

NOTICE OF REGULAR MEETING

Pursuant to Section 54954.2 of the Government Code of the State of California, a Regular meeting of the Planning Commission is hereby called for:

Date/Time: **Wednesday, May 9, 2012, 7:00 p.m.**
(or as soon thereafter as possible)

Location: City Hall Council Chambers and Conference Room 109
333 Civic Center Plaza, Tracy

Government Code Section 54954.3 states that every public meeting shall provide an opportunity for the public to address the Planning Commission on any item, before or during consideration of the item, however no action shall be taken on any item not on the agenda.

PLEDGE OF ALLEGIANCE

ROLL CALL

MINUTES APPROVAL

DIRECTOR'S REPORT REGARDING THIS AGENDA

ITEMS FROM THE AUDIENCE

In accordance with Procedures for Preparation, Posting and Distribution of Agendas and the Conduct of Public Meetings, adopted by Resolution 2008-140 any item not on the agenda brought up by the public at a meeting, shall be automatically referred to staff. If staff is not able to resolve the matter satisfactorily, the member of the public may request a Planning Commission Member to sponsor the item for discussion at a future meeting.

1. OLD BUSINESS – None.
2. NEW BUSINESS
 - A. **PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE TRACY MUNICIPAL CODE SIGN REGULATIONS (TMC CHAPTER 10.08) AFFECTING CITY CIVIC ORGANIZATION SIGNS – THE APPLICATION IS INITIATED BY THE CITY OF TRACY – APPLICATION NUMBER ZA12-0002**
 - B. **PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE TRACY MUNICIPAL CODE (TMC CHAPTER 10.08) AFFECTING FAMILY DAY CARE HOMES – THE APPLICATION IS INITIATED BY THE CITY OF TRACY – APPLICATION NUMBER ZA12-0003**
3. ITEMS FROM THE AUDIENCE
4. DIRECTOR'S REPORT

A. VERBAL REPORT ON THE STAPLES I-205 SIGN AMENDMENT

5. ITEMS FROM THE COMMISSION
6. ADJOURNMENT

May 3, 2012

Posted Date

The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in public meetings. Persons requiring assistance or auxiliary aids in order to participate should call City Hall (209-831-6000), at least 24 hours prior to the meeting.

Any materials distributed to the majority of the Planning Commission regarding any item on this agenda will be made available for public inspection in the Development and Engineering Services Department located at 333 Civic Center Plaza during normal business hours.

AGENDA ITEM 2-A

REQUEST

PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE TRACY MUNICIPAL CODE SIGN REGULATIONS (TMC CHAPTER 10.08) AFFECTING CITY CIVIC ORGANIZATION SIGNS – THE APPLICATION IS INITIATED BY THE CITY OF TRACY – APPLICATION NUMBER ZA12-0002

DISCUSSION

Background

In February of this year, Mike Souza, representing Tracy Sunrise Rotary approached the City with a proposal to donate a sign to the City that would advertise up to six civic organizations within the City. On March 20, 2012, the City Council met and discussed the proposed donated sign (Attachment A), and, by unanimous vote was in favor of such signs, and therefore directed staff to prepare and ordinance that would allow such signs to be erected in the City, to be reviewed by Planning Commission and City Council. City Council also asked staff for options for the sign ordinance in the event another such donation was presented in the future. Taking this direction staff drafted an ordinance that accommodates the proposed donation as well as allows for additional city civic organization signs at main city entrances.

Sign Ordinance Amendment

The following amendments to the Tracy Municipal Code (TMC) are recommended to allow city civic organization signs on City of Tracy property. The proposal contains a definition of "City civic organization sign" and provisions to permit them in certain locations with City Council approval and acceptance of a sign. The proposal is shown in strike-through/underline format of selected, existing code sections to illustrate the proposed changes.

"Section 10.08.4440 Definitions

...

"City civic organization sign" means a city sign that displays the names, logos, and meeting times and locations of one or more civic or nonprofit organizations located in the City."

"Section 10.08.4450, General Requirements

...

~~(d) Identification signs along major thoroughfares. Where the public convenience and necessity require, the Community Development Director may grant special use permits allowing identification signs along major thoroughfares entering the City, within 1,000 feet of the City boundaries, identifying the name of the community and the names of various nonprofit or civic organizations, provided the overall sign area is not greater than 100 square feet.~~

~~(e)~~(d) Illumination. Illumination shall be allowed on all signs upon the approval of the Community Development Director, unless otherwise set forth in this article"

"Section 10.08.4460, Standards by Sign Type

- ...
- (r) City civic organization signs.
 - (1) Maximum height: Eight feet.
 - (2) Maximum area: 68 square feet.
 - (3) Ground Clearance: Not more than two feet.
 - (4) Permitted locations: City-owned property.
 - (5) Permitted sites: One civic organization sign is allowed within ¼ mile of each of the following four locations:
 - (i) West Eleventh Street at Lammers Road
 - (ii) East Eleventh Street at Mac Arthur Drive
 - (iii) North Tracy Boulevard at I-205
 - (iv) Couth Corral Hollow Road at I-580"

This proposed amendment is contained in the draft Ordinance, Exhibit 1 to the attached Planning Commission Resolution, Attachment B. For reference, the entire City sign ordinance is contained in Attachment C. The proposal would allow city civic organization signs to be located on publicly-owned property, upon approval by the City Council.

RECOMMENDATION

Staff recommends that the Planning Commission recommend that the City Council approve the proposed amendments to the Tracy Municipal Code Sections 10.08.4440, 10.08.4450, and 10.08.4460 regarding City civic organization signs on public property.

MOTION

Move that the Planning Commission recommend that the City Council approve the attached Ordinance, amending the Tracy Municipal Code Sections 10.08.4440, 10.08.4450, and 10.08.4460 regarding City civic organization signs on public property.

Prepared by: Victoria Lombardo, Senior Planner
Reviewed by: Bill Dean, Assistant Development Services Director
Approved by: Andrew Malik, Development Services Director

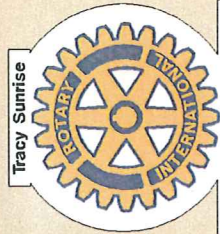
ATTACHMENTS

Attachment A – Proposed City Civic Organization Sign
Attachment B – Proposed Planning Commission Resolution with Draft City Council Ordinance
Attachment C – Tracy Municipal Code Sign Regulations (TMC Chapter 10.08, Article 35)

8'-6"

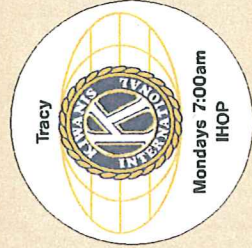


AT YOUR SERVICE



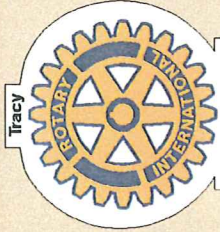
Tracy Sunrise

Wednesdays 6:30a.m.
Four Corners Restaurant



Tracy

Mondays 7:00am
IHOP



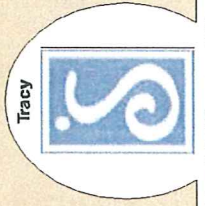
Tracy

Tuesdays 12:00pm
Platinum



Tracy Breakfast

Thursdays 6:30am
Hometown Buffet



Tracy

1st and 3rd Thursday, 7:00pm
Perkos



Tank Town

2nd and 4th Wednesday,
6:00 pm Platinum

RECEIVED

FEB 10 2012

CITY OF TRACY

ATTACHMENT A

3771 W. 11th St.
Tracy, Ca. 95304
V 209.835.3464
F 209.835.3471

Customer Approved
Landlord Approved

TRACYSIGN INC

Lic # 907315

8'

RESOLUTION 2012-_____

RECOMMENDING THAT THE CITY COUNCIL APPROVE AN ORDINANCE
AMENDING THE TRACY MUNICIPAL CODE SIGN REGULATIONS
(TMC SECTIONS 10.08.4440, 10.08.4450, AND 10.08.4460)
REGARDING CITY CIVIC ORGANIZATION SIGNS
APPLICANT IS THE CITY OF TRACY – APPLICATION NUMBER ZA12-0002

WHEREAS, The Tracy Municipal Code (TMC) contains zoning regulations
related to Signs (TMC Chapter 10.08, Article 35), and

WHEREAS, On March 20, 2012, the Tracy City Council directed that an
Ordinance be prepared and reviewed to allow for donated civic organization signs to be
accepted by the City, and located on City property,

WHEREAS, the Planning Commission held a public hearing to discuss the
proposed sign ordinance amendment on May 9, 2012;

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission hereby
recommends that the City Council approves the TMC amendments to sign regulations
regarding City Civic Organization Signs as indicated in Exhibit 1.

* * * * *

The foregoing Resolution 2012-_____ was adopted by the Planning Commission on
the 9th day of May, 2012, by the following vote:

AYES: Commission Members:
NOES: Commission Members:
ABSENT: Commission Members:
ABSTAIN: Commission Members:

Chair

ATTEST:

Staff Liaison

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY AMENDING THE TRACY MUNICIPAL CODE BY AMENDING ARTICLE 35, SECTION 10.08.4440, [SIGN] DEFINITIONS; SECTION 10.08.4450 GENERAL REQUIREMENTS AND SECTION 10.08.4460 STANDARDS BY SIGN TYPE REGARDING CITY CIVIC ORGANIZATION SIGNS

WHEREAS, the City currently has regulations in the sign ordinance governing a number of sign types, but no regulations regarding off-site signs for civic organizations; and

WHEREAS, it is common for cities to have signs representing civic organizations within the city so that visitors and residents can be made aware of these organizations and opportunities to attend their meetings; and

WHEREAS, Mike Souza, representing Tracy Sunrise Rotary and other organizations has made an offer to construct, install and donate a sign to the City, to be located on City property to advertise these community service organizations; and

WHEREAS, the Planning Commission considered these proposed amendments and additions to the sign ordinance at its meeting on May 9, 2012, and recommended City Council approval of the amendments; and

WHEREAS, the City Council considered these proposed amendments and additions at a noticed public hearing at its meeting on June 5, 2012; and

WHEREAS, the adoption of this ordinance is not subject to the California Environmental Quality Act because it is not a project which has the potential for causing a significant effect on the environment. (CEQA Guidelines, 14 Cal. Code of Regs. §15061(b)(3).)

The Tracy City Council hereby ordains as follows:

SECTION 1: Section 10.08.4440, Definitions, of Article 35, Signs, of the Tracy Municipal Code is amended by adding the following definition in alphabetical order:

“10.08.4440 Definitions.

....

“City civic organization sign” means a city sign that displays the name, logo, and meeting time and location of one or more civic or non-profit organizations located in the City.”

SECTION 2. Section 10.08.4450, General requirements, of the Tracy Municipal Code is amended to remove subsection 5(d), pertaining to identification signs along major thoroughfares, and subsequently re-number subsection 5(e) Illumination to subsection 5(d).

SECTION 3. Section 10.08.4460, Standards by sign type, of the Tracy Municipal Code is amended to add a new heading, (r) City civic organization sign, to read as follows:

“10.08.4460 Standards by sign type.

-
- (r) City civic organization sign.
 - (1) Maximum Height: Eight feet.
 - (2) Maximum area: 68 square feet.
 - (3) Ground clearance: Not more than two feet.
 - (4) Permitted locations: City-owned property.
 - (5) Permitted sites: One civic organization sign is allowed within ¼ mile of each of the following four locations:
 - (i) West Eleventh Street at Lammers Road
 - (ii) East Eleventh Street at Mac Arthur Drive
 - (iii) North Tracy Boulevard at I-205
 - (iv) South Corral Hollow Road at I-580”

SECTION 4. This Ordinance shall take effect thirty (30) days after its final passage and adoption.

SECTION 5. A summary of this ordinance, prepared by the City Attorney’s Office, shall be published and a certified copy of the full text posted in the office of the City Clerk at least five days before adoption. Within 15 days after adoption, the City Clerk shall publish a summary of the ordinance with the names of those City Council members voting for and against, and the City Clerk shall post in the Office of the City Clerk a certified copy of the full text of the ordinance. Publication shall be in the Tri-Valley Herald, a newspaper of general circulation.

* * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the _____ day of _____, 2012, and finally adopted on the _____ day of _____, 2012, by the following vote:

- AYES: COUNCIL MEMBERS:
- NOES: COUNCIL MEMBERS:
- ABSENT: COUNCIL MEMBERS:
- ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

illumination, and maintenance of all types of signs and sign structures. This article presents criteria indicating whether or not signs conform to such intentions of suitability and safety. (Prior code § 10-2.3500)

10.08.4440 Definitions.

As used in this article:

“Accessory sign” shall mean a sign which serves a directional or informational need.

“Bulletin board” shall mean a permanently constructed sign containing a surface area which may have interchangeable letters, words, or numerals displaying the name of the institution, events conducted upon, and/or the services offered upon such premises.

“Building face” shall mean the exterior surface of any building, regardless of frontage.

“Building frontage” shall mean the building elevations facing a street, plaza, or mall. Where the building contains multiple uses, “building frontage” shall mean the linear frontage of that portion of the building between the occupancy separation walls.

“Business” shall mean any non-residential use.

“Directional sign” shall mean a sign directing pedestrians or vehicles to specific on-site locations, such as parking spaces, special drive-up or walk-up services, public rest rooms, and the like.

“Directory sign” shall mean a sign erected to display the names of occupants engaged in professions or businesses or residing within such premises.

“Freestanding sign” shall mean a sign not attached to a building which sign is constructed upon, or affixed to, the ground by means of columns, poles, or similar structural components.

“Freeway sign” shall mean a freestanding sign designed to be viewed from vehicles travelling upon a freeway and located within 350 feet of the freeway.

“Height of sign” shall mean the distance from the curb grade at the base of the sign to the top of its highest element, including any structural element.

“Illuminated sign” shall mean a sign in which a source of light is used in order to make the message readable. “Illuminated sign” shall include internally and externally lighted signs and reflectorized, glowing, or radiating signs.

“Institution” shall mean all governmental, religious, and charitable organizations.

“Memorial sign or tablet” shall mean a sign or tablet displaying the name of a building and the date of erection when cut into masonry surfaces or constructed of bronze or other incombustible materials.

“Monument sign” shall mean a sign generally located flush with the ground or upon a base but otherwise hav-

Article 35. Signs

10.08.4430 Purpose.

Signs have an obvious impact on the character and quality of the City. As a prominent part of the scenery they attract or repel the viewing public, affect the safety of vehicular traffic, and their suitability or appropriateness helps to set the tone of the neighborhood.

In view of these facts, the City adopts the policy that the sign should serve primarily to identify the general nature of an establishment or to direct attention to a product, activity, place, person, organization, or enterprise. As identification devices, signs shall not subject the citizens of the City to excessive competition for their visual attention. As appropriate identification devices, signs shall harmonize with the building, the neighborhood, and other signs in the area. The City intends to encourage the installation of signs which improve the appearance of the building and the neighborhood and to enhance the economic effectiveness of signs. This article provides standards to safeguard life, health, property, and the public welfare in keeping with the character of the City by regulating the size, height, structural design, quality of materials, construction, location, electrification,

ing a clearance from the ground of not more than two (2) feet, and supported by a solid base, one or more uprights, braces, columns, poles, or other similar structural components placed on or into the ground, and not attached to a building. Monument signs shall not have more than two (2) faces.

"Off-site monument sign" shall mean a monument sign constructed or maintained off of the parcel on which the business, as identified on the monument sign, is located.

"Permitted nonconforming sign" shall mean a sign which existed as a legal sign prior to January 17, 1978, which is in conflict with the provisions of this chapter and continues to advertise a bona fide business.

"Pitch" (or peak) shall mean the highest point as in the highest point of a roof.

"Primary sign" shall mean a sign which carries the identification of the business name, a primary product, or service.

"Prohibited nonconforming sign" shall mean a sign which existed as a legal sign prior to January 17, 1978, which is in conflict with the provisions of this chapter but no longer advertises a bona fide business or a sign existing after January 17, 1978, which is in conflict with the provisions of this article.

"Projecting sign" shall mean a sign attached to, and projecting from, the face of, or above, or upon the roof of a building, structure, canopy, or marquee and shall include a roof sign.

"Roof sign" shall mean a sign erected upon a roof, or parapet wall of a building, and which is wholly or partially supported by such building.

"Sign" shall mean any medium, including its structure and component parts, which is used, or intended to be used, to attract attention to the subject matter for advertising purposes and shall include every announcement, declaration, demonstration, display, illustration, insignia, surface, or space when erected, painted, or maintained in view of the general public for identification, advertisement, or the promotion of the interests of any person.

"Sign area" shall mean the total surface space within a single continuous perimeter containing words, letters, figures, or symbols, together with any frame, material, or color forming an integral part of the display, but excluding support structures, the face of a building, and incidental parts not drawing attention to the subject matter.

"Sign structure" shall mean a structure which supports a sign.

"Temporary sign" shall mean a sign constructed of expendable material, such as paper, plastic, cloth, or wood, intended to be displayed for a short period of time. Pennants, banners, balloons, and similar devices shall also be included in this category.

"Time and temperature sign" shall mean a sign which displays the current time or outdoor temperature, or both, and which does not display any commercial advertising or identification.

"Under canopy sign" shall mean an identification sign attached to the underside of a canopy or marquee, protruding over public or private sidewalks or rights-of-way.

"Wall sign" shall mean a sign which is attached directly to, and parallel with, the building face or painted upon the wall of a building or structural part thereof.

"Window sign" shall mean a sign painted, printed, attached, glued, or otherwise affixed to a window.

"Flags for new subdivisions" shall mean signs permitted to identify new residential subdivisions.

"Off-site kiosk directional subdivision signs" shall mean signs used for directing the travelling public to new residential subdivisions.

"Regional freeway commercial signs" shall mean signs for commercial developments whose customers travel extended distances to the site on an infrequent basis.

"Temporary project identification signs" shall mean signs allowed on a temporary basis for a commercial development. (Ord. 995 §§ 1—3, 1999; prior code § 10-2.3501)

10.08.4450 General requirements.

The general requirements and limitations shall be as follows:

(a) Construction materials. All permanent signs shall be constructed of wood, metal, plastic, glass, or like material (except wall signs painted upon the building) as approved by the Community Development Director; however, a sign permit may also be required by the Building Division.

(b) Area.

(1) A double-faced sign with parallel planes, back-to-back, not more than twenty-four (24") inches apart, shall count as a single sign, and only one side shall be counted for the total area.

(2) In cases of multi-face signs, add the outer dimensions of all the faces capable of presenting a sign. The sign area shall be the total area of all the faces.

(3) In the event a sign falls under more than one sign definition, the more restrictive sign regulations found in this article shall apply.

(4) Sign face changes which do not structurally alter the sign (including sign area and configuration) shall not require a sign permit, unless the sign is a nonconforming

sign, whereupon the sign face change shall comply with this article.

(5) The total sign area on a parcel shall be calculated as the sum of the sign areas of all types of signs on the parcel, except directional and temporary signs. The total sign area shall not exceed one-half square foot for each lineal foot of building frontage to which the signs pertain, except that individually-lettered wall signs shall be permitted a ratio of one square foot of sign area for each lineal foot of building frontage of business being advertised when individually-lettered wall signs comprise over fifty (50%) percent of the sign area of all sign types at such business being advertised.

(c) Location. All signs, except those so stated by this article, shall be erected upon the premises occupied by the person or business sought to be identified by such sign.

(d) Identification signs along major thoroughfares. Where the public convenience and necessity require, the Community Development Director may grant special use permits allowing identification signs along major thoroughfares entering the City, within 1,000 feet of the City boundaries, identifying the name of the community and the names of various nonprofit or civic organizations, provided the overall sign area is not greater than 100 square feet.

(e) Illumination. Illumination shall be allowed on all signs upon the approval of the Community Development Director, unless otherwise set forth in this article. (Prior code § 10-2.3502)

10.08.4460 Standards by sign type.

(a) Wall signs.

(1) Maximum height: Not to exceed the pitch of the roof.

(2) Maximum area: 100 square feet.

(3) Calculation of area: One-half square foot of sign area per lineal foot of building frontage of business being advertised.

(4) Permitted zones: MO, POM, CS, NS, CBD, GHC, M-I, M-2, and HS.

(5) Sign permit needed: Yes.

(b) Roof signs.

(1) Maximum height: Four (4') feet above the eaves of the roof, but in no case higher than the pitch of the roof.

(2) Maximum area: Forty (40) square feet.

(3) Calculation of permitted area: One-half square foot of sign area for each lineal foot of building frontage of business being advertised.

(4) Permitted zones: MO, POM, CS, NS, CBD, GHC, M-I, M-2, and HS.

(5) Sign permit needed: Yes.

(c) Monument signs.

(1) Maximum height: Six (6') feet in the MO, NS, CS, and GHC Zones and in Use Group 30 in the RE, LDR, MDC, MDR, HDR, and POM Zones and four (4') feet for all other land uses and use groups in the RE, LDR, MDR, HDR, and POM Zones.

(2) Maximum area: Twenty-four (24) square feet in the MO, NS, CS, and GHC Zones and in Use Group 30 in the RE, LDR, MDC, MDR, HDR, and POM Zones and twelve (12) square feet for all other land uses and use groups in the RE, LDR, MDR, and HDR Zones.

(3) Calculation of permitted area: One-half square foot of sign area for each lineal foot of building frontage for which the sign pertains.

(4) Ground clearance: Monument signs will not have a ground clearance exceeding two (2') feet.

(5) Permitted zones: All zones with the exception of agricultural.

(6) Sign permit needed: Yes.

(7) Maximum number of signs permitted: Two (2) per parcel.

(d) Directional signs.

(1) Maximum height: Four (4') feet.

(2) Maximum area: Twenty-four (24) square feet.

(3) Calculation of permitted area with no business logo/theme: Permitted by site plan review to give functional information on directions.

(4) Permitted zones: All zones.

(5) Sign permit needed: No.

(e) Directory signs.

(1) Maximum height: Eight (8') feet.

(2) Maximum area: Fifty (50) square feet.

(3) Calculation of area: One-half foot of sign area for each lineal foot of building frontage to which the directory sign pertains.

(4) Permitted zones: All zones with the exception of agriculture.

(5) Sign permit needed: Yes.

(6) Sign location: No directory sign which is a free-standing sign may be erected closer than fifteen (15') feet to any neighboring property line or to any driveway or other point of ingress/egress.

(f) Political signs.

(1) Maximum height: Six (6') feet.

(2) Maximum area: Thirty-two (32) square feet.

(3) Calculation of area: One-half square foot of sign area for each lineal foot of parcel frontage.

(4) Permitted zones: All zones.

(5) Sign permit needed: No.

(6) Installation: Signs may not be erected sooner than forty-five (45) days preceding an election or political event.

(7) Removal: Signs shall be removed within five (5) days following an election or political event.

(g) Temporary signs.

(1) Maximum height: Not to exceed the roof line of the nearest building or the building affixed to, but in no case higher than thirty (30') feet.

(2) Maximum area: 300 square feet.

(3) Calculation of area for businesses: One-half square foot of sign area for each lineal foot of building frontage of business to which the sign pertains.

(4) Permitted zones: MO, POM, CS, CBD, GHC, M-1, M-2 and HS.

(5) Sign permit needed: No.

(6) Calculation of area for nonprofit organizations: No criteria.

(7) Permitted time: Temporary signs may not be utilized for more than thirty (30) days.

(8) Exceptions: These provisions shall not apply to temporary activity signs as set forth in subsection 10.08.4476(d).

(h) Freestanding signs.

(1) Maximum height: Fifteen feet (15') feet.

(2) Maximum area: 100 square feet.

(3) Calculation of permitted area: One-half square foot of sign area for each lineal foot of parcel frontage.

(4) Permitted zones: CS, CMD, GHC, M-1, M-2, and HS.

(5) Sign permit needed: Yes.

(6) Sign location: No freestanding sign may be erected closer than fifteen (15') feet to any property line or closer than fourteen (14') feet to any driveway, alley, or vehicular access. Freestanding signs may only be permitted on the following sites or conditions:

(i) Shopping centers with four (4) or more individual establishments;

(ii) Office complexes including eight (8) or more suites or exceeding 15,000 square feet of floor area;

(iii) Any parcel with 200 or more feet of street frontage; and

(iv) As part of an overall sign program or plan.

(i) Freeway signs.

(1) Maximum height: Fifteen (15') feet measured from the crown of the nearest freeway or forty-five (45') feet, whichever is less.

(2) Maximum area: 300 square feet per sign face.

(3) Minimum ground clearance: Eight (8') feet from the bottom of the sign.

(4) Permitted sites: The sign and the site(s) being advertised must be within 350 feet of a freeway.

(5) Permitted zones: GHC, CS, M-1, M-2, HS, and as permitted in a PUD zone, subject to first securing a conditional use permit.

(6) Sign permit needed: No. Requires a conditional use permit.

(7) Maximum number of signs permitted: One per parcel, advertising a business on the parcel or immediately adjacent to the parcel. No business may be advertised on more than one freeway sign.

(j) Under canopy signs.

(1) Height: Minimum eight (8') foot clearance under the sign.

(2) Maximum area: Four (4) square feet.

(3) Permitted zones: NS, CS, PUD and CBD.

(4) Maximum number of signs: One per parcel or business.

(k) Standard sign area. For all businesses with lineal building frontages which total less than twenty (20') feet, the maximum sign area shall be ten (10') feet. All other provisions of this chapter shall apply to signs with a standard sign area.

(l) Flags for new subdivisions. New subdivisions are permitted a cumulative total of ten (10) flags with logos (but without sign copy) and are to be located on the model home lots or sales office lot or clustered at the subdivision entryway on private property. Pole height is limited to twenty (20') feet and flag area to be no more than twenty-four (24') square feet per flag. Flags are to be replaced when the fabric is torn or otherwise determined by the City to be in a state of disrepair. No sign permit is required.

(m) Regional freeway commercial signs. A conditional use permit is required.

(1) The sign is for a business that attracts a regional draw of the retail market and is for a single user on a site of thirty-five (35) acres or greater, has an approved building area over 300,000 square feet and a freeway frontage of 1,000 feet or greater;

(2) The site has poor visibility to allow for adequate decision time to enable a safe maneuver from the freeway to a ramp;

(3) The proposed sign height is the lowest necessary to provide continuous visibility given a speed of fifty-five (55)/sixty-five (65) mph based on Caltrans standards for safe merging distances, but no taller than seventy (70') feet;

(4) The proposed sign area (maximum lettering height of six (6') feet) is the smallest necessary to provide visibility based on Caltrans standards and to allow for a safe transition to the exit ramp;

(5) The sign will have reverse pan halo lettering;

(6) The sign is within 350 feet of the freeway, and must have one freeway exit ramp greater than two (2) miles away;

(7) One sign per regional freeway commercial development;

(8) The sign is to be set back no less than the height of the sign from the freeway right-of-way;

(9) The sign shall have one continuous perimeter.

(n) *Off-site kiosk directional subdivision signs.*

(1) Kiosk locations in addition to the ten (10) locations approved below be approved by the Planning Commission by conditional use permit. One kiosk may be constructed per site located on private property only. A second kiosk may be approved by the Planning Commission through the conditional use permit process. The following ten (10) sites (within one-quarter mile radius) are hereby approved as kiosk locations and have their center at the intersections of:

(i) Corral Hollow Road and Grant Line Road;

(ii) Tracy Boulevard and Grant Line Road;

(iii) Tracy Boulevard and I-205;

(iv) I-205 and MacArthur Drive;

(v) MacArthur Drive and Grant Line Road;

(vi) Tracy Boulevard and Eleventh Street;

(vii) Eleventh Street and MacArthur Drive;

(viii) Corral Hollow Road and Cypress Drive;

(ix) Tracy Boulevard and Schulte Road; and

(x) Schulte Road and MacArthur Drive.

(2) Maximum of six (6) panels per subdivision, phase, tract or tentative map throughout the City and four (4) panels total per structure.

(3) Seven-inch minimum letter height, and twelve-inch maximum letter height. Height of structure not to exceed fourteen (14') feet. Sign must have a minimum ground clearance of three (3') feet. Sign area of each panel not to exceed sixteen (16) square feet and no panel is to be greater than eight (8') feet in length. Sign must be nonilluminated.

(4) A panel shall be removed from the sign structure(s) following close of the on-site sales office.

(5) Copy change or new panels not required to go before the Planning Commission. An administrative sign permit is required.

(6) Sign structure to be removed within sixty (60) days after sign advertises no subdivisions.

(o) *Temporary project identification signs.* Temporary project identification signs may be permitted on a

site after the owner of the site receives a sign permit for the signs. Temporary project identification signs may only be approved under the following:

(1) The site shall be at least thirty-five (35) acres.

(2) The site shall have an approved commercial project by the City for the entire site.

(3) Sign standards:

(i) Maximum area, 800 square feet;

(ii) Maximum height, twenty-five (25') feet;

(iii) No closer than 100 feet to any public right-of-way or property line;

(iv) The sign shall be nonilluminated;

(v) Two (2) signs per project or parcel whichever is less.

(4) Prior to installation of the sign, appropriate construction permit(s) to the satisfaction of the Building Official, shall be obtained.

(5) The temporary project identification sign shall be removed prior to the issuance of the first final inspection or certificate of occupancy for any structure in the project, or after one year from the date of sign permit approval, whichever occurs first. The owner may receive up to a one-year extension of the permit if a final inspection or certificate of occupancy has not been granted for any structure in the project and the owner provides written justification for the extension, to the satisfaction of the Community Development Director.

(6) No temporary project identification sign may be permitted on a site longer than two (2) years after original approval unless a new sign permit application, submitted with appropriate fee, is approved by the Community Development Director pursuant to this article.

(p) *Off-site downtown directional signs.* Up to sixteen (16) off-site directional signs for downtown Tracy shall be permitted at the locations indicated below. Said signs shall be installed in City of Tracy public right-of-way and maintained by the City. The specific siting in the public right-of-way at each location will be determined by normal City standards for traffic control signs regarding visibility, safety, and installation considerations. The design of said signs will be standard City of Tracy green and white street signs, approximately six (6') inches tall by thirty (30') inches wide, mounted approximately seven feet above sidewalk grade, containing the word "DOWNTOWN" with an arrow indicating the direction from the sign to the intersection

of Tenth Street and Central Avenue. The sixteen (16) locations at which signs will be permitted include the following:

- (1) On the westbound off-ramp of I-205 at Grant Line Road, pointing east;
- (2) On the eastbound off-ramp of I-205 at Grant Line Road, pointing east;
- (3) On the westbound off-ramp of I-205 at Tracy Boulevard, pointing south;
- (4) On the eastbound off-ramp of I-205 at Tracy Boulevard, pointing south;
- (5) On the westbound off-ramp of I-205 at MacArthur Drive, pointing south;
- (6) On the eastbound off-ramp of I-205 at MacArthur Drive, pointing south;
- (7) On westbound Pescadero Avenue at MacArthur Drive, pointing south;
- (8) On eastbound Grant Line Road at Tracy Boulevard, pointing south;
- (9) On eastbound Eleventh Street at Corral Hollow Road, pointing east;
- (10) On southbound Tracy Boulevard at Eleventh Street, pointing east;
- (11) On southbound MacArthur Drive at Eleventh Street, pointing west;
- (12) On westbound Eleventh Street at Holly Drive, pointing south;
- (13) On eastbound Eleventh Street at Central Avenue, pointing south;
- (14) On southbound East Street at Tenth Street, pointing west;
- (15) On Tracy Boulevard at the Tracy Municipal Airport directing traffic north;
- (16) On northbound Tracy Boulevard at Eleventh Street, pointing east.

(q) *Off-site monument signs.* Any business may construct and maintain one off-site monument sign if, and only if, all of the following requirements are met:

- (1) The business is not identified on a freeway sign or a freestanding sign; and
- (2) The parcel on which the business is located (the "business parcel") has a recorded easement, or other real property interest recorded against the parcel on which the off-site monument sign is located (the "sign parcel"), which provides: (i) access from the business to the public right-of-way across the sign parcel;

and (ii) the continued maintenance of the off-site monument sign in accordance with all City standards, including this article;

- (3) The off-site monument sign is located within the access easement referenced in subsection (q)(2), above;
- (4) The business is identified on no more than one monument sign on the business parcel, and no more than one off-site monument sign;
- (5) The sign parcel shall have no more than two (2) total monument signs;
- (6) The off-site monument sign is designed in accordance with all City standards, including Tracy Municipal Code section 10.08.4440 and subsection 10.08.4460(c). (Ord. 1027 § 1, 2001; Ord. 995 § 4, 1999; prior code § 10-2.3503) (Ord. No. 1132, § 1, 1-6-2009)

10.08.4465 Banner signs on public property.

(a) *Purpose.* The purpose of this section is to establish the manner by which banners may be displayed on public property to promote the City of Tracy, to promote co-sponsored, community-wide public events, and for beautification of the City.

(b) *Definitions.* For the purpose of this section: "Banner" means either of the following two (2) types:

- (1) "Street light banner" means a banner on a City street light pole, including a light pole on any City-owned property, and which is affixed by brackets.
- (2) "Over-the-street banner" means a banner traversing the public right-of-way at one of three (3) locations as set forth in subsection (d)(2) below.

"City-sponsored" means the City alone (including a City Board or Commission) is sponsoring the public event.

"Co-sponsor" means the City is co-sponsoring a public event in one of the following ways:

- (1) The City has entered into a memorandum of understanding (MOU) with an organization to cooperate in putting on the event (pursuant to Council Resolution No. 2005-076, or the successor co-sponsorship guidelines); or
- (2) The City has made a substantial contribution of money and or City services toward the event.

"Director" means the Director of Development and Engineering Services or his or her designee, unless stated otherwise.

(c) *City banners to promote or beautify the City.* The City may install street light banners throughout the City to promote the City or for beautification of the City. No sign permit is necessary.

(d) *Banners for City-sponsored or co-sponsored, community-wide events.* The City may install banners to advertise an upcoming community-wide event for which the City is a sponsor or co-sponsor. No sign permit is necessary. However, the applicant must obtain a special events permit from the Parks and Community Services Department, and the Parks and Community Services Director is authorized to approve the placement of banners and their conformance to the banner guidelines.

(1) Street light banners for City-sponsored or co-sponsored, community-wide events may be placed in any one or more of the following zones:

(A) *Zone 1:* Eleventh Street between Lammers Road and Corral Hollow Road;

(B) *Zone 2:* Tenth Street between A and East Streets;

(C) *Zone 3:* Central Avenue between Eleventh and Sixth Streets.

These three (3) zones do not include the four (4) street corners at Tenth Street and Central Avenue, which are reserved for City banners.

(2) Over-the-street banners for City-sponsored or co-sponsored, community-wide events may be placed in any one or more of the following locations, once the City has installed appropriate pole structures:

(A) In the center median of Eleventh Street between Lammers Road and Crossroads Drive;

(B) On Central Avenue between Eleventh Street and Tenth Street; and

(C) At Sixth Street and Central Avenue, upon completion of the Downtown Plaza.

(3) The Director shall establish banner guidelines, including banner specifications, length of time banners may be displayed, scheduling and utilization of the special event permit process. The Director may revise the banner guidelines as necessary, as long as they conform to this section.

(4) Banners shall be installed and removed by City staff. (Ord. 1115 § 1, 2008; Ord. 1110 § 1, 2007) (Ord. No. 1145, § 1, 3-16-2010)

10.08.4470 Standards for miscellaneous signs.

(a) *Construction project sign.* "Construction project sign" means a sign erected in conjunction with a construction project for the purpose of publishing the future occupants of a building, the architect, engineer, contractor, or other information pertaining to the construction project. Construction project signs shall not exceed thirty-two (32) square feet in area or eight (8') feet in overall height, unless legally required by governmental contract to be larger.

(b) *Real estate signs on private property.* Notwithstanding any other provision of this chapter, and consistent with California Civil Code section 713, signs advertising property for sale, lease or exchange including, but not limited to, the words "open house", may be placed upon property if the following conditions are met.

It is the duty of the State to provide for the education of its citizens. This duty is not only a moral one, but also a practical one. Education is the foundation of a civilized society and the key to economic progress. The State must ensure that every child has access to a quality education, regardless of their background or financial situation. This requires a commitment to public education and a willingness to invest in the future of the state.

The State's responsibility for education is not limited to the classroom. It also extends to the broader community. The State should support a variety of educational institutions, including public schools, private schools, and higher education. It should also promote lifelong learning and provide opportunities for adults to improve their skills and knowledge. By investing in education, the State is investing in the well-being and prosperity of its citizens.

Education is a public good that benefits everyone. It is the best way to ensure that our children are prepared for the challenges of the future. The State has a moral obligation to provide for the education of its citizens, and it has a practical obligation to do so in a way that is efficient and effective. By supporting education, the State is supporting the future of our state and the well-being of its people.

The State's role in education is essential. It is the only way to ensure that every child has access to a quality education. The State must continue to invest in education and support a variety of educational institutions. By doing so, the State can ensure that our children are prepared for the challenges of the future and that our state remains a place of opportunity and prosperity.

Education is the key to a better future. The State has a duty to provide for the education of its citizens, and it must do so in a way that is efficient and effective. By supporting education, the State is supporting the future of our state and the well-being of its people.

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- (1) The sign contains the following information:
- (a) That the property is for sale, lease, or exchange by the owner or his or her agent.
 - (b) Directions to the property.
 - (c) The owner's or agent's name.
 - (d) The owner's or agent's address and telephone number.
- (2) Residential property. On residential property of less than one acre, one real estate sign not to exceed six (6) square feet in area is permitted. On residential property of more than one acre, one sign not to exceed thirty-two (32) square feet in area per street frontage is permitted. In cases of properties with more than one frontage, not more than one sign may be placed along each frontage. Such signs shall be placed a minimum of 200 feet apart.
- (3) Commercial property. On a commercial or industrial parcel of less than one acre, one sign of twelve (12) square feet in area plus one square foot of additional sign area for every ten (10) linear feet of street frontage up to, but not exceeding thirty-two (32) square feet in total sign area shall be permitted.
- On a commercial or industrial parcel of one acre or more, one sign per frontage, not to exceed thirty-two (32) square feet in area per sign, is permitted.
- (4) Open house signs. In addition to the signs allowed by subsections (2) and (3) of this subsection, an additional sign, not to exceed six (6) square feet in area or three (3') feet in height, with the words "open house" shall be allowed during daylight hours on a weekend and legal holiday.
- (5) Location. Real estate signs may be located on the property for sale, lease or exchange, or on other property with that property owner's consent. The signs shall not adversely affect public safety, including traffic safety.
- (6) Illumination. Real estate signs shall not be illuminated.
- (7) Removal. Real estate signs shall be removed within seven (7) days of the sale (close of escrow), lease or exchange of the property.
- (8) Number of signs. There shall be no more than four (4) off-site real estate signs for any open house event or property listing.

(c) Residential subdivision sign. One temporary real estate sign for a residential subdivision may be permitted on each arterial or collector street within a subdivision. When there are no arterial or collector streets within the subdivision, one such sign may be permitted on a local street within the subdivision. Temporary real estate signs shall meet the minimum front yard setback requirements, and shall not exceed 100 square feet in area, or be more than fifteen (15) feet in height. Such signs shall not be

illuminated. Such signs shall be removed immediately after the completion of the sales activity of the property or subdivision by the builder. A sign permit shall be obtained before the placement of such signs.

(d) Temporary activity signs on public property. A sign advertising a temporary activity may be placed in the public right-of-way if the owner complies with all of the following:

(1) Activity. This subsection (d) applies to temporary activity signs such as real estate open house or other activity that is permitted in an "R" residential zone.

(2) Temporary. With respect to subsection (d), "temporary activity sign" means a sign, such as a real estate direction sign to an open house sign, placed during daylight hours on a weekend and legal holiday.

(3) Location. The temporary activity sign may only be located within one mile of the property to which the sign applies, and within the public right-of-way in any residential zoning district in the following locations:

1. Along a major arterial street where there is a public soundwall, landscaping and pedestrian walkway separating the adjacent private property from the roadway.

2. Where the frontage is improved with a monolithic curb, gutter and sidewalk, behind the sidewalk on residential and collector streets.

3. Where the frontage is improved with vertical face curb, parkway and sidewalk, within the parkway between the curb and sidewalk on residential and collector streets.

The sign shall not be located:

- In a median;
- In a city park;
- On a sidewalk or pedestrian walkway;
- In the vehicular travel lane, bicycle lane, parking lane or red zone of the street;
- Within one foot of the curb;
- On a utility pole or fixture;
- On street signs or other public signs.

(5) Number of signs. For each activity, there shall be no more than a total of four (4) signs displayed on public property, and no more than one sign at an intersection. There shall be no more than a total of four (4) signs at any intersection or one sign on each corner.

(6) Size. The sign may not exceed six (6) square feet in area or three (3') feet in height. (Ord. 1027 § 2, 2001; Prior code § 10-2.3504)

10.08.4480 Administration.

Except as otherwise provided in section 10.08.4470 of this article, no sign may be placed or erected without written approval issued by the Community Development Director or his designee. In addition, building permits shall

be required for the erection of signs, except painted, wall, window, or temporary signs, following the issuance of written approval by the Community Development Director. (Prior code § 10-2.3505)

10.08.4490 Sign approval.

(a) Applications: Form. Applications for sign approval shall be made upon forms provided by the Community Development Department in the manner thereon ascribed.

(b) Review of sign applications. Permission for signs shall be issued only after review by, and the approval of, the Community Development Director. The Community Development Director shall approve, disapprove, or conditionally approve the sign application on the basis that it conforms to the purpose and the requirements of this article.

(c) Appeals.

(1) In the event the applicant is not satisfied with the decision of the Community Development Director, the applicant, within ten (10) working days after the decision is rendered, may file an appeal with the Commission. Such an appeal shall be filed in writing with the secretary of the Commission.

(2) In the event the applicant is not satisfied with the decision of the Commission, within ten (10) working days after the decision is rendered, he may file an appeal in writing with the Council. The Council shall render a decision within forty-five (45) days after the filing of such appeal. (Prior code § 10-2.3506)

10.08.4500 Nonconforming signs.

The lawful use of signs existing on January 17, 1978, although such use does not conform with the provisions of this article, may be continued; provided, however, a nonconforming sign which has been abandoned, or the use for which it is advertised has ceased to function for a period of ninety (90) days or more, shall be brought into conformity with the provisions of this article.

(a) No nonconforming sign shall be, in any manner, structurally altered, reconstructed, or moved without being made to comply in all respects with the provisions of this article; however, nothing in this subsection shall prohibit the painting, maintenance, or repairing of such sign, including the face and changing of copy, except that such repairs shall not exceed fifty (50%) percent of the value of such sign within any consecutive five (5) year period.

(b) If at any time any sign in existence or maintained on January 17, 1978, which sign does not conform with the provisions of this article, is destroyed by fire, accident, explosion, or act of God to the extent of more than fifty

(50%) percent of the value thereof, then, without further action of the City, such sign, from and after the date of such destruction, shall be subject to all the provisions of this article. For the purposes of this article, the value of any sign shall be the estimated cost and replacement of the sign in kind as determined by the Building Official. (Prior code § 10-2.3507)

10.08.4510 Prohibited signs and locations.

The following signs shall be absolutely prohibited:

- (a) Any sign designed for emitting sound;
- (b) Any sign mounted or attached to a vehicle parked for the purpose of calling attention to or advertising a special business establishment;
- (c) Any sign or sign structure which has become a public nuisance due to inadequate maintenance, dilapidation, or abandonment;
- (d) Any sign which obstructs in any manner the ingress to, or egress from, a required door, window, fire escape, or other required accessway;
- (e) Any sign containing any obscene matter;
- (f) Any sign unlawfully installed, erected, or maintained;
- (g) Any sign now or hereafter existing which no longer advertises a bona fide business conducted or a product sold as prescribed in this chapter;
- (h) Any sign which encroaches into any City right-of-way or easement, except an under canopy sign or a temporary activity sign provided for under section 10.08.4470(d).
- (i) Any sign which flashes, blinks, moves, changes color, appears to change color, changes intensity, or contains any part of an attachment which does the same, except that standard barber poles and time and temperature signs shall be permitted in the commercial and industrial zones;
- (j) Any freestanding or projecting sign erected at an intersection so as to intrude into a triangle formed by the projection of the curb line (if none, the property line) and an imaginary line twenty-five (25') feet from the intersection of such projecting lines, unless less than two (2') feet or more than eight (8') feet above the curb grade and the support is no more than eighteen (18") inches in diameter;
- (k) Any sign not expressly permitted;
- (l) Any sign located so that it interferes with visibility at an intersection, public right-of-way, driveway, or other ingress/egress;
- (m) Any sign located or displayed on or over public property, except for:
 - (1) A banner sign approved under section 10.08.4465,

(2) A temporary activity sign provided for under section 10.08.4470(d), or

(3) A legally required traffic sign;

(n) Any sign attached to a tree;

(o) Any sign erected or maintained which has less horizontal or vertical clearance from communication lines or energized electrical power lines than that prescribed by the State or rules and regulations duly promulgated by agencies thereof;

(p) Any sign serving as a billboard;

(q) Any sign which, in the opinion of the Community Development Director, is in conflict with the spirit or intent of this article; and

(r) Any sign adversely affecting traffic control or safety. (Ord. 1110 § 2, 2007; Ord. 1027 § 3, 2001; prior code § 10-2.3508)

10.08.4520 Removal of signs.

A sign shall be removed under any of the following conditions:

(a) The sign no longer advertises a bona fide business, and the sign exists ninety (90) days after the cessation of such business;

(b) The sign was installed or painted illegally;

(c) The sign is a nonconforming sign and was destroyed in a manner reducing the value of such sign by fifty (50%) percent or more;

(d) The sign is in violation of any part of this chapter;

(e) The sign endangers the safety or welfare of citizens; and

(f) The sign is dilapidated, decayed, or otherwise neglected. (Prior code § 10-2.3509)

10.08.4530 Nature of removal.

(a) A sign subject to removal shall be removed in a safe manner.

(b) Notification of the removal of a sign shall be furnished in writing to the Building Official forty-eight (48) hours in advance of any removal for any sign requiring a sign permit, unless the sign places the City in immediate peril.

(c) Any accessory structures or foundations or mounting materials which are unsightly or a danger to the safety and welfare of citizens shall be removed at the time of the sign removal. (Prior code § 10-2.3510)

10.08.4540 Scope of responsibilities.

(a) The Community Development Director or his designee shall be responsible for the following functions:

(1) Interpretations of this chapter; and

(2) The review of sign permit applications for conformance with this chapter.

(b) The Building Official or his designee shall be responsible for the following functions:

(1) Inspections of signs and installations of signs;

(2) Inspections of purported violations of this chapter; and

(3) The enforcement of this chapter by issuing final inspection approval of sign installations and issuing notices or citations in the event of nonconformance with this chapter. (Prior code § 10-2.3511)

10.08.4550 Enforcement.

In the event a sign is found to not conform with this chapter, and such sign does not place citizens in immediate danger or peril, the Building Official or his designee shall serve the business owner (or property owner if the business has ceased) a written certified notice explaining the nature of such violation and demand compliance with this chapter (by the modification or removal of such sign) within thirty (30) days after the receipt of such notice. Should the business owner fail to comply with this chapter in the prescribed time, the Building Official shall issue a citation to such business owner and subject such owner to a fine prescribed by resolution, except when during such thirty (30) day notice period the business owner or his designee files a variance application with the Community Development Department. (Prior code § 10-2.3512)

10.08.4560 Signs placing citizens in immediate peril or signs in public rights-of-way and/or easements.

The Building Official or his designee shall immediately cause the removal of any sign which, in the judgment of either the Community Development Director or his designee or the Chief Building Official or his designee, is found to be within the public right-of-way and/or easements or found to place citizens in immediate peril by any or a combination of the following methods, using sound judgment under the circumstances:

(a) The removal or modification of such sign by City staff with the business owner to be billed for time and materials;

(b) Notification orally or in writing to the business owner causing the removal of such sign within a twenty-four (24) hour period or a lesser period of time, as prescribed by the Chief Building Official or his designee; or

(c) The immediate citation of the business owner or party responsible for such sign. (Prior code § 10-2.3513)

Article 36. Home Occupations

10.08.4570 Findings and intent.

The Council finds that someone residing in a residential neighborhood should be able to engage in a home occupation so long as it is harmonious with and does not change the character and quality of environment of the area. It is the intent of this article to permit a home occupation as an incidental and accessory use in residential land use districts under conditions that will ensure that the use is and remains compatible with the residential character of the neighborhood. (Prior code § 10-2.3601, as amended by § 1, Ord. 943 C.S., eff. September 19, 1996)

10.08.4580 Home occupation defined.

A home occupation is the conduct for pecuniary gain of an art or profession, the offering of a service, or the conduct of a business or handicraft manufacture of products within or from a residence in a residential zone. A home occupation is incidental and secondary to the primary residential use, does not change the residential character of the neighborhood, and is in accordance with this article. (Prior code § 10-2.3602, as amended by § 1, Ord. 943 C.S., eff. September 19, 1996)

10.08.4590 Permit required.

No person shall conduct a home occupation without first obtaining a home occupation permit under this article. A family day care use of six (6) or fewer children is exempt from the requirement of a home occupation permit. (Prior code § 10-2.3603, as amended by § 1, Ord. 943 C.S., eff. September 19, 1996)

10.08.4600 Regulations.

A home occupation shall comply with the following regulations:

- (a) There shall be no exterior evidence of the conduct of the home occupation;
- (b) No sign or advertising may be displayed except for a single directory sign or name plate, which shall be flat-mounted against the building, shall not exceed one and one-half (1 1/2) square feet in area, and shall be illuminated by reflected light only;
- (c) The occupation shall not be conducted in an accessory structure, nor shall equipment or supplies be stored in an accessory structure or outside the dwelling. The occupation may be conducted, and supplies and equipment may be stored, in a garage, as long as required off-street parking is maintained;
- (d) The nature and conduct of the home occupation must not be such as to change the principal character of the

use of the dwelling unit or the residential character of the neighborhood;

(e) A home occupation shall be clearly incidental to the residential use. The floor area used for the occupation shall not exceed one-fourth of the floor area of the main residence or 400 square feet, whichever is less;

(f) There shall be no on-site sale of products;

(g) Only the residents of the dwelling may be employed in the home occupation, except that non-residents may be employed as long as they do not work, meet or leave vehicles at the residence;

(h) The home occupation shall not create off-street or on-street parking, vehicular or pedestrian traffic which is greater than normally associated with a strictly residential use of the premises, except for individual instruction in conformance with section 10.08.4610(b). The resident with the home occupation may not keep a vehicle greater than one ton at the premises, and may not have more than one such vehicle. Any trailer or wheeled equipment incidental to the home occupation shall be kept within an enclosure and not be visible from off site.

(i) The home occupation shall not create noise exceeding levels permitted by the noise ordinance (sections 4.12.710 through 4.12.1000); audible interference in radio or television receivers; fluctuations in line voltage; odor, dust, vibration, fumes or smoke readily discernible at the property's exterior boundary. (Amended during 9-07 supplement; prior code § 10-2.3604, as amended by § 1, Ord. 943 C.S., eff. September 19, 1996)

10.08.4610 Prohibited uses—Individual instruction permitted.

(a) Prohibited uses. The following uses, and those with similar characteristics, are prohibited as home occupations: photography studio, beauty parlor, barber shop, pet grooming, appliance or vehicle repair shops, animal hospital, medical practitioner, clinic, music school, dancing school, business school, any other school with organized classes, except for individual instruction.

(b) Individual instruction permitted. Individual instruction or tutoring of no more than two (2) students at a time may be allowed if the use is consistent with the intent of this article. (Prior code § 10-2.3605, as amended by § 1, Ord. 943 C.S., eff. September 19, 1996)

10.08.4620 Permit procedures.

(a) Application. A person intending to conduct a home occupation shall file a permit application form with the Community Development Department, together with the permit fee established by Council resolution.

AGENDA ITEM 2-B

REQUEST

PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE TRACY MUNICIPAL CODE (TMC CHAPTER 10.08) AFFECTING FAMILY DAY CARE HOMES – THE APPLICATION IS INITIATED BY THE CITY OF TRACY – APPLICATION NUMBER ZA12-0003

DISCUSSION

Background

Within the State's Planning, Zoning and Development Laws, some provisions exist that regulate family day care homes. These regulations define family day care homes as "...a home that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family day care home or a small family day care home". The Government Code (Section 1597.43) goes on to say that "Family day care homes operated under the standards of state law constitute accessory uses of residentially zoned and occupied properties and do not fundamentally alter the nature of the underlying residential uses."

Family day care homes are further divided into small family and large family day care homes. Small family day care homes are homes that provide care for eight or fewer children, and large family day care homes provide care for seven to 14 children. Government Code Section 1597.45 declares that "the use of a single-family residence as a small family day care home shall be considered a residential use of property for the purposes of all local ordinances." Essentially, this means that cities in California cannot impose any special zoning regulations on a small family day care homes that are any different or more restrictive than those regulations that are imposed upon the single-family homes in which they operate. Similarly, large family day care homes cannot be prohibited by cities on lots zoned for single-family dwellings.

While they cannot be prohibited, cities are able to do one of the following:

1. Classify large family day care homes as a permitted use of residential property, for zoning purposes.
2. Grant a nondiscretionary permit that prescribes reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control.
3. Require a large family day care home to apply for a permit that requires public notification of all property owners within 100 feet of the parcel and hold a hearing if requested by a property owner and then grant a nondiscretionary permit to the day care home if it complies with the reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control as prescribed in the Tracy Municipal Code.

In order for the City to permit large family day care homes by options 2 or 3 listed above, the Tracy Municipal Code would first have to be amended to add restrictions and requirements by which to evaluate such a nondiscretionary permit. To exercise option 1

listed above, the code must be amended to define and allow large family day care homes to be principally permitted in all residential zones.

Analysis and Proposed Zoning Code Amendment

Staff is recommending that the Tracy Municipal Code be amended to defined large family day care homes and allow them as permitted uses in all residential zones (option 1). The Tracy Municipal Code already contains various regulations regarding traffic control, parking, and noise, which are enforced by the appropriate departments within the City. With regard to spacing and concentration of these facilities, there are less than 50 licensed small and large family day care homes within the City limits, while there are approximately 21,000 single-family homes in the same area. The safety regulations that the state Fire Marshal and Community Care Licensing Division require and enforce are sufficient to ensure the safety of the children that are cared for in these facilities. With the checks and balances discussed above, staff recommends that we not further regulate family day care homes; as such regulations are not necessary above those already in place.

The following amendments to the Tracy Municipal Code are recommended to allow define day care homes, and to allow them as a principally permitted land use in all of Tracy’s residential zones. The proposal is shown in strike-through/underline format of selected, existing code sections to illustrate the proposed changes.

“Section 10.08.255 Day Care Home.

“Day care” means a small family day care home as defined by Health and Safety Code section 1596.78, a large family day care home as defined by Health and Safety Code section 1596.78, licensed by the state. (See also section 10.08.3195.)

...
“Section 10.08.650 Nursery school or day care center.

“Nursery school” or “day care center” shall mean premises being used for the care of seven (7) or more children, not located in a residence. (See also Section 10.08.255.)” including those who reside in the home. Such premises may also be used for the care of school-aged children during those hours before and after school when the parent is normally working.”

...
“Section 10.08.1080 Permitted Uses.

...
(29) Use Group No. 29, Accessory uses.

Use Group No. 29: Accessory uses (when located on the same parcel as the principal use and the principal use is conforming.	Permitted in Zones RE LDR LDC MDR HDR POM	Conditionally Permitted in Zones: LDC MDR HDR CBD
--	--	---

	RMH CS NS CBD GHC M-1 M-2 HS	
<u>(m) Day care home (See Sections 10.08.255 and 10.08.3195.)</u>		

“Section 10.08.3195 Day care home.
A small family day care home, as defined by Health and Safety Code section 1596.78, or a large family day care home, as defined by Health and Safety Code section 1596.78, is permitted on any residentially zoned property: RE, LDR, MDC, MDR, HDR or PUD.”

This proposed amendment is contained in the draft Ordinance, Exhibit 1 to the attached Planning Commission Resolution, Attachment B. The proposal would allow family day care homes to be treated no differently than single-family homes from the perspective of the City’s zoning regulations.

RECOMMENDATION

Staff recommends that the Planning Commission recommend that the City Council approve the proposed amendments to the Tracy Municipal Code Sections 10.08.650, and 10.08.1080, and adding new sections 10.08.255 and 10.08.3195 regarding family day care homes in residential zones.

MOTION

Move that the Planning Commission recommend that the City Council approve the attached Ordinance, amending the Tracy Municipal Code Sections 10.08.650, and 10.08.1080, and adding new sections 10.08.255 and 10.08.3195 regarding family day care homes in residential zones.

Prepared by: Victoria Lombardo, Senior Planner
 Reviewed by: Bill Dean, Assistant Development Services Director
 Approved by: Andrew Malik, Development Services Director

ATTACHMENTS

- Attachment A – Government Code Sections related to Family Day Care Homes
- Attachment B – Proposed Planning Commission Resolution with Draft City Council Ordinance

which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities which serve six or fewer persons from other family dwellings of the same type in the same zone and if the ordinance does not distinguish residents of residential care facilities from persons who reside in other family dwellings of the same type in the same zone.

(5) No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential care facility which serves six or fewer persons which is not required of a family dwelling of the same type in the same zone.

(6) Use of a family dwelling for purposes of a residential care facility serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent these sections are applicable to residential care facilities serving six or fewer persons.

(b) No fire inspection clearance or other permit, license, clearance, or similar authorization shall be denied to a residential care facility because of a failure to comply with local ordinances from which the facilities are exempt under subdivision (a), provided that the applicant otherwise qualifies for the fire clearance, license, permit, or similar authorization.

(c) For the purposes of any contract, deed, or covenant for the transfer of real property executed on or after January 1, 1979, a residential care facility which serves six or fewer persons shall be considered a residential use of property and a use of property by a single family, notwithstanding any disclaimers to the contrary.

(d) Nothing in this chapter shall authorize the imposition of rent regulations or controls for licensed residential care facilities.

(e) Licensed residential care facilities shall not be subject to controls on rent imposed by any state or local agency or other local government or entity.

(Added by Stats. 1990, Ch. 1333; Amended by Stats. 1991, Ch. 832.)

1569.85. Zoning preemption

Whether or not unrelated persons are living together, a residential care facility for the elderly which serves six or fewer persons shall be considered a residential use of property for the purposes of this article. In addition, the residents and operators of the facility shall be considered a family for the purposes of any law or zoning ordinance which relates to the residential use of property pursuant to this article.

For the purpose of all local ordinances, a residential care facility for the elderly which serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution or home for the care of the aged, guest home, rest home, sanitarium, mental hygiene home,

or other similar term which implies that the residential care facility for the elderly is a business run for profit or differs in any other way from a family dwelling.

This section shall not be construed to forbid any city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of a residential care facility for the elderly which serves six or fewer persons as long as the restrictions are identical to those applied to other family dwellings of the same type in the same zone.

This section shall not be construed to forbid the application to a residential care facility for the elderly of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities for the elderly which serve six or fewer persons from other family dwellings of the same type in the same zone; and if the ordinance does not distinguish residents of the residential care facilities for the elderly from persons who reside in other family dwellings of the same type in the same zone.

No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential care facility for the elderly which serves six or fewer persons which is not required of a family dwelling of the same type in the same zone.

Use of a family dwelling for purposes of a residential care facility for the elderly serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent these sections are applicable to residential care facilities for the elderly providing care for six or fewer residents.

For the purposes of this section, "family dwelling," includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

(Added by Stats. 1986, Ch. 844; Amended by Stats. 1987, Ch. 1092.)

FAMILY DAY CARE HOMES ZONING

(Division 2. Licensing Provisions, Chapter 3.4. California Child Day Care Act)

1596.70. Title

This chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with 1597.30) may be cited as the California Child Day Care Facilities Act.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1985, Ch. 1064.)

1596.71. Applicability

This chapter applies to Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30). This chapter also applies to Chapter 3.65 (commencing with Section 1597.70).

(Added by Stats. 1984, Ch. 1615.)

1596.72. Legislative intent

The Legislature finds all of the following:

(a) That child day care facilities can contribute positively to a child's emotional, cognitive, and educational development.

(b) That it is the intent of this state to provide a comprehensive, quality system for licensing child day care facilities to ensure a quality day care environment.

(c) That this system of licensure requires a special understanding of the unique characteristics and needs of the children served by child day care facilities.

(d) That it is the intent of the Legislature to establish within the State Department of Social Services an organizational structure to separate licensing of child day care facilities from those facility types administered under Chapter 3 (commencing with Section 1500).

(e) That good quality child day care services are an essential service for working parents.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1985, Ch. 1064.)

1596.73. Purpose

The purposes of this act are to:

(a) Streamline the administration of child care licensing and thereby increase the efficiency and effectiveness of this system.

(b) Encourage the development of licensing staff with knowledge and understanding of children and child care needs.

(c) Provide providers of child care with technical assistance about licensing requirements.

(d) Enhance consumer awareness of licensing requirements and the benefits of licensed child care.

(e) Recognize that affordable, quality licensed child care is critical to the well-being of parents and children in this state.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1985, Ch. 1064.)

1596.74. Definitions

Unless the context otherwise requires, the definitions contained in this chapter govern the construction of this chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30).

(Added by Stats. 1984, Ch. 1615.)

1596.75. Child

"Child" means a person who is under 18 years of age who is being provided care and supervision in a child day care facility, except where otherwise specified in this act.

(Added by Stats. 1984, Ch. 1615.)

1596.750. Child day care facility

"Child day care facility" means a facility that provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. Child day care facility includes day care centers, employer-sponsored child care centers, and family day care homes.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1994, Ch. 690.)

1596.76. Day care center

"Day care center" means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 2002, Ch. 1022.)

1596.77. Department

"Department" means the State Department of Social Services.

(Added by Stats. 1984, Ch. 1615.)

1596.770. Director

"Director" means the Director of Social Services.

(Added by Stats. 1984, Ch. 1615.)

1596.771. Employer-sponsored child care center

"Employer-sponsored child care center" means any child day care facility at the employer's site of business operated directly or through a provider contract by any person or entity having one or more employees, and available exclusively for the care of children of that employer, and of the officers, managers, and employees of that employer.

(Added by Stats. 1994, Ch. 690.)

1596.773. Probation; Revocation

(a) "Probation" means the period of time that a licensed child day care facility is required to comply with specific terms and conditions set forth by the department in order to stay or postpone the revocation of the facility's license.

(b) "Revocation" means an administrative action taken by the department to void or rescind the license of a child day care facility because of serious or chronic violations of licensing laws or regulations by the facility.

(Added by Stats. 2004, Ch. 358.)

1596.775. Findings

The Legislature finds and declares all of the following:

(a) There is a severe shortage of child care for school age children throughout California, with many school age children going home to an empty, unsupervised setting after school.

(b) For nearly five years several counties have participated in a pilot program that allows for a family day care home to

care for two additional children above the current number allowed pursuant to licensing regulations.

(c) As part of the pilot program, a study was conducted by the Assembly Office of Research. The results of the study demonstrated that the pilot program achieved all of the following results:

- (1) Increased access to care for school age children.
- (2) Participating providers encountered few problems and strongly support expansion of the program.
- (3) Parents of children in the pilot program family day care homes strongly support the program.
- (4) Participating providers with additional children were no more likely to receive substantiated complaints from licensing officials than nonparticipants.
- (5) Local governments and planning officials saw little or no impact on their licensing policies and procedures.
- (6) Overall quality of care was not adversely affected.

(Added by Stats. 1996, Ch. 18.)

1596.78. Family day care home

(a) "Family day care home" means a home that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family day care home or a small family day care home.

(b) "Large family day care home" means a home that provides family day care for 7 to 14 children, inclusive, including children under the age of 10 years who reside at the home, as set forth in Section 1597.465 and as defined in regulations.

(c) "Small family day care home" means a home that provides family day care for eight or fewer children, including children under the age of 10 years who reside at the home, as set forth in Section 1597.44 and as defined in regulations.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1989, Ch. 70.)

1596.79. Person

"Person" means an individual, partnership, association, corporation, limited liability company, or governmental entity, such as the state, a county, city, special district, school district, community college district, chartered city, or chartered city and county.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1985, Ch. 1064; Amended by Stats. 1994, Ch. 1010.)

1596.790. Planning agency

"Planning agency" means the agency designated pursuant to Section 65100 of the Government Code.

(Added by Stats. 1984, Ch. 1615.)

1596.791. Provider

"Provider" means a person who operates a child day care facility and is licensed pursuant to Chapter 3.5 (commencing

with Section 1596.90) or 3.6 (commencing with Section 1597.30).

(Added by Stats. 1984, Ch. 1615.)

1596.792. Inapplicability

This chapter, Chapter 3.5 (commencing with Section 1596.90) and Chapter 3.6 (commencing with Section 1597.30) do not apply to any of the following:

- (a) Any health facility, as defined by Section 1250.
- (b) Any clinic, as defined by Section 1202.
- (c) Any community care facility, as defined by Section 1502.
- (d) Any family day care home providing care for the children of only one family in addition to the operator's own children.

(e) Any cooperative arrangement between parents for the care of their children when no payment is involved and the arrangement meets all of the following conditions:

(1) In a cooperative arrangement, parents shall combine their efforts so that each parent, or set of parents, rotates as the responsible caregiver with respect to all the children in the cooperative.

(2) Any person caring for children shall be a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.

(3) There can be no payment of money or receipt of in-kind income in exchange for the provision of care. This does not prohibit in-kind contributions of snacks, games, toys, blankets for napping, pillows, and other materials parents deem appropriate for their children. It is not the intent of this paragraph to prohibit payment for outside activities, the amount of which may not exceed the actual cost of the activity.

(4) No more than 12 children are receiving care in the same place at the same time.

(f) Any arrangement for the receiving and care of children by a relative.

(g) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county that meets either of the following criteria:

(1) The program is operated only during hours other than normal school hours for kindergarten and grades 1 to 12, inclusive, in the public school district where the program is located, or operated only during periods when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located, for either of the following periods:

- (A) For under 16 hours per week.
- (B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

In determining "normal school hours" or periods when students are "normally not in session," the State Department

of Social Services shall, when appropriate, consider the normal school hours or periods when students are normally not in session for students attending a year-round school.

(2) The program is provided to children who are over the age of four years and nine months and not yet enrolled in school and the program is operated during either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

(3) The program is provided to children under the age of four years and nine months with sessions that run 12 hours per week or less and are 12 weeks or less in duration. A program subject to this paragraph may permit children to be enrolled in consecutive sessions throughout the year. However, the program shall not permit children to be enrolled in a combination of sessions that total more than 12 hours per week for each child.

(h) Extended day care programs operated by public or private schools.

(i) Any school parenting program or adult education child care program that satisfies both of the following:

(1) Is operated by a public school district or operated by an individual or organization pursuant to a contract with a public school district.

(2) Is not operated by an organization specified in Section 1596.793.

(j) Any child day care program that operates only one day per week for no more than four hours on that one day.

(k) Any child day care program that offers temporary child care services to parents and that satisfies both of the following:

(1) The services are only provided to parents and guardians who are on the same premises as the site of the child day care program.

(2) The child day care program is not operated on the site of a ski facility, shopping mall, department store, or any other similar site identified by the department by regulation.

(l) Any program that provides activities for children of an instructional nature in a classroom-like setting and satisfies both of the following:

(1) Is operated only during periods of the year when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located due to regularly scheduled vacations.

(2) Offers any number of sessions during the period specified in paragraph (1) that when added together do not exceed a total of 30 days when only schoolage children are enrolled in the program or 15 days when children younger than schoolage are enrolled in the program.

(m) A program facility administered by the Department of Corrections that (1) houses both women and their children, and (2) is specifically designated for the purpose

of providing substance abuse treatment and maintaining and strengthening the family unit pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of that code.

(n) Any crisis nursery, as defined in subdivision (a) of Section 1516.

(o) This section shall remain in effect only until July 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2011, deletes or extends that date.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1985, Ch. 1064; Amended by Stats. 1987, Ch. 1487; Amended by Stats. 1989, Ch. 413; Amended by Stats. 1990, Ch. 388; Amended by Stats. 1991, Ch. 316; Amended by Stats. 1992, Ch. 625; Amended by Stats. 1993, Ch. 280; Amended by Stats. 1995, Ch. 372; Amended by Stats. 1997, Ch. 942; Amended by Stats. 2004, Ch. 664; Amended by Stats. 2005, Ch. 22; Amended by Stats. 2007, Ch. 288 [Effective January 1, 2008, Repealed July 1, 2011].)

1596.792. Inapplicability (Part 2)

This chapter, Chapter 3.5 (commencing with Section 1596.90) and Chapter 3.6 (commencing with Section 1597.30) do not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any community care facility, as defined by Section 1502.

(d) Any family day care home providing care for the children of only one family in addition to the operator's own children.

(e) Any cooperative arrangement between parents for the care of their children when no payment is involved and the arrangement meets all of the following conditions:

(1) In a cooperative arrangement, parents shall combine their efforts so that each parent, or set of parents, rotates as the responsible caregiver with respect to all the children in the cooperative.

(2) Any person caring for children shall be a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.

(3) There can be no payment of money or receipt of in-kind income in exchange for the provision of care. This does not prohibit in-kind contributions of snacks, games, toys, blankets for napping, pillows, and other materials parents deem appropriate for their children. It is not the intent of this paragraph to prohibit payment for outside activities, the amount of which may not exceed the actual cost of the activity.

(4) No more than 12 children are receiving care in the same place at the same time.

(f) Any arrangement for the receiving and care of children by a relative.

(g) Any public recreation program. "Public recreation program" means a program operated by the state, city, county,

special district, school district, community college district, chartered city, or chartered city and county that meets either of the following criteria:

(1) The program is operated only during hours other than normal school hours for kindergarten and grades 1 to 12, inclusive, in the public school district where the program is located, or operated only during periods when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located, for either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

In determining "normal school hours" or periods when students are "normally not in session," the State Department of Social Services shall, when appropriate, consider the normal school hours or periods when students are normally not in session for students attending a year-round school.

(2) The program is provided to children who are over the age of four years and nine months and not yet enrolled in school and the program is operated during either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

(3) The program is provided to children under the age of four years and nine months with sessions that run 12 hours per week or less and are 12 weeks or less in duration. A program subject to this paragraph may permit children to be enrolled in consecutive sessions throughout the year. However, the program shall not permit children to be enrolled in a combination of sessions that total more than 12 hours per week for each child.

(h) Extended day care programs operated by public or private schools.

(i) Any school parenting program or adult education child care program that satisfies both of the following:

(1) Is operated by a public school district or operated by an individual or organization pursuant to a contract with a public school district.

(2) Is not operated by an organization specified in Section 1596.793.

(j) Any child day care program that operates only one day per week for no more than four hours on that one day.

(k) Any child day care program that offers temporary child care services to parents and that satisfies both of the following:

(1) The services are only provided to parents and guardians who are on the same premises as the site of the child day care program.

(2) The child day care program is not operated on the site of a ski facility, shopping mall, department store, or any other similar site identified by the department by regulation.

(l) Any program that provides activities for children of an instructional nature in a classroom-like setting and satisfies both of the following:

(1) Is operated only during periods of the year when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located due to regularly scheduled vacations.

(2) Offers any number of sessions during the period specified in paragraph (1) that when added together do not exceed a total of 30 days when only schoolage children are enrolled in the program or 15 days when children younger than schoolage are enrolled in the program.

(m) A program facility administered by the Department of Corrections that (1) houses both women and their children, and (2) is specifically designated for the purpose of providing substance abuse treatment and maintaining and strengthening the family unit pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of that code.

(n) This section shall become operative on July 1, 2011.

(Added by Stats. 2004, Ch. 664; Amended by Stats. 2005, Ch. 22; Amended by Stats. 2007, Ch. 288 [Effective January 1, 2008, Operative July 1, 2011].)

1596.7925. *(Repealed by its own terms January 1, 2001.)*

1596.793. Exemption of specific recreation programs

This chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30) do not apply to recreation programs conducted for children by the Girl Scouts, Boy Scouts, Boys Club, Girls Club, or Camp Fire, or similar organizations as determined by regulations of the department. Child day care programs conducted by these organizations and the fees charged for that specific purpose are subject to the requirements of this chapter, Chapter 3.5 (commencing with Section 1596.90), and Chapter 3.6 (commencing with Section 1597.30).

(Added by Stats. 1985, Ch. 1110; Amended by Stats. 1986, Ch. 714.)

1596.794. Department liaison

The department shall serve as the liaison to child day care facilities for the purposes of Sections 17608 to 17613, of the Education Code.

(Added by Stats. 2006, Ch. 865.)

1596.795. No smoking ordinance

(a) The smoking of tobacco in a private residence that is licensed as a family day care home shall be prohibited during the hours of operation as a family day care home and in those areas of the family day care home where children are present.

Nothing in this section shall prohibit a city or county from enacting or enforcing an ordinance relating to smoking in a family day care home if the ordinance is more stringent than this section.

(b) The smoking of tobacco on the premises of a licensed day care center shall be prohibited.

(Added by Stats. 1986, Ch. 407; Amended by Stats. 1993, Ch. 335.)

1597.40. Policy

(a) It is the intent of the Legislature that family day care homes for children should be situated in normal residential surroundings so as to give children the home environment which is conducive to healthy and safe development. It is the public policy of this state to provide children in a family day care home the same home environment as provided in a traditional home setting.

The Legislature declares this policy to be of statewide concern with the purpose of occupying the field to the exclusion of municipal zoning, building and fire codes and regulations governing the use or occupancy of family day care homes for children, except as specifically provided for in this chapter, and to prohibit any restrictions relating to the use of single-family residences for family day care homes for children except as provided by this chapter.

(b) Every provision in a written instrument entered into relating to real property which purports to forbid or restrict the conveyance, encumbrance, leasing, or mortgaging of the real property for use or occupancy as a family day care home for children, is void and every restriction or prohibition in any such written instrument as to the use or occupancy of the property as a family day care home for children is void.

(c) Except as provided in subdivision (d), every restriction or prohibition entered into, whether by way of covenant, condition upon use or occupancy, or upon transfer of title to real property, which restricts or prohibits directly, or indirectly limits, the acquisition, use, or occupancy of such property for a family day care home for children is void.

(d) (1) A prospective family day care home provider, who resides in a rental property, shall provide 30 days' written notice to the landlord or owner of the rental property prior to the commencement of operation of the family day care home.

(2) For family day care home providers who have relocated an existing licensed family day care home program to a rental property on or after January 1, 1997, less than 30 days' written notice may be provided in cases where the department approves the operation of the new location of the family day care home in less than 30 days, or the home is licensed in less than 30 days, in order that service to the children served in the former location not be interrupted.

(3) A family day care home provider in operation on rental or leased property as of January 1, 1997, shall notify the landlord or property owner in writing at the time of the annual license fee renewal, or by March 31, 1997, whichever occurs later.

(4) Notwithstanding any other provision of law, upon commencement of, or knowledge of, the operation of a family day care home on his or her property, the landlord or property owner may require the family day care home provider to pay an increased security deposit for operation of the family day care home. The increase in deposit may be required notwithstanding that a lesser amount is required of tenants who do not operate family day care homes. In no event, however, shall the total security deposit charged exceed the maximum allowable under existing law.

(5) Section 1596.890 shall not apply to this subdivision.

(Renumbered from 1597.501 and Amended by Stats. 1983, Ch. 1233; Amended by Stats. 1996, Ch. 449.)

1597.41. *(Repealed by Stats. 1996, Ch. 11.)*

1597.43. Family day care homes; residentially zoned

The Legislature finds and declares all of the following:

(a) Family day care homes operated under the standards of state law constitute accessory uses of residentially zoned and occupied properties and do not fundamentally alter the nature of the underlying residential uses. Family day care homes draw clients and vehicles to their sites during a limited time of day and do not require the attendance of a large number of employees and equipment.

(b) The uses of congregate care facilities are distinguishable from the uses of family day care homes operated under the standards of state law. For purposes of this section, a "congregate care facility" means a "residential facility," as defined in paragraph (1) of subdivision (a) of Section 1502. Congregate care facilities are used throughout the day and night, and the institutional uses of these facilities are primary uses of the facilities, not accessory uses, and draw a large number of employees, vehicles, and equipment compared to that drawn to family day care homes.

(c) The expansion permitted for family day care homes by Sections 1597.44 and 1597.465 is not appropriate with respect to congregate care facilities, or any other facilities with quasi-institutional uses. Therefore, with these provisions, the Legislature does not intend to alter the legal standards governing congregate care facilities and these provisions are not intended to encourage, or be a precedent for, changes in statutory and case law governing congregate care facilities.

(Added by Stats. 1996, Ch. 18.)

1597.44. Small family day care homes; children

A small family day care home may provide care for more than six and up to eight children, without an additional adult attendant, if all of the following conditions are met:

(a) At least one child is enrolled in and attending kindergarten or elementary school and a second child is at least six years of age.

(b) No more than two infants are cared for during any time when more than six children are cared for.

(c) The licensee notifies each parent that the facility is caring for two additional school age children and that there may be up to seven or eight children in the home at one time.

(d) The licensee obtains the written consent of the property owner when the family day care home is operated on property that is leased or rented.

(Added by Stats. 1996, Ch. 18; Amended by Stats. 2003, Ch. 744.)

1597.45. Small family day care homes

All of the following shall apply to small family day care homes:

(a) The use of single-family residence as a small family day care home shall be considered a residential use of property for the purposes of all local ordinances.

(b) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a small family day care home.

(c) Use of a single-family dwelling for purposes of a small family day care home shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 (State Housing Law) or for purposes of local building codes.

(d) A small family day care home shall not be subject to Article 1 (commencing with Section 13100) or Article 2 (commencing with Section 13140) of Chapter 1 of Part 2, except that a small family day care home shall contain a fire extinguisher and smoke detector device that meet standards established by the State Fire Marshal.

(Added by Stats. 1983, Ch. 1233. Amended by Stats. 1989, Ch. 70.)

★ 1597.46. All of the following shall apply to large family day care homes:

(a) A city, county, or city and county shall not prohibit large family day care homes on lots zoned for single-family dwellings, but shall do one of the following:

(1) Classify these homes as a permitted use of residential property for zoning purposes.

(2) Grant a nondiscretionary permit to use a lot zoned for a single-family dwelling to any large family day care home that complies with local ordinances prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to those homes, and complies with subdivision (e) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise level generated by children. The permit issued pursuant to this paragraph shall be granted by the zoning administrator, or if there is no zoning administrator by the person or persons designated by the planning agency to grant these permits, upon the certification without a hearing.

(3) Require any large family day care home to apply for a permit to use a lot zoned for single-family dwellings. The zoning administrator, or if there is no zoning administrator, the person or persons designated by the planning agency to handle the use permits, shall review and decide the applications. The use permit shall be granted if the large family day care home complies with local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning the following factors: spacing and concentration, traffic control, parking, and noise control relating to those homes, and complies with subdivision (e) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise levels generated by children. The local government shall process any required permit as economically as possible.

Fees charged for review shall not exceed the costs of the review and permit process. An applicant may request a verification of fees, and the city, county, or city and county shall provide the applicant with a written breakdown within 45 days of the request. Beginning July 1, 2007, the application form for large family day care home permits shall include a statement of the applicant's right to request the written fee verification.

Not fewer than 10 days prior to the date on which the decision will be made on the application, the zoning administrator or person designated to handle the use permits shall give notice of the proposed use by mail or delivery to all owners shown on the last equalized assessment roll as owning real property within a 100-foot radius of the exterior boundaries of the proposed large family day care home. No hearing on the application for a permit issued pursuant to this paragraph shall be held before a decision is made unless a hearing is requested by the applicant or other affected person. The applicant or other affected person may appeal the decision. The appellant shall pay the cost, if any of the appeal.

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

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

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

(3) If a deposit is required to cover the cost of the permit, provide information to the applicant about the estimated

final cost to the applicant of the permit, and procedures for receiving a refund from the portion of the deposit not used.

(c) A large family day care home shall not be subject to the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) Use of a single-family dwelling for the purposes of a large family day care home shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 (State Housing Law), or for purposes of local building and fire codes.

(e) Large family day care homes shall be considered as single-family residences for the purposes of the State Uniform Building Standards Code and local building and fire codes, except with respect to any additional standards specifically designed to promote the fire and life safety of the children in these homes adopted by the State Fire Marshal pursuant to this subdivision. The State Fire Marshal shall adopt separate building standards specifically relating to the subject of fire and life safety in large family day care homes which shall be published in Title 24 of the California Administrative Code. These standards shall apply uniformly throughout the state and shall include, but not be limited to: (1) the requirement that a large family day care home contain a fire extinguisher or smoke detector device, or both, which meets standards established by the State Fire Marshal; (2) specification as to the number of required exits from the home; and (3) specification as to the floor or floors on which day care may be provided. Enforcement of these provisions shall be in accordance with Sections 13145 and 13146. No city, county, city and county, or district shall adopt or enforce any building ordinance or local rule or regulation relating to the subject of fire and life safety in large family day care homes which is inconsistent with those standards adopted by the State Fire Marshal, except to the extent the building ordinance or local rule or regulation applies to single-family residences in which day care is not provided.

(f) The State Fire Marshal shall adopt the building standards required in subdivision (d) and any other regulations necessary to implement this section.

(Added by Stats. 1983, Ch. 1233; Amended by Stats. 2006, Ch. 105.)

1597.465. Large family day care homes; children

A large family day care home may provide care for more than 12 children and up to and including 14 children, if all of the following conditions are met:

(a) At least one child is enrolled in and attending kindergarten or elementary school and a second child is at least six years of age.

(b) No more than three infants are cared for during any time when more than 12 children are being cared for.

(c) The licensee notifies a parent that the facility is caring for two additional school age children and that there may be up to 13 or 14 children in the home at one time.

(d) The licensee obtains the written consent of the

property owner when the family day care home is operated on property that is leased or rented.

(Added by Stats. 1996, Ch. 18; Amended by Stats. 2003, Ch. 744.)

1597.47. Single family residential restrictions

The provisions of this chapter shall not be construed to preclude any city, county, or other local public entity from placing restrictions on building heights, setback, or lot dimensions of a family day care facility as long as such restrictions are identical to those applied to other single-family residences. The provisions of this chapter shall not be construed to preclude the application to a family day care facility for children of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity. The provisions of this chapter also shall not be construed to prohibit or restrict the abatement of nuisances by a city, county, or city and county. However, such ordinance or nuisance abatement shall not distinguish family day care facilities from other single-family dwellings, except as otherwise provided in this chapter.

(Added by Stats. 1983, Ch. 1233.)

MOBILE HEALTH CARE UNITS

(Division 2. Licensing Provisions, Chapter 9. Mobile Health Care Units)

1765.105. Parent facility; definition

As used in this chapter, the following definitions shall apply:

(a) "Parent facility" means a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, or a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2.

(b) (1) "Mobile service unit" or "mobile unit" means a special purpose commercial coach as defined in Section 18012.5, or a commercial coach as defined in Section 18001.8, that provides services as set forth in Section 1765.110, and meets any of the following criteria:

(A) Is approved pursuant to this chapter by the state department as a service of a licensed health facility, as defined in Section 1250.

(B) Is approved by the state department pursuant to this chapter as a service of a licensed clinic, as defined in Section 1200.

(C) Is licensed pursuant to this chapter by the state department as a clinic, as defined in Section 1200.

(D) Is licensed pursuant to this chapter as an "other" type of approved mobile unit by the state department. "Other" types of approved mobile units shall be limited to mobile units performing services within new health facility or clinic licensure categories created after the effective date of this chapter. The State Department of Health Services shall not

RESOLUTION 2012-_____

RECOMMENDING THAT THE CITY COUNCIL APPROVE AN ORDINANCE
AMENDING THE TRACY MUNICIPAL CODE REGULATIONS
(TMC SECTIONS 10.08.650 AND 10.08.1080)
AND ADDING NEW SECTIONS (10.08.255 AND 10.08.3195)
REGARDING FAMILY DAY CARE HOMES
APPLICANT IS THE CITY OF TRACY – APPLICATION NUMBER ZA12-0003

WHEREAS, The Tracy Municipal Code (TMC) contains zoning regulations related to nursery schools and day care centers, and

WHEREAS, under State law, certain day care facilities (small family and large family day care facilities) are to be considered residential uses of property, and

WHEREAS, the City wishes to amend its Zoning Ordinance to clarify that these family day care uses are permitted,

WHEREAS, On May 9, 2012 the Planning Commission held a public hearing to review and discuss the addition and clarification of language to the Zoning Ordinance regarding family day care homes;

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission hereby recommends that the City Council approves the amendments to the Tracy Municipal Code Zoning Ordinance regarding family day care homes as indicated in Exhibit 1.

* * * * *

The foregoing Resolution 2012-_____ was adopted by the Planning Commission on the 9th day of May, 2012, by the following vote:

AYES: Commission Members:
NOES: Commission Members:
ABSENT: Commission Members:
ABSTAIN: Commission Members:

Chair

ATTEST:

Staff Liaison

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY ADDING NEW SECTIONS 10.08.255, DAY CARE HOME AND 10.08.3195, DAY CARE, TO THE TRACY MUNICIPAL CODE AND AMENDING SECTION 10.08.650, NURSERY SCHOOL OR DAY CARE CENTER, OF THE TRACY MUNICIPAL CODE

WHEREAS, under State law, certain day care facilities are to be considered as residential uses of property;

WHEREAS, the City wishes to amend its Zoning Ordinance to clarify that these day care uses are permitted;

WHEREAS, the Planning Commission considered this matter at a noticed public hearing held on May 9, 2012 and voted to recommend this amendment to the City Council;

WHEREAS, the City Council held a noticed public hearing on June 5, 2012 at which interested persons could be heard on this proposed ordinance;

WHEREAS, the proposed amendment is not subject to the California Environment Quality Act pursuant to CEQA Guidelines Section 15061(b)(3) pertaining to activities that do not have the potential for causing a significant effect on the environment;

The Tracy City Council hereby ordains as follows:

SECTION 1: A new Section 10.08.255 is added to Chapter 10.08. Zoning Regulations, of the Tracy Municipal Code to read as follows:

“10.08.255 Day care home.

“Day care” means a small family day care home as defined by Health and Safety Code section 1596.78, a large family day care home as defined by Health and Safety Code section 1596.78, licensed by the state. (See also section 10.08.3195.)”

SECTION 2: Section 10.08.650, Nursery school or day care center, of the Tracy Municipal Code, is amended to read as follows:

“10.08.650 Nursery school or day care center.

“Nursery school” or “day care center” ~~shall mean~~ premises being used for the care of seven ~~(7)~~ or more children, not located in a residence. (See also Section 10.08.255.) ~~including those who reside in the home. Such premises may also be used for the care of school-aged children during those hours before and after school when the parent is normally working.”~~

SECTION 3: A new subsection (m) is added to (29) Use Group No. 29, Accessory uses, of Section 10.08.1080 (Permitted uses) of the Tracy Municipal Code to read as follows:

“10.08.1080 Permitted uses.

...

(29) Use Group No. 29, Accessory uses.

Use Group No. 29: Accessory uses (when located on the same parcel as the principal use and the principal use is conforming.	Permitted in Zones RE LDR LDC MDR HDR POM RMH CS NS CBD GHC M-1 M-2 HS	Conditionally Permitted in Zones: LDC MDR HDR CBD
(m) Day care home (See Sections 10.08.255 and 10.08.3195.)”		

SECTION 4. A new Section 10.08.3195, Day care, is added to Chapter 10.08, Zoning Regulations, of the Tracy Municipal Code, to read as follows:

“10.08.3195 Day care home.

A small family day care home, as defined by Health and Safety Code section 1596.78, or a large family day care home, as defined by Health and Safety Code section 1596.78, is permitted on any residentially zoned property: RE, LDR, MDC, MDR, HDR or PUD.”

SECTION 5 This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 6 This Ordinance shall be published once in the Tracy Press, a newspaper of general circulation, within 15 days from and after its final passage and adoption.

* * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the _____ day of _____, 2012, and finally adopted on the _____ day of _____, 2012, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

Ordinance _____
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ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ATTEST:

Mayor

City Clerk