holes between any two such rooms such as would allow viewing from one booth into another or such as

to allow physical contact of any kind between the occupants of any two such booths or rooms.

5. Customers, patrons or visitors shall not be allowed to stand idly by in the vicinity of any such video booths or from remaining in the common area of such business, other than the restrooms, who are not actively engaged in shopping for or reviewing the products available on display for purchaser viewing. Signs prohibiting loitering shall be posted in prominent places in and near the video booths.

6. The floors, seats, walls and other interior portions of all video booths shall be maintained clean and free from waste and bodily secretions. Presence of human excrement, urine, semen or saliva in any such booths shall be evidence of improper maintenance and inadequate sanitary controls; repeated instances of such conditions may justify suspension or revocation of the owner and operator's license to conduct the adult-oriented establishment.

I. All areas of the adult-oriented business shall be illuminated at a minimum of the following foot-candles, minimally maintained and evenly distributed at ground level:

<u>Area</u>	<u>Foot-Candles</u>
Bookstores and other retail establishments	20
Theaters and cabarets	5 (except during performances, at which times lighting shall be at least 1.25 foot-candles)
Arcades	10
Motels/Hotels	20 (in public areas)
Modeling studios	20

J. The adult-oriented business shall provide and maintain separate restroom facilities for male patrons and employees, and female patrons and employees. Male patrons and employees shall be prohibited from using the restroom(s) for females, and female patrons and employees shall be prohibited from using the restroom(s) for males, except to carry out duties of repair, maintenance and cleaning of the restroom facilities. The restrooms shall be free from any adult material. Restrooms shall not contain television monitors or other motion picture or video projection, recording or reproduction equipment. The

foregoing provisions of this paragraph shall not apply to an adult-oriented business which deals exclusively with sale or rental of adult material which is not used or consumed on the premises, such as an adult bookstore or adult video store, and which does not provide restroom facilities to its patrons or the general public.

K. The following additional requirements shall pertain to adult-oriented businesses providing live entertainment depicting specified anatomical areas or involving specified sexual activities.

1. No person shall perform live entertainment for patrons of an adult-oriented business except upon a stage at least eighteen inches above the level of the floor which is separated by a distance of at least ten feet from the nearest area occupied by patrons, and no patron shall be permitted within ten feet of the stage while the stage is occupied by an entertainer. "Entertainer" shall mean any person who is an employee or independent contractor of the adult-oriented business, or any person who, with or without any compensation or other form of consideration, performs live entertainment for patrons of an adult-oriented business.

2. The adult-oriented business shall provide separate dressing room facilities for entertainers which are exclusively dedicated to the entertainers' use.

3. The adult-oriented business shall provide an entrance/exit for entertainers which is separate from the entrance/exit used by patrons.

4. The adult-oriented business shall provide access for entertainers between the stage and the dressing rooms which is completely separated from the patrons. If such separate access is not physically feasible, the adult-oriented business shall provide a minimum three foot wide walk aisle for entertainers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the entertainers capable of (and which actually results in) preventing any physical contact between patrons and entertainers.

5. No entertainer, either before, during or after performances, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during or after performances by such entertainer. This subsection shall only apply to

physical contact on the premises of the adult-oriented business.

6. Fixed rail(s) at least thirty inches in height shall be maintained establishing the separations between entertainers and patrons required by this subsection.

7. No patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any patron.

8. No owner or other person with managerial control over an adult-oriented business shall permit any person on the premises of the adult-oriented business to engage in a live showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque coverage, and/or the female breast with less than a fully opaque coverage over any part of the nipple or areola and/or covered male genitals in a discernibly turgid state. This provision may not be complied with by applying an opaque covering simulating the appearance of the specified anatomical part required to be covered.

L. Adult-oriented businesses shall employ security guards in order to maintain the public peace and safety, based upon the following standards:

1. Adult-oriented businesses featuring live entertainment shall provide at least one security guard at all times while the business is open. If the occupancy limit of the premises is greater than thirty-five persons, an additional security guard shall be on duty.

2. Security guards for other adult-oriented businesses may be required if it is determined by the police chief that their presence is necessary in order to prevent any of the conduct listed in Section 8.09.110(B)(2) from occurring on the premises.

3. Security guard(s) shall be charged with preventing violations of law and enforcing compliance by patrons of the requirements of these regulations. Security guards shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public and shall be duly licensed as a security guard as required by applicable provisions of state law. No security guard required pursuant to this subsection shall act as a door person, ticket seller, ticket taker, admittance person, or sole occupant of the manager's station while acting as a security guard.

M. The foregoing applicable requirements of this section shall be deemed conditions of adult-oriented business regulatory permit approvals, and failure to comply with every such requirement shall be grounds for suspension or revocation of the permit issued pursuant to these regulations. (Ord. 610 §3(part), 2004).

8.09.140 Register and permit number of employees.

A. Every permittee of an adult-oriented business which provides live entertainment depicting specified anatomical areas or involving specified sexual activities must maintain a register of all persons so performing on the premises and their permit numbers. Such register shall be available for inspection during regular business hours by any police officer or health officer of the city of Corning. (Ord. 610 §3(part), 2004).

8.09.150 Display of permit and identification cards.

A. Every adult-oriented business shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for such adult-oriented business in a conspicuous place so that the same may be readily seen by all persons entering the adult-oriented business.

B. The police chief shall provide each adult-oriented business performer required to have a permit pursuant to the chapter, with an identification card containing the name, address, photograph and permit number of such performer.

C. An adult-oriented business performer shall have such card available for inspection at all times during which such person is on the premises of the adult-oriented business. (Ord. 610 §3(part), 2004).

8.09.160 Employment of and services rendered to persons under the age of eighteen years prohibited.

A. It shall be unlawful for any permittee, operator, or other person in charge of any adult-oriented business to employ, or provide any service for which it requires such permit, to any person who is not at least eighteen years of age.

B. It shall be unlawful for any permittee, operator or other person in charge of any adult-oriented business to permit to enter, or remain within the adult-oriented

business, any person who is at least eighteen years of age. (Ord. 610 §3(part), 2004).

8.09.170 Inspection. An applicant or permittee shall permit representatives of the police department, health department, fire department, planning department, or other city departments or agencies to inspect the premises of an adult-oriented business for the purpose of insuring compliance with the law and the development and performance standards applicable to adult-oriented business, at any time it is occupied or opened for business. A person who operated an adult-oriented business or his or her agent or employee is in violation of the provisions of this section if he or she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business. (Ord. 610 §3(part), 2004).

8.09.180 Regulations nonexclusive. The provisions of this article regulating adult-oriented businesses are not intended to be exclusive and compliance therewith shall not excuse noncompliance with any other regulations pertaining to the operation of businesses as adopted by the city council of the city of Corning. (Ord. 610 §3(part), 2004).

8.09.190 Employment of persons without permits unlawful. It shall be unlawful for any owner operator, manager, or permittee in charge of or in control of an adult-oriented business which provides live entertainment depicting specified anatomical areas or involving specified sexual activities to allow any person to perform such entertainment who is not in possession of a valid, unrevoked adult-oriented business performer permit. (Ord. 610 §3(part), 2004).

8.09.200 Time limit for filing application for permit. All persons who possess an outstanding business license heretofore issued for the operation of an adult-oriented business and all persons required by this chapter to obtain an adult-oriented business performer permit, must apply to obtain such a permit within ninety days of the effective date of this chapter. Failure to do so and continued operation of an adult-oriented business, or the continued performances depicting specified anatomical areas

or specified sexual activities in an adult-oriented business after such time without a permit shall constitute a violation of this chapter. (Ord. 610 §3(part), 2004).

8.09.210 Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective. (Ord. 610 §3(part), 2004).

#### Chapter 8.10

#### PUBLIC INTOXICATION AND DRINKING

##### Sections:

- 8.10.010 Consumption or possession of open containers in public places.
- 8.10.020 Consumption or possession of any open container on a privately owner parking lot or business property open to the public.

Sections: (Continued)

8.10.030 Consumption or possession of open container near premises from which off-sale alcoholic beverages are sold.

8.10.040 Exceptions.

8.10.050 Definitions.

8.10.060 Violations--Penalties.

8.10.010 Consumption or possession of open containers in public places. No person may drink any alcoholic beverage or possess an open container of any alcoholic beverage:

A. Upon any public street, alley, sidewalk, parking lot, park or other public property, except in a public park, unless such park is posted for nonconsumption of alcoholic beverages; or

B. On any public school property; unless an exception exists under Section 8.10.040. (Ord. 455 §1(part), 1987).

8.10.020 Consumption or possession of any open container on a privately owned parking lot or business property open to the public. No person may drink any alcoholic beverage or possess an open container of any alcoholic beverage while upon a privately owned automobile parking lot or business property, to which the public is invited and permitted, unless an exception exists under Section 8.10.040. (Ord. 535 §6, 1993: Ord. 455 §1(part), 1987).

8.10.030 Consumption or possession of open container near premises from which off-sale alcoholic beverages are sold. Prohibited Activity. No person possessing an open container of any alcoholic beverage may enter, be or remain on premises from which alcoholic beverages are sold for off-site consumption or on the sidewalk or parking lot adjacent to it. (Ord. 455 §1(part), 1987).

8.10.040 Exceptions. Section 8.10.010 and 8.10.020 do not apply to a group which has planned an organized event at which alcoholic beverages will be served, provided the group has first applied to and received written consent from the city of Corning, unless the event is sponsored by the property owner or person in control at which time no permit or permission is required.

This chapter shall not be construed to make punishable an act prohibited by a statute of the state of California. (Ord. 455 §1(part), 1987).

8.10.050 Definitions. As used in this chapter:

A. "Alcoholic beverage" means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine or beer, and which contains one-half of one percent or more of alcohol by volume and which is

fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

B. "Open container" means a bottle, can or other receptacle which has been opened, or a seal broken or the contents partially removed.

C. "Premises from which alcoholic beverages are sold for off-site consumption" means the premises of a retail package off-sale alcoholic beverage licensee licensed under the Alcoholic Beverage Control Act (Business and Professions Code Division 9, Section 23000, et seq.). (Ord. 455 §1(part), 1987).

8.10.060 Violations--Penalties. Any person violating any provisions of this chapter shall be guilty of an infraction or shall be guilty of a misdemeanor if cited or arrested for a second offense under this chapter within one year after a prior conviction. (Ord. 455 §1(part), 1987).

## Chapter 8.12

### BURNING REGULATIONS

#### Sections:

- 8.12.010 Findings.
- 8.12.020 Adopted--Scope.
- 8.12.030 Nuisances declared.
- 8.12.040 Enforcement--Abatement.
- 8.12.050 Nuisances--Recordkeeping--Notices.
- 8.12.060 Chemical control.
- 8.12.070 Nuisances--Notice.
- 8.12.080 Statutory reference.

8.12.010 Findings. The city council finds that the city is subject to climatological conditions which result in severe fire hazards, due to the rapid drying of weeds, dry grass, stubble, brush, litter or other flammable material, which endanger the public safety by the creation of such severe fire hazards. This chapter is enacted for the preservation of the public health, safety and welfare. (Ord. 535 §7(part), 1993).

8.12.020 Adopted--Scope. This chapter is adopted in addition to and alternate to existing statutes authorizing the city to abate certain nuisances, and shall not be sole means of such abatement. (Ord. 535 §7(part), 1993).

8.12.030 Nuisances declared. The city council does declare the following to be public nuisances:

A. Grass, weeds or other obstructions on sidewalks, parkways or streets;

B. Weeds, rubbish or other material dangerous or injurious to neighboring property or the health or welfare of residents of the vicinity.

C. Dry grass, stubble, brush, litter or other flammable material which endanger the public safety by creating a fire hazard. (Ord. 535 §7(part), 1993).

8.12.040 Enforcement--Abatement. The fire chief is charged with the obligation of enforcing the provisions of this chapter. The fire chief or the employees of the department of public works and acting under the supervision of the public works director may, after notice given as provided in this chapter, enter upon public or private land to abate the nuisances described in this chapter, or may employ a person or persons to perform the work of abatement; and in either case, the cost of such abatement shall be a lien upon the property and shall be collected as provided for in this chapter. (Ord. 535 §7(part), 1993).

8.12.050 Nuisances--Recordkeeping--Notices. The fire chief shall cause to be compiled a record of parcels of property which contain seasonal and recurrent nuisances and defined in this chapter. Annually when the nuisances come in to being, notices shall be given to the owners of the property concerned, of proposed abatement of the nuisances, which notice shall be given as provided by the Government Code of California, Section 39567.1, which section is incorporated in this chapter by reference and by such reference made a part of this chapter. (Ord. 535 §7(part), 1993).

8.12.060 Chemical control. Where the public works determines that efficient and economical control of seasonal and recurrent nuisances requires preventive chemical control of such nuisances, the notice provided for by Section 8.12.050 shall so state; and once the city has been required to abate the nuisance, the city may, in addition, before and during the next following germinating season of such weeds or grasses, provide for the preventive abatement of such nuisance by using chemical control of such weeds or grasses. (Ord. 535 §7(part), 1993).

8.12.070 Nuisances--Notice. In the event the fire chief fails to find that climatological conditions have resulted in the creation of nuisances prior to May 31st of any year, then the notices provided for shall be given as soon after May 31st as is feasible, and shall be given to the property owners of the properties found to be a nui-

sance the preceding year, as well as any additional property owners who own property upon which there exists an actual nuisance as defined in this chapter. (Ord. 535 §7(part), 1993).

8.12.080 Statutory reference. Hearings upon the notice to abate, the abatement order, and collection of costs of abatement shall all be carried out as provided by Section 39568 through and including Section 39588 of the Government Code of California, all of which sections are incorporated herein by reference, and by such reference made a part of this chapter. (Ord. 535 §7(part), 1993).

## Chapter 8.14

### WEED ABATEMENT

#### Sections:

- 8.14.010 Introduction.
- 8.14.020 Notice to remove or destroy grass, weeds or plants.
- 8.14.030 Form of notice.
- 8.14.040 Entry to abate.
- 8.14.050 Lien.
- 8.14.060 Collection.
- 8.14.070 Refunds.
- 8.14.080 Annual publication of notice.
- 8.14.090 Annual form of notice.
- 8.14.100 Validity.
- 8.14.110 Failure to comply.
- 8.14.120 Right to enter.
- 8.14.130 General applicability of chapter standards.

8.14.010 Introduction. The city has developed a plan and a set of regulations for weed abatement. The following program has been designed to meet these needs, and protect the citizens health, safety and property values. (Ord. 535 §8(part), 1993).

8.14.020 Notice to remove or destroy grass, weeds or plants. Upon the failure of the owner of any real property in the city of Corning to remove or destroy such grass, weeds or plants from said real property, or to remove or destroy such grass, weeds or plants from in front of said real property from the property line thereof to the curb line of the street upon which the real property abuts, the owner shall be given notice by the city to remove or destroy the same within a period of ten days. Such notice shall be in writing or printed and shall be dated. The

city shall mail written notices in substantially the same form as provided in Section 8.14.030 of this chapter, except that the city planning department or fire chief shall sign said notice that is to be mailed to the owner to whom the real property is assessed on that last equalized assessment roll, and it shall be mailed to the address shown on the last assessment roll. Before the end of the period to comply mentioned in said notice, the owner, if he or she has any objection thereto, may file with the city clerk a protest in writing setting forth the legal and factual reasons on which the objection to said notice or proposed removal or destruction is based. If, at the end of the period to comply mentioned in the notice, the owner has failed to comply with the notice, and if he or she has failed to file a written protest with the city clerk, a citation shall be issued and duly served upon said owner for violation of this chapter. If a written protest is filed with the city clerk, and if the city clerk, planning officer or the fire chief believes the protest to be without merit, then the written protest shall be referred to the city council for a hearing and a decision thereon. The city council may hear the protest at a regular or special meeting, and the city clerk shall mail to the address on the last assessment roll, at least seven days before the hearing, a notice of the date and time; then if the owner does not himself or herself at his or her own expense make the removal within five days thereafter, a citation shall be duly issued and served upon said owner for the violation of this chapter. (Ord. 578 §2(10)(part), 1998; Ord. 535 §8(part), 1993).

8.14.030 Form of notice. The heading of the notice to be given by the city shall be "NOTICE TO DESTROY OR REMOVE GRASS, WEEDS OR PLANTS" and notice shall be substantially in the following form:

NOTICE TO DESTROY OR REMOVE NOXIOUS OR DANGEROUS  
GRASS, WEEDS OR PLANTS.

Notice is hereby given that the noxious and dangerous grass, weeds or plants growing upon or in front of this property, or that rubble upon this property, constitute a public nuisance which must be abated within \_\_\_\_\_ days of the date hereof by the destruction or removal of said grass, weeds or plants, removal of said rubbish or rubble. Upon your failure to comply with this notice, an infraction citation will be duly issued and served upon you, requiring your appearance in response thereto before the Tehama County Municipal Court, District Southern Division.  
A brief description of the material to be removed is as follows:

If you object to this proposed destruction and removal of grass, weeds or plants, you are hereby notified to file with the City Clerk within ten (10) days of the date hereof a written protest setting forth the legal and factual reasons upon which the objections are based.

A brief official City Assessment description of the premises is as follows:

A.P. # \_\_\_\_\_ Dated: \_\_\_\_\_

\_\_\_\_\_  
 City of Corning  
 (Ord. 535 §8(part), 1993).

8.14.040 Entry to abate. The city may, at reasonable hours, enter upon private property to perform the duties imposed by this chapter following failure to comply by the owner following the notice given, pursuant to Section 8.01.070. (Ord. 535 §8(part), 1993).

8.14.050 Lien. Upon completion of the work of destruction or removal of said grass, weeds or plants by the city, the fire chief shall notify the city clerk that said work has been completed and shall, in writing, inform the city clerk of the cost of such work. If the said owner fails or refuses to pay to the city the amount of cost of such work within a period of thirty days from the date of such notice, then the city clerk shall record in a book to be kept for that purpose the name of the owner of the property, a description of the property sufficient for identification, and the amount of the charges against said real property for doing the work, removal or destruction of grass, weeds or plants from the property. From and after the date that said entry is so made, the amount charged against the real property, which amount shall include the cost of removing, transporting and depositing the grass, weeds or plants from said real property, including from the property line thereof to the curb line of the street upon which the real property abuts, shall constitute a special assessment against the real property, and the amount of such special assessment shall be added to the next regular bill for taxes levied against said real property for municipal purposes. (Ord. 535 §8(part), 1993).

8.14.060 Collection. The amount of the assessment shall be collected at the time and in the manner ordinary municipal taxes are collected. If delinquent, the amount is subject to the same penalties and the same procedure of foreclosure and sale provided for in ordinary municipal taxes. (Ord. 535 §8(part), 1993).

8.14.070 Refunds. The city council may order refunded all or part of a special assessment paid pursuant to this chapter, if it finds that all or part of the special assessment has been erroneously levied. A special assessment or portion thereof shall not be refunded unless a claim is filed with the city clerk on or before March 1st after the special assessment became due and payable. The claim shall be verified by the owner who paid the tax, or his or her guardian, executor, administrator, assignee or successor in interest. (Ord. 578 §2(10)(part), 1998; Ord. 535 §8(part), 1993).

8.14.080 Annual publication of notice. The fire chief shall cause to be published two notices in the Corning Observer between April 1st and May 1st of each year, which notices shall in each publication provide as follows:

NOTICE TO ALL PROPERTY OWNERS WITHIN THE CORNING CITY LIMITS ARE HEREBY NOTIFIED TO REMOVE OR DESTROY ALL NOXIOUS OR DANGEROUS GRASS, WEEDS OR PLANTS, PRIOR TO JUNE 15TH OF EACH YEAR.

MUNICIPAL COURT CITATIONS WILL BE ISSUED pursuant to City Ordinance No. 535 for infraction violations thereof against all property owners failing to comply with this notice.

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Fire Chief, City of Corning

8.14.090 Annual form of notice. The heading of the notice to be given by the city shall be "NOTICE TO DESTROY OR REMOVE NOXIOUS OR DANGEROUS GRASS, WEEDS OR PLANTS," and the notice shall be substantially in the following form:

NOTICE TO DESTROY OR REMOVE NOXIOUS OR DANGEROUS GRASS, WEEDS OR PLANTS.

Notice is hereby given that the noxious and dangerous grass, weeds or plants growing upon or in front of this property, constitute a public nuisance which must be abated within \_\_\_\_\_ days of the date hereof by the destruction or removal of said grass, weeds or plants. Upon your failure to comply with this notice, an infraction citation will be duly issued and served upon you, requiring your appearance in response thereto before the Corning Municipal District Court. IT WILL BE THE POLICY OF THE COURT NOT TO DISMISS CITATIONS FROM COMPLIANCE AFTER JUNE 15th. FAILURE TO COMPLY WILL RESULT IN ADDITIONAL CITATIONS(S) AND FINE(S).

A brief description of the material to be removed is as follows:

If you object to this proposed destruction and removal of grass, weeds or plants, rubbish and rubble, you are hereby notified to file with the City Clerk within ten (10) days of the date hereof a written protest setting forth the legal and factual reasons upon which the objections is based.

A brief official City Assessment description of the premises is as follows:

A.P. # \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Fire Chief

(Ord. 535 §8(part), 1993).

8.14.100 Validity. If any provision of this chapter or the application thereof to any owner for any reason is held to be invalid or unconstitutional, the remainder of this chapter and the application of its provisions to other persons and circumstances shall not be affected thereby. (Ord. 535 §8(part), 1993).

8.14.110 Failure to comply. Any person failing to comply with any of the provisions of this chapter is guilty of an infraction and subject to the fines as set forth in Chapter 8.25 of the Corning Municipal Code. (Ord. 535 §8(part), 1993).

8.14.120 Right to enter. Right to enter is as defined in Section 8.01.070 of this code. (Ord. 535 §8(part), 1993).

8.14.130 General applicability of chapter standards. The standards in this chapter shall apply to all property within the city. (Ord. 535 §8(part), 1993).

Chapter 8.16AIR POLLUTION CONTROLSections:

8.16.010 Adopted--Purpose--Findings.

8.16.020 Rules and regulations.

8.16.010 Adopted--Purpose--Findings. The following chapter is adopted by the city pursuant to the provisions of Section 39433 of the Health and Safety Code of the state and subsequent sections thereto, and is made for the purpose of further restricting the open burning of combustible materials within the city limits. The city council finds that climatic conditions during certain periods of the year in the city and surrounding area are such that the burning of combustible materials in incinerators or in or about burning areas causes an extreme fire danger. (Ord. 290 §1, 1973).

8.16.020 Rules and regulations. The city council shall adopt reasonable rules and regulations relating to the burning of combustible materials in incinerators or in burn areas within the city. Such rules and regulations shall be adopted as nearly as possible in the same manner as the adoption of rules and regulations by the Regional Air Pollution Control Board, as provided by Section 39460 of the Health and Safety Code. After the adoption of rules and regulations by the city council, the enforcement thereof shall be relegated to the fire chief who shall have the authority to declare the existence of extremely hazardous fire conditions and to totally prohibit the use of burn barrels or open burning of combustible materials within the city. (Ord. 290 §2, 1973).

Chapter 8.18FIREWORKS\*Sections:

- 8.18.010 Restrictions.
- 8.18.020 Permitted discharge of safe and sane fireworks.
- 8.18.030 Public display.
- 8.18.040 Sale permit--Issuance.
- 8.18.050 Sale--Application--Insurance required.
- 8.18.060 Sale--Time, location restrictions.
- 8.18.070 Temporary stands.
- 8.18.080 Sale permit--Permittee compliance required.
- 8.18.090 Sale of millennium fireworks.
- 8.18.100 Discharge of millennium fireworks.

8.18.010 Restrictions. Except as provided for in this chapter, the sale, offering for sale or the discharge within the city of fireworks of any kind, nature or description, including those devices defined as fireworks in the Health and Safety Code of the State of California, Section 12505, is prohibited. (Ord. 544 (part), 1994).

8.18.020 Permitted discharge of safe and sane fireworks. A. Annually on July 1st, 2nd, 3rd and 4th and on July 5th if that day is a legal holiday, safe and sane fireworks may be discharged in any area within the city zoned single-family residential, two-family residential and multifamily residential (R-1-2-3-4), and residential agricultural (R-1-a) and within city parks, except as provided in this chapter (as set forth on the official city zoning map). Safe and sane fireworks shall not be discharged at any other time nor in any zone other than provided in this section. Regardless of the zone in which a fireworks stand is located, safe and sane fireworks shall not be discharged within one hundred yards of any such stand.

B. As used in this chapter, "safe and sane fireworks" includes only those fireworks that have been classified and registered as "safe and sane" by the State Fireworks Law and the State Fire Marshal. (Ord. 544 (part), 1994).

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\* For the statutory provisions regarding the state regulation of the sale and use of fireworks, see California Health and Safety Code Sec. 12500 et seq. For the provisions regarding the issuance of permits by local agencies, see Health and Safety Code Sec. 12600 et seq.

8.18.030 Public display. Fireworks may be discharged at any celebration of a public or semipublic nature if a permit authorizing the discharge of fireworks is obtained in advance of the celebration from the fire chief. Any such permit may be issued subject to such conditions as may be necessary for the protection of the public peace and safety. (Ord. 544 (part), 1994).

8.18.040 Sale permit--Issuance. A. Upon the receipt on or before April 1st of each year of a written application therefor, the fire chief may issue a permit for the sale of safe and sane fireworks to any nonprofit association or corporation organized for veterans, patriotic, youth serving, civic betterment or charitable purpose which:

1. Has a bona fide sponsoring membership of at least fifteen adults and supports programs solely for the betterment of the community and its non profit organizations;
2. Has:
  - a. Its principal and permanent meeting place in the city limits,
  - b. Been organized and established in the city for a minimum of three years continuously preceding the filing of the application for the permit, and
  - c. A bona fide sponsoring membership of at least fifteen adults who meet regularly within the city;
3. Has obtained a fireworks retail license, issued by the California Fire Marshal.

B. The fire chief shall either grant or deny the permit before May 1st. If the application for the permit is denied, the applicant may appeal to the city council. After such investigation as it deems appropriate, the city council may issue or refuse to issue the permit. If it issues the permit, the city council may attach such conditions to the permit as are required for the protection of the public peace or safety. The decision of the city council upon the application shall be final. (Ord. 544 (part), 1994).

8.18.050 Sale--Application--Insurance required. Applications for a safe and sane fireworks sale permit shall be in writing and shall contain the following:

- A. Name and address of the applicant;
- B. The applicant's status as a nonprofit organization;
- C. The date upon which the applicant was organized and established, and the number of adults who are members of the applicant;
- D. The name and address of the officers, if any, of the applicant;
- E. The location where the applicant proposed to sell fireworks;

F. The location of the applicant's principal and permanent meeting place;

G. The applicant's State Board of Equalization sales tax permit number;

H. Assurance that if the permit is issued to the applicant, the applicant shall, at the time of receipt of such permit, deliver to the city a copy of a twenty-five thousand dollar/fifty thousand dollar public liability and a five thousand dollar property damage insurance policy issued to the applicant with a rider attached to the policy, designating the city as an additional insured under the policy;

I. Assurance that if the permit is issued to the applicant, the applicant will use the net proceeds from the sale of fireworks for the promotion of youth activities, civic or charitable activities within the city or areas of close proximity which they serve. (Ord. 544 (part), 1994).

8.18.060 Sale--Time, location restrictions. A. The permit shall authorize the sale of safe and sane fireworks beginning at noon on June 28th and ending at noon upon July 5th. If July 5th is a legal holiday, the period of sale shall end at noon on July 6th of the year in which it is issued.

B. The permit shall authorize the sale of safe and sane fireworks only from the temporary stand erected at the location specified in the application. Each applicant shall be limited to one permit a year and each permit shall be limited to one stand. (Ord. 544 (part), 1994).

8.18.070 Temporary stands. All temporary stands for the retail sale of safe and sane fireworks shall be constructed, maintained, operated and removed in the manner and subject to the following conditions:

A. Temporary fireworks stands need not comply with the provisions of the city building code; provided, however, that all stands shall be erected under the supervision of the building official and shall be constructed in a manner which will reasonably insure the safety of attendants and patrons.

B. No person other than the permittee organization shall operate the stand for which the permit is issued, or share or otherwise participate in the profits of the operation of such stand.

C. No person other than the individuals who are members of the permittee organization or the spouses or adult children of such members shall sell or otherwise participate in the sale of fireworks at such stand.

D. No person shall be paid or receive any other consideration for selling or otherwise participating in the sale of fireworks at such stand.

E. No person shall be allowed in the interior of the stands except those directly engaged in the sale of fireworks.

F. There shall be at least one adult supervisor on duty on a twenty-four-hour basis during the time the permit authorizes the sale of fireworks, regardless of whether the fireworks stand is open for business or not, with the exception of those stands whose operators remove from the premises, to a safe and secure location, all fireworks during the hours the stand is closed. No person under fourteen years of age shall be allowed inside the booth at any time.

G. Signs stating "SALE OF FIREWORKS TO PERSON UNDER THE AGE OF 16 IS PROHIBITED" shall be prominently displayed both inside and outside the stand.

H. "NO SMOKING" signs shall be prominently displayed both inside and outside the stand. No smoking shall be permitted within the stand or within five feet of the stand. The discharge of fireworks within one hundred feet of any fireworks stand is prohibited.

I. All weeds and combustible material shall be cleared from the site on which the stand is erected. No rubbish shall be allowed to accumulate in or around any fireworks stand, nor shall a fire nuisance be permitted to exist.

J. No stand shall be erected before June 15th of any year. The stand shall be removed from the premises on which it is erected and the premises shall be cleared of all structures and debris not later than noon of July 12th following.

K. All stands shall be equipped with at least one fire extinguisher for each exit in the stand. The fire extinguisher shall be approved as to efficiency and safety by the chief of the fire department.

L. Each stand in excess of twenty feet in length shall have at least two exits spaced approximately equidistant apart; provided, however, that in no case shall the distance between exits exceed twenty feet.

M. No stand shall be constructed with a depth of more than twelve feet.

N. No stand shall be placed closer than twenty feet to any other building or one hundred feet to any gasoline pump or other fireworks stand. (Ord. 544 (part), 1994).

8.18.080 Sale permit--Permittee compliance required.  
If in the opinion of the fire chief or the building official the construction of a temporary fireworks stand or the operation and maintenance of the stand does not conform to the provisions of this chapter, either officer may order that the stand be immediately closed. (Ord. 544 (part), 1994).

8.18.090 Sale of millennium fireworks. Notwithstanding the foregoing provisions of this chapter, safe and sane fireworks may be sold for the millennium celebration during the period beginning at 9:00 a.m. on December 26, 1999 and ending at noon on January 1, 2000, pursuant to permits applied for on or before November 1, 1999 and issued on or before December 1, 1999. Permits issued for this time period will not disqualify the applicants from also being granted permits for the July 4th celebration in 1999 and 2000. (Ord. 582 (part), 1999).

8.18.100 Discharge of millennium fireworks. Notwithstanding the foregoing provisions of this chapter, safe and sane fireworks may be discharged in those areas specified in Section 8.18.020 of this Chapter from 9:00 am. on December 26, 1999 through midnight on January 1, 2000. (Ord. 582 (part), 1999).

Chapter 8.20GARBAGE AND REFUSESections:

- 8.20.010 General applicability of chapter standards.
- 8.20.020 Definitions.
- 8.20.030 Dumping refuse--Unlawful accumulation--Trespassing--Prohibited.
- 8.20.040 Deposits in streets, etc.--Prohibited.
- 8.20.050 Exceptions.
- 8.20.060 Failure to comply.

8.20.010 General applicability of chapter standards. The standards in this chapter shall apply to all land within the city. The following program has been designed to meet the needs and protect the citizens' health, safety and property values from public nuisances. (Ord. 535 §9(part), 1993).

8.20.020 Definitions. For the purpose of this section see Chapter 8.02 of this code for definitions. (Ord. 535 §9(part), 1993).

8.20.030 Dumping refuse--Unlawful accumulation--Trespassing--Prohibited. It is unlawful for any person to throw, deposit or place or allow or suffer to be thrown, deposited or placed in any public street or alley any metal cutting, shavings, glass, thorny branches, clippings, rags, cans, papers, skins, garbage or other refuse. It is unlawful for any person to trespass upon any land of another for the purpose of dumping on said land garbage, refuse, junk, waste material or property of any kind or nature. (Ord. 535 §9(part), 1993).

8.20.040 Deposits in streets, etc.--Prohibited. It is unlawful for any person to deposit any garbage or rubbish in or upon any public or private land, place, street, alley or drive or any gutters or any drain facilities connected therewith excepting that proper garbage/rubbish containers may be placed for normal service pickup. (Ord. 535 §9(part), 1993).

8.20.050 Exceptions. Notwithstanding the prohibitions set forth in Section 8.20.030, it is lawful for persons to deposit brush, tree trimmings and grass clippings in the street next to the curb (but not in a manner which interferes with the flow of traffic) on those days designated by the city each year as brush pick up day. This chapter shall not prohibit nonprofit organizations, with

the prior written consent of the city, to conduct recycling activities in a manner which does not interfere with the normal flow of vehicular and pedestrian traffic. (Ord. 535 §9(part), 1993).....

8.20.060 Failure to comply. Any person failing to comply with any of the provisions of this chapter is guilty of an infraction and subject to the fines as set forth in Chapter 8.25 of the Corning Municipal Code. (Ord. 535 §9(part), 1993).

## Chapter 8.22

### DANGEROUS BUILDINGS

#### Section:

- 8.22.010 Purpose.
- 8.22.020 Scope.
- 8.22.030 Enforcement.

8.22.010 Purpose. It is the purpose of this chapter to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by the Uniform Code for Abatement of Dangerous Buildings, Uniform Building Code, Housing Code or otherwise available by law whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished. The Uniform Code for the Abatement of Dangerous Buildings will be the regulations for this chapter to abate any structure. (Ord. 535 §10(part), 1993).

8.22.020 Scope. The provisions of this chapter shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter become dangerous in this jurisdiction. (Ord. 535 §10(part), 1993).

8.22.030 Enforcement. The city of Corning code enforcement officer or designated employees is hereby authorized to enforce the provisions of this chapter. (Ord. 535 §10(part), 1993).

Chapter 8.25ENFORCEMENT POLICIES AND PROCEDURESSections:

- 8.25.010 Purpose.
- 8.25.020 Definitions.
- 8.25.030 Enforcement alternatives.
- 8.25.040 Time requirements.
- 8.25.050 Powers and duties of code enforcement officers.
- 8.25.060 Criminal citations.
- 8.25.070 Refusal to sign citation.
- 8.25.080 Violation--Penalties.
- 8.25.090 Money judgements.
- 8.25.100 Follow-up inspection.
- 8.25.110 Notice of compliance.
- 8.25.120 Refusal to issue permits, licenses or other entitlement.
- 8.25.130 Administrative citations.
- 8.25.140 Remedies cumulative.

8.25.010 Purpose. The following policies and procedures are adopted to implement a program of enforcement of the city of Corning Zoning, Building, Planning, Fire, Life and Safety, Sanitation and City of Corning Municipal Codes. It is the policy of Corning to seek voluntary compliance with these provisions but to provide an effective means of enforcement if such compliance is not obtained. (Ord. 535 §11(part), 1993).

8.25.020 Definitions. For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

A. "Affected department" means whichever of the following departments has the responsibility to administer or enforce the applicable provisions of this code: planning, fire, environmental, health, building and safety.

B. "Code enforcement officer" means any person employed by the city of Corning and appointed to the position of code enforcement officer, as established by resolution.

C. Contiguous Properties. Contiguous properties are any two properties which share a mutual boundary. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easement or railroad right-of-way.

D. "Premises" means the real property of the violator, including contiguous properties, and/or any buildings, structures or other improvements situated thereon or affixed thereto, where any violation of any of the provisions of the chapters specified in Section 8.25.010 of this code

has or is suspected to have occurred or is suspected to be occurring. The premises may include public property to which a violator has access.

E. "Violator" means an adult owner, tenant, occupant, resident or other person having possession, control or any other ownership interest in or the right of access to the premises, excluding persons having only a security interest in the premises, who is suspected or alleged to have violated or to be in violation of any of the provisions specified in Section 8.25.010 of this code. There may be one or more violators as to any particular incident. (Ord. 535 §11(part), 1993).

8.25.030 Enforcement alternatives. When it comes to the attention of the city's code enforcement officer that a public nuisance exists, he or she may implement any one or more of the following enforcement measures:

A. Oral notification of violation and request for voluntary abatement;

B. Written notification of violation and request for voluntary abatement;

C. Issuance of an administrative citation and fine (civil remedy);

D. Issuance of a citation to attend court (criminal remedy); and/or

E. Any other remedy permitted by law. (Ord. 578 §2(18), 1998).

8.25.040 Time requirements. There are no specific time requirements imposed on the city's code enforcement officer with regard to oral or unwritten notifications requesting voluntary abatement of public nuisances. He or she shall exercise reasonable judgment in deciding how much time should be given in each case based upon the circumstances and history of each situation, recognizing that both the rights and interests of the property owner and those of the neighbors of such person must be respected. The time requirements which apply to both administrative and criminal citation procedures and which apply to use of city personnel and/or contractors to abate public nuisances and to related proceedings are set forth hereafter. (Ord. 578 §2(19), 1998).

8.25.050 Powers and duties of code enforcement officers. A. Enforcement Duties. Each code enforcement officer shall have the duty to enforce the provisions of Corning Municipal Code Titles 8, 13, 15, 16, 17, and 18, the Uniform Building Code, Uniform Fire Code, Uniform Plumbing Code, Uniform Code for Abatement of Dangerous Building, National Electrical Code, Uniform Building Code Standards and related codes. No code enforcement officer shall carry any firearm in the performances or his or her duties.

Proper credentials for a code enforcement officer consist of any one of the following: city badge or city identification card.

B. Right to Enter.

1. Whenever it is necessary to make an inspection to enforce any of the provisions or perform any duty imposed by this chapter or other applicable law, the code enforcement officer is authorized to enter such property at any reasonable time and to inspect the same and perform any duty imposed upon the code enforcement officer by this chapter or by the other applicable law; provided, that if such property is occupied the code enforcement officer must present proper credentials to the occupant and request entry, explaining the reason therefor. If such property is unoccupied, the code enforcement officer shall make a reasonable effort to locate the owner or other person having charge or control of the property and request entry, explaining the reasons therefor. If such entry is refused or cannot be obtained because the owner or other person having charge or control of the property cannot be found after due diligence, the code enforcement officer shall have recourse to every remedy provided by law to secure lawful entry and inspect the property.

2. Notwithstanding the foregoing, if the code enforcement officer has reasonable cause to believe that there is an accumulation of refuse or litter, or both, or other unsanitary conditions prohibited by this chapter on the premises which could be seriously detrimental to the public health or safety, the city shall have the right to immediately enter and inspect such property. If such entry is refused, the code enforcement officer shall have recourse to every remedy provided by law to secure entry. (Ord. 578 §2(1)(part), (21), (24), 1998; Ord. 535 §1(part) and 11, 1993).

8.25.060 Criminal citations. A. Each code officer is authorized to issue citations for violations of the provision of Titles 8, 13, 15, 16, 17 and 18 of this code which they have the duty to enforce. The code enforcement officer will notify the alleged violator that a public nuisance exists and, if the public nuisance has not been abated within what he or she deems a reasonable period of time, he or she may then issue a criminal citation to the alleged violator. Although not mandatory, in most cases the code enforcement officer should warn the alleged violator that a citation will be issued if voluntary compliance is not achieved within a specified time period. Proof that notice of a violation (or the existence of a public nuisance) has been given to an alleged violator is not a prerequisite to a finding that a violation has occurred, nor is it a requirement which must be satisfied before a citation may be issued or a conviction obtained. The form of

the citation issued pursuant to this chapter shall be approved by the city council and the district attorney.

B. Prior to issuance of a citation:

1. The code enforcement officer shall identify himself or herself;
2. Identify the violation;
3. Shall then request the alleged violator to present his or her driver's license or other satisfactory evidence of his or her identity for examination;
4. The citation shall state a time, date and place where the alleged violator shall appear in court to answer the charges stated in the citation;
5. The appearance date shall be at least ten days after the date of citation. (Ord. 578 §2(1)(part), (22) and (23), 1998; Ord. 535 §11(part), 1993).

8.25.070 Refusal to sign citation. The officer shall not take or attempt to take anyone into custody for refusing to present satisfactory evidence of his or her identity or refusing to sign a citation. In such cases, the code enforcement officer may file the citation with the appropriate court as a complaint pursuant to Penal Code Section 853.9(b), may request the assistance of the city of Corning police department or may request the district attorney to prepare and file a complaint with the appropriate court. (Ord. 578 §2(1)(part), 1998; Ord. 535 §11(part), 1993).

8.25.080 Violation--Penalties. A. Violations Charged and Punished as Infractions. Notwithstanding any provision of this code to the contrary in Titles 8, 13, 15, 16, 17 and 18, whenever any provision in any of said titles provides that any act is prohibited or made or declared to be unlawful or a misdemeanor or an infraction, or requires the doing of any act or declares the failure to do any act unlawful or a misdemeanor or an infraction, the violation of such provision shall be charged as an infraction, punishable by imposition of the following fines, no part of which may be suspended:

1. Upon a first conviction, a mandatory fine of one hundred dollars;
2. Upon a second conviction of the same code section involving the same premises within a twelve-month period immediately preceding the commission of the current violation, a mandatory fine of one hundred fifty dollars;
3. Upon a third conviction of the same code section involving the same premises within a twelve-month period immediately preceding the commission of the current violation, a mandatory fine of three hundred dollars.

B. Each Day a Separate Offense. Each and every day or portion thereof that a person violates or continues to violate any such provision of any of said titles consti-

tutes a separate offense and may be charged and punished separately without awaiting conviction of any prior violation.

C. Misdemeanors. Any violation which may otherwise be charged and punishable as an infraction pursuant to subsection (A) of this section may be charged and punishable as a misdemeanor. If the defendant has been convicted of three or more violations of the same code section involving the same premises within the twelve-month period immediately preceding the commission of the current violation. For purposes of this subsection, a bail forfeiture or a plea of nolo contendere shall be deemed to be a conviction. (Ord. 578 §2(1)(part), 1998; Ord. 535 §11(part), 1993).

8.25.090 Money judgements. Any judgment of conviction which imposes a fine shall become a money judgement, as provided by Penal Code Section 1214. It shall be the responsibility of the code enforcement officer to determine if the fine imposed has been paid. In any case where the fine remains unpaid for more than thirty days, a code enforcement officer shall record an abstract of the judgement in the office of the county recorder, as provided by Code of Civil Procedure Sections 674 and 697.310. Upon notice of payment of such a judgement, the code enforcement officer shall file and serve a judgement, and the code enforcement officer shall file and serve an acknowledgement of satisfaction of judgement, as provided by Code of Civil Procedure Sections 724.030 and 724.040. (Ord. 578 §2(1)(part), 1998; Ord. 535 §11(part), 1993).

8.25.100 Follow-up inspection. Following the conviction of any violator in court, the code enforcement officer shall make such follow-up inspections as necessary to determine that the violation has been abated and may issue such additional citations as are necessary to gain compliance with the applicable provisions of this code. (Ord. 578 §2(1)(part), 1998; Ord. 535 §11(part), 1993).

8.25.110 Notice of compliance. Upon all work to abate the violation being completed and approved by the affected department, payment of all fines imposed as to said violation pursuant to Section 8.25.080(A), conducting follow-up inspections pursuant to Section 8.25.100 and recording a notice of compliance pursuant to this section, the code enforcement officer shall submit a notice of compliance to the county recorder for recordation. (Ord. 578 §2(1)(part), 1998; Ord. 535 §11(part), 1993).

8.25.120 Refusal to issue permits, licenses or other entitlement. A. Refusal to Issue Waiver.

1. No department, commission or employee of the city of Corning vested with the duty or authority to issue or approve permits, licenses or other entitlement shall do so when there is an outstanding violation for which a citation has been issued pursuant to this chapter involving the premises to which the pending application pertains. The authority to deny shall apply whether the applicant is either the current occupant or owner of record or a vendor of the current owner of record pursuant to a contract of sale of the real property, with or without actual or constructive knowledge of the violation at the time he or she acquires his or her interest in such real property.

2. Upon notification by the code enforcement officer that such a violation exists, all departments, such commissions and employees shall refuse to issue a permit or license or entitlement involving the premises except those necessary to abate such violation.

B. Rescission of Refusal to Issue. The refusal to issue shall be rescinded when the department commission or employee has been notified that all required work to abate the violation has been completed and has been approved by the affected department.

C. Waiver. The director of the affected department may waive the provisions of this section regarding refusal to issue if he or she determines such waiver is required to allow necessary or desirable remedial, protective or preventative work. (Ord. 578 §2(1)(part), 1998; Ord. 535 §11(part), 1993).

8.25.130 Administrative citation. A. Administrative Citation.

1. Whenever a code enforcement officer charged with enforcement of any provision of this code or any code adopted by the city determines that a violation of that provision has occurred, the code enforcement officer shall have the authority to issue an administrative citation to any person responsible for the violation and/or to the owner of the property to which the violation pertains. If the code enforcement officer determines that multiple code violations have occurred, the administrative citation shall address all the violations.

2. If the person responsible for the violation and/or the owner of the property is: (1) an individual or receiver, the code enforcement officer shall issue the citation to the individual or the receiver; (2) a corporation or limited liability company, the code enforcement officer shall issue the citation to a senior officer; (3) a partnership, joint venture, cooperative or association, the code enforcement officer shall issue the citation to any partner, member of the joint venture, cooperative or association; (4) a trust, the code enforcement officer shall issue the citation to any trustee; (5) an estate, the code

enforcement officer shall issue the citation to the administrator of the estate; (6) any other entity, the code enforcement officer shall issue the citation to any officer, member, representative, agent or employee of the entity.

3. If the violation is of a continuing nature or pertains to a building, plumbing, electrical, or other similar structural or zoning violation that does not create an immediate danger to health or safety, the code enforcement officer shall not assess an administrative fine, but shall establish a reasonable period of time for the responsible person to correct or otherwise remedy the violation prior to the imposition of an administrative fine. In no event shall the period of time given to correct or remedy the violation be less than three days.

4. Each administrative citation shall contain the following information:

- a. The date of the violation;
- b. The address or definite description of the location where the violation occurred;
- c. The code section(s) violated and a description of each violation;
- d. The amount of the fine for each code violation and/or the number of days given to correct continuing violations pursuant to subsection (A)(3) of this section;
- e. A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;
- f. An order prohibiting the continuation or repeated occurrence of the code violation(s) described in the administrative citation;
- g. A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request for a hearing form to contest the administrative citation may be obtained; and
- h. The name and signature of the citing code enforcement officer.

#### B. Amount of Fines.

1. Standard Fine. Except as otherwise specifically set forth in subsection (B)(4) of this section, the administrative citation fine amount for a first violation of the Corning Municipal Code or any other code adopted by the city shall be twenty-five dollars.

2. Section Violation Fines. Except as otherwise specifically set forth in subsection (B)(4) of this section, the fine amount for a second violation of the same code section by the same person within a thirty-six month period from the date of the administrative citation for the first violation shall be one hundred twenty-five percent of the fine amount for a first violation of that code section calculated at the time of the second violation.

3. Subsequent Violation Fines. Except as otherwise specifically set forth in subsection (B)(4) of this section, the fine amount for a third and subsequent violation of the same code section by the same person within a thirty-six month period from the date of the administrative citation for the second or subsequent violation shall be one hundred fifty percent of the fine amount for a first violation of that code section calculated at the time of the third or, as applicable, subsequent violation.

4. Nonstandard Fines. The administrative citation fine amounts set forth below are established for violation(s) of the following Corning Municipal Code sections or sections of any other code adopted by the city:

<u>Code Name and Section(s)</u>	<u>Offense</u>	<u>Administrative Citation Fine</u>
Uniform Building Code Section 102	Unsafe buildings or structures	First violation: \$100.00
Uniform Building Code Section 106	Work without a valid permit	First violation: \$50.00
Uniform Fire Code Section 1110	Unsecured vacant buildings combustible or hazardous material in vacant building	Second and subsequent violations within a 12-month period from the first or subsequent violation: \$50.00
Uniform Housing Code (all sections)	Various	Second and subsequent violations within a 12-month period from the first or subsequent violation: \$50.00

5. Any fine amount imposed pursuant to this chapter shall be deemed delinquent if it is not paid in accordance with the terms and provisions of this chapter. Any person who fails to pay to the city the amount of any fine imposed pursuant to the provisions of this chapter on or before the date that the fine is due shall be liable for the payment of an additional late payment charge. The late payment charge shall be (a) five dollars or (b) ten percent of the amount of the fine then due to the city or (c) ten percent of the amount of the fine remaining to be paid to the city if a portion of the fine amount was timely paid, whichever amount is greater. Interest shall accrue on all delinquent fine amounts, exclusive of the late payment charge, at the rate of one-half of one percent per month, pro rata, of the total delinquent fine amount, from the date the fine amount becomes delinquent until the date that the total delinquent fine amount is paid to the city.

6. Copies of subsections (B)(1) through (5), inclusive, of this section shall be printed and referred to

as the "Schedule of Administrative Citations Fines" and shall reference this chapter. Copies of the Schedule of Administrative Citation Fines shall be made available to the public at the office of the city clerk.

C. Payment of the Fine.

1. Any fine imposed shall be paid to the city within thirty (30) days from the date of the administrative citation.

2. Any administrative citation fine paid pursuant to subsection (C)(1) of this section shall be refunded if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.

3. Payment of a fine under this chapter shall not excuse or discharge any continuation or repeated occurrence of the code violation that is the subject of the administrative citation.

D. Request for a Hearing.

1. Any recipient of an administrative citation may contest that there was a violation of this code or of any code adopted by the city, or that he or she is the responsible party, by completing a request for hearing form and returning it to the city clerk within thirty days from the date of the administrative citation, together with an advance deposit of the fine or notice that a request for an advance deposit hardship waiver has been filed.

2. A request for hearing form may be obtained from the city clerk.

3. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten days prior to the date of the hearing.

4. If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, then a copy of this report also shall be served on the person requesting the hearing at least five days prior to the date of the hearing.

E. Advance Deposit Hardship Waiver.

1. Any cited person who is financially unable to make the advance deposit of the full amount of the fine and who intends to request a hearing to contest the administrative citation may file a request for an advance deposit hardship waiver to waive all or part of the advance deposit.

2. A request for deposit hardship waiver must be filed with the city clerk on an advance deposit hardship waiver application form available from the city clerk within ten days of the date of the administrative citation, and must include a sworn declaration and any other supporting documents or materials showing the cited person's actual financial inability to deposit the full amount of the fine

in advance of the hearing. The cited person bears the burden of demonstrating to the satisfaction of the city clerk or his or her designee the cited person's actual inability to deposit the full amount of the fine in advance of the hearing.

3. The city clerk or his or her designee shall issue a written determination listing the reasons for his or her determination to issue or not issue the advance deposit hardship waiver. The written determination of the city clerk or his or her designee shall be final and shall be served on the cited person.

4. The city clerk or his or her designee may waive the requirement of an advance deposit of the fine amount, or require a deposit of a specified part of the amount of the fine, and issue the advance deposit hardship waiver, only if the cited person has demonstrated to the satisfaction of the city clerk or his or her designee the cited person's actual inability to deposit with the city the full amount of the fine in advance of the hearing.

5. If the city clerk or his or her designee determines not to issue an advance deposit hardship waiver, the cited person shall remit the advance deposit of the full fine amount to the city within ten days of the date of the decision of city clerk or his or her designee or thirty days from the date of the administrative citation, whichever is later. If the city clerk or his or her designee determines that the cited person is required to deposit only a specified part of the amount of the fine, the cited person shall remit the advance deposit of the required amount of the fine to the city within ten days of the date of the decision of the city clerk or his or her designee within thirty days from the date of the administrative citation, whichever is later. Failure to timely remit the advance deposit shall terminate the request for a hearing on the citation, and the amount of the fine shall become immediately due and payable.

6. The requirement of depositing the full amount of the fine as required above shall be stayed unless or until the city clerk or his or her designee makes a determination not to issue the advance deposit hardship waiver.

F. Hearing Officer. The city manager shall designate the hearing officer(s) for the administrative citation hearings. There may be more than one hearing officer in the city and there may be more than one hearing officer at any administrative citation hearing.

G. Hearing Procedure.

1. No hearing to contest an administrative citation before a hearing officer shall be held unless the fine has been deposited in advance or an advance deposit hardship waiver has been issued.

2. A hearing to contest an administrative citation shall be set for a date that is not less than fifteen days

and not more than sixty days from the date that the request for hearing is filed in accordance with provisions of this chapter or the date of issuance of the advance deposit waiver, whichever is later.

3. At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence as to the existence of the cited violation or as to whether or not the cited person is the responsible party.

4. The failure of the cited person to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.

5. The administrative citation and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents.

6. The hearing officer may continue the hearing and request additional information from the enforcement officer or the cited person prior to issuing a written decision.

#### H. Decision of the Hearing Officer.

1. After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold or dismiss each contested violation in the administrative citation and shall list in the decision the reasons for that decision. The decision of the hearing officer shall be final and shall be served on the cited person within fifteen days of the date of the hearing.

2. If the hearing officer determines that the violations in the administrative citation should be upheld, then the fine amount on deposit with the city for those violations shall be retained by the city.

3. If the hearing officer determines that the violations in the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the hearing officer shall set forth in the decision a payment schedule for the fine(s) for those violations.

4. If the hearing officer determines that any violations in the administrative citation should be dismissed and the fine for those violations was deposited with the city, then the city shall promptly refund the amount of the deposited fine for the dismissed violations together with interest at the average rate earned on the city's pooled cash portfolio for the period that the amount of the fine was held by the city.

5. The employment, performance evaluation, compensation and benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount of administrative citation fines upheld by the hearing officer.

I. Late Payment Charges. Any person who fails to pay to the city any fine or any scheduled partial payment of such fine pursuant to the provisions of this chapter or on or before the date that the fine or scheduled partial payment of such fine is due shall be liable for the payment of any applicable late payment charges set forth in the schedule of administrative citation fines established by resolution by the city council.

J. Recovery of the Administrative Citation Fines and Costs. The city may collect any past-due administrative citation fine(s) and late payment charge(s) by use of all available legal means. The city may also recover its collection costs.

K. Right to Judicial Review. Any person aggrieved by an administrative decision by a hearing officer on an administrative citation may obtain review of the administrative decision by filing a petition for review with the municipal court in Tehama County in accordance with the time-lines and provisions set forth in California Government Code Section 53069.4.

L. Notices.

1. The administrative citation and all notices or other documents required to be given by this chapter shall be served on the cited person by personal delivery or by deposit in the United States mail, in a sealed envelope postage prepaid, addressed to such person at his or her last known business or residence address as the same appears in the public records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in the post office.

2. Failure to receive any notice specified in this chapter does not affect the validity of the proceedings conducted hereunder. (Ord. 578 §1, 1998).

8.25.140 Remedies cumulative. Nothing in this chapter shall prevent the appropriate authorities of the city of Corning from pursuing any civil, criminal or administrative remedy deemed necessary or appropriate to gain compliance with the applicable provisions of this code. The provisions of this chapter are to be supplementary and complementary to all of the provisions of this code, state law and any laws cognizable as common law or in equity and nothing herein shall be read, interpreted or construed in any manner so as to bar or limit the city from seeking any remedy to which it may otherwise be entitled. (Ord. 578 §2(1)(part), (25), 1998; Ord. 535 §11(part), 1993).

Chapter 10.32

ABANDONED OR INOPERATIVE VEHICLES\*

Sections:

- 10.32.010 Findings.
- 10.32.020 Definitions.
- 10.32.030 Applicability.
- 10.32.040 Scope.
- 10.32.050 Administration and enforcement.
- 10.32.060 Unlawful acts.
- 10.32.070 Authorization for removal--Contract or franchise.
- 10.32.080 Authority for abatement and removal--Chief of police.
- 10.32.090 Abatement and removal--Notice--Form.
- 10.32.100 Abatement and removal--Notice--Request for hearing.
- 10.32.110 Hearing--Facts and testimony.
- 10.32.120 Hearings--Conditions and action by hearing officer.
- 10.32.130 Hearing--Responsibility of owner of the land.
- 10.32.140 Appeals board--Created--Members.
- 10.32.150 Decision by hearing officer--Appeal--Procedures.
- 10.32.160 Date of removal.
- 10.32.170 Date of removal--Notice.
- 10.32.180 Administrative costs.
- 10.32.190 Unpaid costs--Assessment and collection.

- \* For statutory provisions on the power of local authorities to abate and remove abandoned, wrecked, dismantled or inoperative vehicles, see Vehicle Code §22660 et seq.

10.32.010 Findings. In addition to and in accordance with the determination made and the authority granted by the state of California under Section 22660 of the Vehicle Code to remove abandoned, wrecked, dismantled or inoperative vehicles or parts thereof as public nuisances, the city council makes the following findings and declarations:

The accumulation and storage of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof on private or public property not including highways is found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and

insects and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled or inoperative vehicle or parts thereof, on private or public property not including highways, except as expressly permitted in this chapter, is declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this chapter. (Ord. 265 §1 (part), 1971).

10.32.020 Definitions. As used in this chapter, the following words and phrases shall have the meanings set forth in this section:

A. "Highway" means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. "Highway" includes street.

B. "Owner of the land" means the owner of the land on which the vehicle or parts thereof is located, as shown on the last equalized assessment roll.

C. "Owner of the vehicle" means the last registered owner and legal owner of record.

D. "Public property" does not include "highway."

E. "Vehicle" means a device by which any person or property may be propelled, moved, or drawn upon a street, except a device moved exclusively by human power or used exclusively upon stationary rails or tracks. (Ord. 323 §19, 1970; Ord. 265 §1(part), 1971).

10.32.030 Applicability. This chapter is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles within the city. It shall supplement and be in addition to the other regulatory codes, statutes, and ordinances heretofore or hereafter enacted by the city, the state, or any other legal entity or agency having jurisdiction. (Ord. 265 §3, 1971).

10.32.040 Scope. A. This chapter shall not apply to:

1. Two or fewer vehicles or parts thereof that are completely enclosed within a building or behind a solid fence in a lawful manner where they are not visible from the street or other public or private property;

2. Any number of vehicles or parts thereof that are stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junk dealer, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.

B. Nothing in this section shall authorize the maintenance of a public or private nuisance as defined under provisions of law other than Chapter 10 (commencing with Section 22650) of Division 11 of the Vehicle Code and this chapter. (Ord. 579 §§3, 4, 1998; Ord. 265 §2, 1971).

Protect  
Auto  
Repair

10.32.050 Administration and enforcement. Except as otherwise provided in this chapter, the provisions of this chapter shall be administered and enforced by the chief of police or his or her designee. In the enforcement of this chapter, such officer and his or her deputies may enter upon private or public property to examine a vehicle or parts thereof, or obtain information as to the identity of a vehicle, and to remove or cause the removal of a vehicle or parts thereof, declared to be a nuisance pursuant to this chapter. Before entering private property for the foregoing purposes, except to approach or depart from the front entrance of any residence thereon, permission shall first be requested of the property owner, tenant or other person in lawful possession thereof. If permission is not obtained, the city attorney will be requested to seek a court order to allow entry and the legal fees and costs incurred by the city in obtaining such an order shall be the responsibility of any person in lawful possession of the property who has denied to the city his or her permission to enter. (Ord. 579 §§1(part), 2, 5, 1998; Ord. 265 §4, 1971).

10.32.060 Unlawful acts. It is unlawful and an infraction for any person to abandon, park, store, or leave or permit the abandonment, parking, storing, or leaving of any licensed or unlicensed vehicle or parts thereof which is in an abandoned, wrecked, dismantled, or inoperative condition upon any private property or public property, not including highways, within the city for a period in excess of five days; unless such vehicle or parts thereof is completely enclosed within a building or behind a solid fence in a lawful manner where it is not plainly visible from the street or other public or private property and there are no more than two such vehicles, or unless such vehicle is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, or a junkyard. It is also unlawful and an infraction for any person to fail or refuse to remove an abandoned, wrecked, dismantled or inoperative vehicle or parts thereof, or to refuse or neglect to abate such nuisance when ordered to do so in accordance with the abatement provisions of this chapter or applicable provisions of state law. (Ord. 579 §6, 1998; Ord. 265 §16, 1971).

10.32.070 Authorization for removal--Contract or franchise. When the city council has contracted with or granted a franchise to any person or persons, such person or persons shall be authorized to enter upon private property or public property to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this chapter. Before entry is made, permission shall

first be requested under the circumstances and procedures set forth in Section 10.32.050 of this chapter, and the provisions therein relating to obtaining a court order and the costs thereof shall apply in the franchise situation as well. (Ord. 579 §7, 1998; Ord. 265 §5, 1971).

10.32.080 Authority for abatement and removal--Chief of police. Upon discovering the existence of an abandoned, wrecked, dismantled, or inoperative vehicle or parts thereof on private property or public property within the city, the chief of police or his or her designee shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed in this chapter. (Ord. 579 §1(part), 1998; Ord. 265 §7, 1971).

10.32.090 Abatement and removal--Notice--Form. A ten day notice of intention to abate and remove the vehicle or parts thereof as a public nuisance shall be mailed by registered mail to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. The notices of intention shall be in substantially the following form:

"NOTICE OF INTENTION  
TO ABATE AND REMOVE AN ABANDONED, WRECKED, DISMANTLED,  
OR INOPERATIVE VEHICLE OR PARTS THEREOF  
AS A PUBLIC NUISANCE

(Name and address of owner of land)

"As owner shown on the last equalized assessment roll of the land located at (address), you are hereby notified that the undersigned pursuant to (section of ordinance or municipal code) has determined that there exists upon said land an (or parts of an) abandoned, wrecked, dismantled or inoperative vehicle registered to \_\_\_\_\_, license number \_\_\_\_\_, which constitutes a public nuisance pursuant to the provisions of (ordinance or municipal code chapter number).

"You are hereby notified to abate said nuisance by the removal of said vehicle (or said parts of a vehicle) within 10 days from the date of mailing of this notice, and upon your failure to do so the same will be abated and removed by the City of Corning and the costs thereof, together with administrative costs, assessed to you as owner of the land on which said vehicle (or said parts of a vehicle) is located.

"As owner of the land on which said vehicle (or said parts of a vehicle) is located, you are hereby notified





ment in writing in time for consideration at the hearing and deny responsibility for the presence of the vehicle on the land, with his or her reasons for such denial. (Ord. 616 §1, 2004; Ord. 579 §10, 1998; Ord. 568 (part), 1997; Ord. 265 §10(part), 1971).

10.32.120 Hearings--Conditions and action by hearing officer. The hearing officer may impose such conditions and take such other action as he or she deems appropriate under the circumstances to carry out the purpose of this chapter. He or she may delay the time for removal of the vehicle or parts thereof, if, in his or her opinion, the circumstances justify it. At the conclusion of the public hearing, the hearing officer may find that a vehicle or parts thereof has been abandoned, wrecked, dismantled, or is inoperative on private or public property and order the same to be removed from the property as a public nuisance and disposed of as provided in this chapter, and determine the administrative costs and the cost of removal to be charged against the owner of the land. The order requiring removal shall include a description of the vehicle or parts thereof and the correct identification number and license number of the vehicle, if available at the site. (Ord. 616 §§2, 3, 2004; Ord. 265 §10(part), 1971).

10.32.130 Hearing--Responsibility of owner of the land. A. If it is determined at the hearing that the vehicle was placed on the land without the consent of the owner of the land and that he or she has not subsequently acquiesced in its presence, the hearing officer shall not assess the costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such owner of the land.

B. If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his or her land but does not appear, or if an interested party makes a written presentation to the hearing officer but does not appear, he or she shall be notified in writing of the decision. (Ord. 616 §3, 2004; Ord. 579 §11, 1998).

10.32.140 Appeals board--Created--Members. The city appeals board is created. It shall consist of three members

who shall be appointed by the city council, one for a term of one year, one for a term of two years and one for a term of three years; thereafter the terms of all members of the appeals board shall be three years. (Ord. 265 §15, 1971).

10.32.150 Decision by hearing officer--Appeal--Procedures. A. Any interested party may appeal the decision of the hearing officer to the city council by filing a written request for an appeal with the city clerk within five days after such decision is made.

B. Such appeal shall be heard by the city council which may affirm, amend or reverse the hearing officer's decision or take whatever other action it deems appropriate.

C. The city clerk shall give written notice of the time and place of the appeal hearing to the appellant and to those persons specified in Section 10.32.090 of this chapter.

D. In conducting the hearing, the city council shall not be limited by the technical rules of evidence. (Ord. 616 §4, 2004).

10.32.160 Date of removal. Five days after adoption of the order declaring the vehicle or parts thereof to be a public nuisance, five days from the date of mailing of notice of the decision if such notice is required by Section 10.32.110 through 10.32.130 of this chapter, or fifteen days after such action of the governing body authorizing removal following appeal, the vehicle or parts thereof may be disposed of by removal to a scrapyard or automobile dismantler's yard. After a vehicle has been removed, it shall not thereafter be reconstructed or made operable. (Ord. 265 §12, 1971).

10.32.170 Date of removal--Notice. Within five days after the date of removal of the vehicle or parts thereof, notice shall be given to the department of motor vehicles identifying the vehicle or parts thereof removed. At the same time there shall be transmitted to the department of motor vehicles any evidence of registration available, including registration certificates, certificates of title and license plates. (Ord. 265 §13, 1971).

10.32.180 Administrative costs. The city council shall from time to time determine and fix an amount to be assessed as administrative costs, excluding the actual cost of removal of any vehicle or parts thereof, under this chapter. (Ord. 265 §6, 1971).

10.32.190 Unpaid costs--Assessment and collection. If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to Sections 10.32.110 through 10.32.130 of this chapter are not paid within thirty days of the date of the order, or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Section 38773.5 of the Government Code and shall be transmitted to the tax collector for collection. The assessment shall have the same priority as other city taxes. (Ord. 265 §14, 1971).