CITY COUNCIL REGULAR MEETING

Clearlake City Hall Council Chambers
14050 Olympic Dr, Clearlake, CA
Thursday, November 21, 2024
Regular Meeting 6:00 PM

The City Council meetings are viewable in person in the Council Chambers, via livestreaming on the City's YouTube Channel (https://www.youtube.com/channel/UCTyifT_nKS-3woxEu1ilBXA) or "Lake County PEG TV Live Stream" at https://www.youtube.com/user/LakeCountyPegTV/featured and the public may participate through Zoom at the link listed below. The public will not be allowed to provide verbal comment during the meeting if attending via Zoom. The public can submit comments in writing for City Council consideration by commenting via the Q&A function in the Zoom platform or by sending comments to the Administrative Services Director/City Clerk at mswanson@clearlake.ca.us. To give the City Council adequate time to review your comments, you must submit your written emailed comments prior to 4:00 p.m. on the day of the meeting.

AGENDA

MEETING PROCEDURES: *All items on agenda will be open for public comments before final action is taken. Citizens wishing to introduce written material into the record at the public meeting on any item are requested to provide a copy of the written material to the Administrative Services Director/City Clerk prior to the meeting date so that the material may be distributed to the City Council prior to the meeting. Speakers must restrict comments to the item as it appears on the agenda and stay within a three minutes time limit. The Mayor has the discretion of limiting the total discussion time for an item.*

Pursuant to Senate Bill 1100 and the City Council Norms and Procedures, any member of the public making personal, impertinent, and/or slanderous or profane remarks, or who becomes boisterous or belligerent while addressing the City Council, staff or general public, or while attending the City Council meeting and refuses to come to order at the direction of the Mayor/Presiding Officer, shall be removed from the Council Chambers or the Zoom by the sergeant-at-arms or the City Clerk and may be barred from further attendance before the Council during that meeting. Unauthorized remarks from the audience, stamping of feet, whistles, yells, and similar demonstrations shall not be permitted by the Mayor/Presiding Officer. The Mayor/Presiding Officer may direct the sergeant-at-arms to remove such offenders from the room.

AMERICANS WITH DISABILITY ACT (ADA) REQUESTS

If you need disability related modification, including auxiliary aids or services, to participate in this meeting, please contact Melissa Swanson, Administrative Services Director/City Clerk at the Clearlake City Hall, 14050 Olympic Drive, Clearlake, California 95422, phone (707) 994-8201, ext 106, or via email at mswanson@clearlake.ca.us at least 72 hours prior to the meeting, to allow time to provide for special accommodations.

AGENDA REPORTS

Staff reports for each agenda item are available for review at www.clearlake.ca.us. Any writings or documents pertaining to an open session item provided to a majority of the City Council less than 72 hours prior to the meeting, shall be made available for public inspection on the City's website at www.clearlake.ca.us.

Zoom Link:

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join.
https://clearlakeca.zoom.us/s/83342628911?pwd=XTgoyHEqw8NpDuNaR2d5VQnrTRa3t7.1

Passcode: 355701

Or One tap mobile:

+16694449171,,83342628911# US

+17207072699,,83342628911# US (Denver)

Or join by phone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 444 9171 or +1 720 707 2699 or +1 253 205 0468 or +1 253 215 8782 or +1 346 248 7799 or +1 719 359 4580 or +1 646 558 8656 or +1 646 931 3860 or +1 689 278 1000 or +1 301 715 8592 or +1 305 224 1968 or +1 309 205 3325 or +1 312 626 6799 or +1 360 209 5623 or +1 386 347 5053 or +1 507 473 4847 or +1 564 217 2000

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A. ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. INVOCATION/MOMENT OF SILENCE: *The City Council invites members of the clergy, as well as interested members of the public in the City of Clearlake, to voluntarily offer an invocation before the beginning of its meetings for the benefit and blessing of the City Council. This opportunity is voluntary and invocations are to be less than three minutes, offered in a solemn and respectful tone, and directed at the City Council. Invocational speakers who do not abide by these simple rules of*

respect and brevity shall be given a warning and/or not invited back to provide a subsequent invocation for a reasonable period of time, as determined appropriate by the City. This policy is not intended, and shall not be implemented or construed in any way, to affiliate the City Council with, nor express the City Council's preference for, any faith or religious denomination. Rather, this policy is intended to acknowledge and express the City Council's respect for the diversity of religious denominations and faith represented and practiced among the citizens of Clearlake. If a scheduled invocational speaker does not appear at the scheduled meeting, the Mayor will ask that the City Council observe a moment of silence in lieu of the invocation. More information about the City's invocation policy is available upon request by contacting the Administrative Services Director/City Clerk at (707) 994-8201x106 or via email at mswanson@clearlake.ca.us.

D. ADOPTION OF THE AGENDA *(This is the time for agenda modifications.)*

E. PRESENTATIONS

1. Presentation of Certificates of Appreciation to Trunk or Treat Volunteers and Donors

F. PUBLIC COMMENT: *This is the time for any member of the public to address the City Council on any matter not on the agenda that is within the subject matter jurisdiction of the City.* ***The Brown Act, with limited exceptions, does not allow the Council or staff to discuss issues brought forth under Public Comment.*** *The Council cannot take action on non-agenda items. Concerns may be referred to staff or placed on the next available agenda. Please note that comments from the public will also be taken on each agenda item. Comments shall be limited to three (3) minutes per person.*

G. CONSENT AGENDA: *All items listed under the Consent Agenda are considered to be routine in nature and will be approved by one motion. There will be no separate discussion of these items unless a member of the Council requests otherwise, or if staff has requested a change under Adoption of the Agenda, in which case the item will be removed for separate consideration. Any item so removed will be taken up following the motion to approve the Consent Agenda.*

2. Consideration of Amendments to the Council Norms & Procedures
   Recommended Action: Adopt Amendments

3. Second Reading and Adoption of Ordinance No. 272-2024, An Ordinance Establishing Article 6-10 of the Clearlake Municipal Code Regulating Tobacco Retailers
   Recommended Action: Adopt Ordinance No. 272-2024

4. Minutes of the October 9, 2024 Lake County Vector Control District Board Meeting
   Recommended Action: Receive and file

5. Warrants
   Recommended Action: Receive and file

6. Continuation of Director of Emergency Services/City Manager Proclamation Declaring a Local Emergency for Winter Storms
   Recommended Action: Continue declaration of emergency

7. Minutes
Recommended Action: Receive and file

H. BUSINESS

8. Discussion and Consideration of Ordinance No. 276-2024, An Amendment to Chapter 3, Section 5 of the Clearlake Municipal Code Regarding Fire Mitigation Fees
Recommended Action: Introduce the Ordinance and hold a first reading, read by title only, and schedule second reading and adoption at as subsequent Council meeting.

9. Discussion and Consideration of Ordinance No. 275-2024, An Ordinance Adding Chapter 13-3 to the Clearlake Municipal Code Establishing Fire Hydrant Inspection and Testing Requirements.
Recommended Action: Introduce the Ordinance and Hold a First Reading, and Schedule Second Reading and Adoption at a Subsequent Council Meeting.

10. Consideration of Ordinance No. 277-2024, An Ordinance of the City of Clearlake Amending Chapter VIII, Section 8.5 to Add Subsection 8.5-7 to Establish Standards for Relocation of Underground Utilities in the Public Right-of-Way
Recommended Action: Hold first reading, read by title only, waive further reading, and set second reading and adoption for the next meeting

11. Discussion and Consideration of Adoption of Tribal Consultation Guidelines
Recommended Action: Adopt Guidelines

12. Consideration of Amendment to Employment Services Agreement with Timothy Hobbs as Police Chief
Recommended Action: Approve Amendment and Authorize the City Manager to Sign.

13. Consideration of Updates to the FY 24-25 Salary Schedule
Recommended Action: Adopt Updated Salary Schedule

I. CITY MANAGER AND COUNCILMEMBER REPORTS

J. FUTURE AGENDA ITEMS

K. CLOSED SESSION

(14) CONFERENCE WITH LEGAL COUNSEL – LIABILITY CLAIMS - Claimant: Kathleen Sherlock; Agency Claimed Against: City of Clearlake

L. ANNOUNCEMENT OF ACTION FROM CLOSED SESSION

M. ADJOURNMENT

POSTED: November 18, 2024

BY:

Melissa Swanson, Administrative Services Director/City Clerk

CITY OF CLEARLAKE

City Council

STAFF REPORT

SUBJECT:	Consideration of Amendments to the Council Norms and Procedures	**MEETING DATE:**	November 21, 2024
SUBMITTED BY:	Melissa Swanson, Administrative Services Director/City Clerk		
PURPOSE OF REPORT:	☐ Information only ☐ Discussion ☒ Action Item		

WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The City Council is being asked to adopt the amended Council Norms and Procedures.

BACKGROUND/DISCUSSION:

The City Council Norms and Procedures ("Norms") is a governing document that outlines the protocols, procedures, and expectations for the City Council. The Norms promote efficient governance, communication, and public engagement. The most recent update to the Norms occurred on February 16, 2023. However, recent observations and analysis of the Norms have revealed that certain updates are necessary to ensure clarity, efficacy, and compliance with current best practices.

Proposed Amendments:

The proposed amendments to the Norms are as follows:

- **Section 3.1 Attendance:** The proposed amendment update the Norms to comply with Government Code Section 36513 which outlines the absence limit for city councilmembers of a general law city.
- **Section 3.8 Use of City Email and Social Media Accounts:** The proposed amendment clarifies the policy on the use of City email and social media accounts. It emphasizes that public officials should use City email or City-controlled social media accounts for City business, except for emergencies. The amendment also clarifies the definition of "City-controlled social media account."
- **Section 3.6 Ethics, Sexual Harassment Prevention, and Anti-Bullying Training:** The proposed amendment adds the state required sexual harassment prevention and anti-

bullying training to the ethics training required by the Fair Political Practices Commission.

- **Section 3.8 Use of Email and Social Media Accounts:** Language in this section was added to address the use of City email and social media accounts. This section clarifies that, except for emergencies, public officials conducting City business should not create public records using non-City email or social media accounts. They are encouraged to use City email or City-controlled social media accounts instead. and updates the GC reference of the Public Records Act to the current GC Section 7920.530(a) and requires compliance with the City's policies.
- **Section 3.9 Use of City Electronic Devices:** Language was added to this section to clarify Council Members are also responsible for adherence to the City's computer and email use policy.
- **Section 5.8 Appointment Procedure for Board and Committee Members Appointed by the Full Council:** The proposed amendment adds language to address the removal of a board or committee member.
- **Section 6.3 Teleconferencing:** The proposed amendment updates the requirements for teleconferencing into City Council meetings to align with the latest update to the Brown Act and recommends Council Members discuss any plans to teleconference with the City Manager and City Attorney beforehand.
- **Section 8.1 Mayor's Responsibility:** The proposed amendment adds a rule for when both the Mayor and Vice Mayor are absent from a meeting.
- **Section 8.8 Agenda Request Policy:** The proposed amendment updates unnecessary language and clarifies how a Council Member may request an agenda item.
- **Section 8.9 Consent Agenda:** The proposed amendment adds the procedure for Consent Calendar items. Consent Calendar items are non-controversial and routine. Council Members may remove items from the Consent Calendar for separate discussion and action.
- **Section 10 Closed Sessions:** The proposed amendment adds language requiring closed session written materials provided to the Council be returned to the City Manager at the end of the closed session.
- **Section 11.5 Removal of Individuals or Groups Engaging in Disruptive Behavior:** The procedure for removing disruptive individuals or groups from meetings was updated. The update clarifies the definition of disruptive behavior and outlines the procedure for removing individuals or groups from meetings. It also includes a specific procedure for addressing disruptive verbal conduct based on identity, emphasizing that such behavior

may constitute or contribute to discrimination, pursuant to the Brown Act, Government Code Section 54957.95.

- **Section 12 Enforcement of Decorum:** This section, which dealt with violations of procedures, has been removed, as the information is now addressed in Section 11.5.

In addition to the amendments listed above, minor edits not affecting the intent of the document were made.

The proposed amendments to the City Council Norms and Procedures are intended to enhance clarity, efficiency, and compliance with current legal and best practices. These revisions address various aspects of Council operations, including attendance, use of technology, meeting procedures, and decorum. By adopting these amendments, the City Council can ensure that its governing document remains relevant and effective in facilitating productive governance and public engagement.

Staff recommends that the City Council adopt the amended Council Norms and Procedures.

OPTIONS:

1. Move to adopt the amended Council Norms and Procedures.
2. Other direction.

FISCAL IMPACT:

☒ None ☐ $ Budgeted Item? ☐ Yes ☐ No

Budget Adjustment Needed? ☐ Yes ☒ No If yes, amount of appropriation increase: $

Affected fund(s): ☐ General Fund ☐ Measure P Fund ☐ Measure V Fund ☐ Other:

Comments**:**

STRATEGIC PLAN IMPACT:

☐ Goal #1: Make Clearlake a Visibly Cleaner City

☐ Goal #2: Make Clearlake a Statistically Safer City

☐ Goal #3: Improve the Quality of Life in Clearlake with Improved Public Facilities

☐ Goal #4: Improve the Image of Clearlake

☐ Goal #5: Ensure Fiscal Sustainability of City

☒ Goal #6: Update Policies and Procedures to Current Government Standards

☐ Goal #7: Support Economic Development

SUGGESTED MOTIONS:

Move to adopt the amended Council Norms and Procedures.

☒ **Attachments:** 1) Redlined City Council Norms and Procedures

CITY OF CLEARLAKE

CITY COUNCIL NORMS AND PROCEDURES

COUNCIL NORMS AND PROCEDURES
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CITY OF CLEARLAKE

CITY COUNCIL NORMS AND PROCEDURES

SECTION 1. GENERAL

1.1 Purpose. The purpose of these Norms and Procedures is to promote communication, understanding, fairness, and trust among the members of the City Council and staff concerning their roles, responsibilities, and expectations for management of the business of the City of Clearlake.

1.2 Values. Respect for each Council Member's interpersonal style will be a standard of operation. Courtesy and respect for individual points of view will be practiced at all times. All Council Members shall respect each other's right to disagree. All Council Members shall practice a high degree of decorum and courtesy. When addressing the public in any way, all Council Members shall make certain their opinions are expressed solely as their own, and do not in any way necessarily reflect the opinions of any other Council Member or the City.

1.3 Overview of Council responsibilities. The City of Clearlake is a General Law city of the State of California operating under the Council/Manager Plan and the City Manager's duties shall define how the City Council and City Manager interact and perform their respective duties and responsibilities. The City Council has the following duties and responsibilities:

(a) Appointment of the City Manager and City Attorney. The City Council shall appoint the City Manager and the City Attorney. There should be an annual review for the City Manager and the City Attorney.

(b) Establishment of boards and appointment of members. The Council may appoint establish Boards, Commissions, and Committees, and by majority vote make appointments of members of all Boards, Commissions, and Committees.

(c) Legislative decisions. The Council is the legislative body; its members are the community's decision makers. Power is centralized in the elected City Council collectively and not in individual members of the Council. The City Council approves the budget and determines the public services. It focuses on the community's goals, major projects and such long term considerations as community growth, financing and strategic planning. The City Council hires a professional City Manager to carry out administrative responsibilities and supervises the City Manager's performance.

1.4 Overview of City Manager responsibilities. The City Manager is hired to serve the City Council and the community and to bring the benefits of education, training and experience in administering the City's projects, programs, and public services on behalf of the City Council. The City Manager has the following among his or her duties:

(a) Preparation of a Recommended Budget.

(b) Recruitment, Hiring, and Supervision of Personnel, Contractors, and Consultants.

(c) Implementation of the Council's policies and programs and public services in an effective and efficient manner, providing professional advice on policy matters, intergovernmental affairs, economic development and environmental issues.

The City Manager follows the direction of the entire City Council and not individual members of the Council or the public, and serves at the sole discretion of the Council.

1.5 Review. The City Council shall conduct a review of this document biennially, or whenever a new Council Member has been seated or Council deems necessary, to assist Council Members in being more productive in management of the business of the City. A new Council will consider the document within three months of its first regular meeting.

1.6 Ralph M. Brown Act. All conduct of the City Council, Commissions, Committees and Subcommittees shall be in full compliance with the Ralph M. Brown Act.

SECTION 2. MAYOR AND VICE MAYOR SELECTION PROCESS

2.1 Reorganization. In December of each year, the City Council shall select and appoint a Mayor and Vice Mayor by majority vote of the Council from among its members. Selection and appointment shall be at the first meeting of a new term following each General Municipal Election or at the first meeting in December during non-election years. The term of the Office of the Mayor and Vice Mayor shall be for a 12-month period commencing on January 1st of each year, unless otherwise provided for by majority vote of the Council. The Mayor remains as one member of the City Council and has no rights or authority different from any other member of the Council.

2.2 Appointment of Vacancy. In the event of a vacancy of office or the death or resignation of any Council Member, the Council shall appoint a new Council Member within sixty (60) days after a vacancy or death or resignation becomes effective in compliance with the California Elections Code, unless the Council, by resolution, decides to instead call a special election. In the event of appointment, the Council shall determine the process for appointment prior to the application process and in accordance with State law.

SECTION 3. ADMINISTRATIVE MATTERS

3.1 Attendance. City Council Members acknowledge that attendance at lawful meetings of the City Council is part of their official duty. Council Members shall make a good faith effort to attend all such meetings unless unable. Council Members will notify the City Manager or the City Clerk, and, if possible, the Mayor as a courtesy, if they will be absent from a meeting.

Failure to attend regular City Council meetings for sixty (60) consecutive days from the last regular meeting can result in your seat becoming vacant and filled accordingly. (Gov't Code § 36513.)

3.2 Correspondence. With some exceptions, proposed correspondence (including electronic) from individual Council Members/Mayor on City stationery shall be reviewed by the Council in draft form prior to release. On occasion, there are urgent requests from the League of California Cities for correspondence concerning legislation directly affecting municipalities. Assuming there is agreement between the Mayor and City Manager that the League's position corresponds with that of the Council, the Mayor may send a letter without first obtaining Council review.

City letterhead will be made available for routine, discretionary correspondence (e.g., thank you notes, etc.), or such correspondence will be prepared by staff for signature, without prior consent of the Council. E-mails from Council Members should be respectful and professional.

3.3 Regional Boards. The role of the Council on regional boards will vary depending on the nature of the appointment. Representing the interests of Clearlake is appropriate on some boards; this is generally the case when other local governments have their own representation. The positions taken by the appointed representatives are to be in alignment with the positions that the Council has taken on issues that directly impact the City of Clearlake. If an issue should arise that is specific to Clearlake and the Council has not taken a position, the issue should be discussed by the Council prior to taking a formal position at a regional board meeting, to assure that it is in alignment with a majority of the Council's position.

Council representatives to such various boards shall keep the Council informed of ongoing business through brief oral or written reports to the Council during properly posted Council meetings.

Council Members shall make a good faith effort to attend all regional meetings that require a quorum of the appointed members to convene a meeting. Attendance should not be less than 75% of all scheduled meetings. If a Council Member is unable to attend, he/she should notify his/her alternate as far in advance of the meeting as possible so as to allow the alternate to attend.

3.4 Distribution of Information. It is essential that every member of the City Council have the same information from which to form decisions and actions. Any information distributed to one Council Member shall also be distributed to all Council Members.

3.5 Reimbursement. Every effort shall be made to limit the need to reimburse Council Members for expenses. City Council Members may be reimbursed for personal expenses for travel to and lodging at conferences or meetings related to their role as a Council Member. The reimbursement of expenses is limited in the following manner: Members shall be reimbursed at rates established by the Internal Revenue Service unless discounted or group rates are offered by the conference or activity sponsor. Any additional expenses that fall outside the scope of this policy may be reimbursed only if approved by the City Council, at a public meeting, before the expenses are incurred. Any request for reimbursement of expenses shall be accompanied by an expense form and receipts to document the expenditure. These documents are public records subject to disclosure under the California Public Records Act.

Brief reports must be given on any outside meeting attended at the expense of the City at the next regular Council meeting. Reimbursement is conditioned on the submission of this report to the legislative body.

3.6 Ethics, Sexual Harassment Prevention, and Anti-Bullying Training. Any member of the City Council and commissions, or advisory committees formed by the City Council, shall receive at least two hours of ethics training in general ethics principles and ethics laws ~~relevant to his/her public service every two years,~~ (as mandated by AB 1234), two hours of sexual harassment prevention training *(as mandated by AB 1825)* and two hours of abusive conduct prevention training *(as mandated by AB 2053)* all relevant to his/her public service every two years.. New members must receive this training within their first year of service and file a certificate of completion with the City Clerk. Members shall attend training sessions that are offered locally in the immediate vicinity of Lake County or by completing online a state-approved public service ethics education program.

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An individual who serves on multiple legislative bodies need only receive two hours of each of these~~thics~~ trainings every two years to satisfy this requirement for all applicable public service positions. The City will use ~~an ethics~~ training courses that haves ~~been~~ reviewed and approved by the Fair Political Practices Commission and the California Secretary of State.

The City Clerk is required to keep ~~ethics~~ training records for five years to document and prove that these continuing education requirements have been satisfied. These documents are public records subject to disclosure under the California Public Records Act.

3.7 City Mission and City Seal. The Mission of the City of Clearlake is a strategic document that reflects the values of our residents. The City Seal is an important symbol of the City of Clearlake. No change to the City Mission and/or City Seal shall be made without Council approval. Individual council members shall be careful in use of the City Seal so as not to create an appearance that the council member is acting on behalf of or with official endorsement of the City of Clearlake.

3.8 Use of ~~City~~ Email and Social Media Accounts. Except for emergencies, public officials who are not City employees ("public officials") conducting City business should not create any "public record" [(~~as that term is defined in California Government Code § 7920.530 (a)]6253(c)~~) by using any email account that is not a City email account, or by using any non-City-controlled social media account. Instead, public officials should use a City email or City-controlled social media account.

In an emergency, a public official may send an email on a non-City email account, but only if a copy of any public record that is created as a result is contemporaneously copied to the City email account of that same public official, or a hard copy is provided to the City for retention in City records.

Practically speaking, this means that public officials should rarely, if ever, use a personal email account to conduct City business, and should never use personal social media accounts to conduct City business. Nothing in this policy is intended to limit a public official's use of private email and social media accounts for non-City business such as personal communications and

campaign related activities. Nor is this policy intended to require public officials to provide privileged communications or documents to the City, or to waive any applicable privileges which may apply to documents purely because they have been turned over to the City in compliance with his policy.

For purposes of this policy "City-controlled social media account" is an account on a social media platform (e.g. Facebook, Instagram, Twitter) that is created and used by the City (e.g. the City's official Facebook page, if any).

In addition to the requirements set out here, Council Members are required to comply with the City's policy on City-controlled social media accounts.

3.9 Use of City Electronic Devices. In general, when creating or modifying public records in the conduct of City business on an electronic device that can create and modify public records (e.g. computers, mobile phones, tablets), public officials should only use City-issued devices. There are two exceptions:

Exception: Using City Accounts. Public officials may use non-City electronic devices when accessing an official City account (e.g. City email address, City-controlled social media account).

Exception: Contemporaneous Copying. If, in a given situation, using a City electronic device is clearly impractical or if a public official has not been issued or does not have in the public official's possession a City electronic device, a public official may use a non-City device, but only if a copy of each affected public record is contemporaneously copied to a City account of that same public official, or to the related City-controlled social media account, or a hard copy is provided to the City for retention in City records.

Texting Only on City Devices. Except for emergencies or when communicating with the City Attorney's Office, public officials conducting City business shall not send or receive texts on any device other than a City owned device. In an emergency, a public official may use a non-City device to text, but only if a copy of any public record that is created as a result is contemporaneously copied to a City account of that same public official, or a hard copy is provided to the City for retention in City records. Practically speaking, this means that public officials should rarely, if ever, use a non-City owned device to text in the conduct of City business.

Provide Copies to City. If a public official has possession of a public record that is not in the possession of the City, the public official shall promptly provide a copy of the record to the City, and take reasonable precautions to prevent this from occurring again. For example, if a public official receives an email regarding City business on a non-City email account, and the email was not sent to or from a City email account (i.e. the City doesn't already have a copy), the public official shall promptly forward a copy of the email to the public official's City email account, or provide a hard copy to the City for retention in City records, and should request that the sender send future correspondence to a City controlled email account.
In addition to the requirements set out here, Council Members are required to comply with the City's policy on City computer and electronic mail usage.

SECTION 4. COUNCIL RELATIONSHIP WITH STAFF

4.1 City Manager. City Council Members are always free to go to the City Manager to discuss City business. Issues concerning the performance of a Department or any employee must be directed to the City Manager. Direction to City employees, other than the City Manager or City Attorney, is the prerogative of the City Manager. In passing along critical information, the City Manager will be responsible for contacting all Council Members. The City Manager may delegate this responsibility to Department Heads.

4.2 Agenda Item Questions. If a Council Member has a question on a subject, the Council Member should contact the City Manager prior to any meeting at which the subject may be discussed. This does not restrict Council Members from asking questions during a Council meeting.

4.3 Interaction of City Council with Staff. The Council shall treat staff with respect and shall not abuse staff, nor embarrass staff in public. The City Council Members are to work through the City Manager or City Attorney on all issues, concerns and questions. This is to allow the senior professional staff, with the proper education, training, experience and knowledge of issues, laws and City Council's policies to coordinate a full and complete response and reduce error or misunderstanding by staff members not necessarily knowledgeable on all issues. This can provide a better overall response, allow any new issues to properly be considered and avoid unintended redirection of staff efforts. Council Members may ask Department Heads for information. This informal system of direct communication is not to be abused. City Council Members shall not meet with groups of management employees for the purpose of discussing terms of employment or establishing employee policy.

4.4 Individual Council Member's Requests. Council Members shall make their requests for information to the City Manager or City Clerk and not directly to individual members of staff. The use of City staff, including the City Manager, to respond to an individual Council Member's request for any purpose that exceeds more than one hour of total staff time must be approved by the majority vote of the full Council. The individual City Council Member may make his/her request orally or in writing to the City Manager or City Clerk. The City Manager shall provide an estimate of the cost and how the request affects the Council's Goals and Objectives. This request will then be considered by the City Council at the next possible City Council meeting. Irrespective of the amount of staff time required to respond to each Council Member's request, individual Council Member's requests should be limited to three to five requests per week.

SECTION 5. PROCEDURES FOR APPOINTMENTS TO BOARDS/COMMISSIONS/COMMITTEES

5.1 Definitions.

(a) Task Force: A temporary grouping of individuals and resources for the accomplishment of a specific objective.

(b) Committee: A group of people officially delegated to perform a function, such as investigating, considering reporting, or acting on a matter.

(c) Ad Hoc: Committees established for a specific purpose. Formed for or concerned with one specific purpose (e.g. ad hoc compensation committee); for the particular end or case at hand without consideration of wider application; formed or used for specific or immediate problems or needs; often improvised or impromptu; contrived purely for the purpose in hand rather than carefully planned in advance.

(d) Commission: A group of people officially authorized to perform certain duties or functions with certain powers or authority granted; the act of granting certain powers or the authority to carry out a particular task or duty; the rank and powers so conferred.

(e) Board: A group of persons having managerial, supervisory, or advisory powers. In parliamentary law, a board is a form of deliberative assembly and is distinct from a committee, which is usually subordinate to a board or other deliberative assembly – in having greater autonomy and authority.

5.2 Recruitment Process.

On or before December 31st of each year, the City Clerk shall prepare and post a list of all Council-appointed board, commission and committee terms that expire during the next calendar year in compliance with the Maddy Act (Government Code Section 54972).

The City Clerk shall annually advertise in a newspaper and on the City's website for applicants wishing to be considered for appointment to boards, commissions and committees.

Although there may be multiple applicants, Council Members are not required to choose from the pool of applicants and may nominate their own appointee, provided the appointee qualifies.

All persons seeking appointment to a City board, commission or committee shall complete and submit an application form to the City Clerk as set forth in Section 5.6. Applications shall be kept on file for two years in the City Clerk's office and vacancies may be considered from applications on file, as well as new applications.

Appointments made by individual Council Members are official only after the Council Member has submitted a completed application and appointment form to the City Clerk, the City Clerk has determined that the individual is eligible to serve and the City Clerk has provided proper notification to the appointed board, commission or committee member, and chair of the board, commission or committee. Council Members may announce an appointment at a City Council meeting; however, such an announcement is not required for the appointment to become effective. The City Clerk shall notify the full City Council of any appointments made by individual Council Members.

If an unscheduled board or commission vacancy occurs during the term of the appointing Council Member and the Council Member so requests, the following steps should be taken to publicize vacancies on boards, commissions and committees:

1. Public announcement of the vacancy at a Council meeting.
2. A newspaper advertisement announcing the vacancy.

3. A recruitment period of at least ten (10) days.
4. A vacancy notice posted at City Hall, Redbud Library, and on the City's website for at least 20 days.
5. Announcements in the local media, such as press releases, online news outlets and free weekly sales papers.
6. Distribution to appropriate professional and community organizations and all groups that have requested notification.

5.3 Requirement for Appointment.

All persons appointed to City boards, commissions and committees shall be residents of the City of Clearlake at the time of their appointment and shall remain so throughout their term of appointment. Should any person so appointed move from the City during their term of office, such office shall be forfeited. The Council shall, upon forfeiture, make a new appointment to fill the unexpired term.

All persons appointed to City boards, commissions and committees shall complete and submit an application form to the City Clerk as set forth in Section 5.6.

Except as provided by state or local statute, the appointee shall not be a current City employee or currently appointed to another City board, committee or commission.

5.4 Council Notification. By September 1 of each year, the City Clerk will notify the Council of expiring terms for members of those City boards, commissions, and committees appointed by the full Council.

5.5 Incumbents.

At the end of the first term, the incumbent board, commission or committee member may, at the discretion of the Council or appointing Council Member, be reappointed for an additional term without the need to apply or interview for re-appointment. In lieu of an application, the board, commission or committee member shall submit to the City Clerk a letter of interest in re-appointment 30 days prior to the expiration of the member's first term.

Any incumbent interested in re-appointment who has served two or more terms must apply for re-appointment as set forth in Section 5.6.

5.6 Application. Except as set forth in Section 5.5, all persons considered for appointment or re-appointment shall complete an application form. This application form must be received by the City Clerk by the required deadline.

5.7 Appointment Procedure for Planning Commission Members. This portion of the policy sets forth the procedure for appointments of Planning Commission Members.

Applications shall be taken for Planning Commission as set forth in 5.2 through 5.6.

If fewer than ten applications are received, applicants will be interviewed by the full Council at an open meeting. Each applicant will be asked the same questions, with varying related follow up questions allowed.

If more than ten applications are received, the Mayor will appoint an ad hoc committee to meet with the applicants prior to appointment and recommend a number of applicants as determined by the Mayor for interview by the Council.

Following the interview, Council deliberation, and public comment, the Mayor shall call for a motion and a second for each separate vacant seat. Motions shall be as according to the Council Norms and Procedures.

All newly appointed and re-appointed Planning Commission Members shall take and subscribe to the Constitutional oath of office prior to or during the Member's first Planning Commission meeting.

An orientation and training program will be made to all new Planning Commission Members in March of each odd-numbered year. All board, commission and committee members are strongly encouraged to attend.

5.8 Appointment Procedure for Board and Committee Members Appointed by the Full Council. This portion of the policy sets forth the procedure for appointments made by the full Council for boards and committees appointed by the full Council.

Subject to review of the Council, the Mayor may establish a procedure for review of applications and selection of applicants for interview, for those board and committee members appointed by the full Council. Such selection and interview may be conducted by an ad hoc committee of the Council or full Council.

If an unscheduled board or committee vacancy occurs prior to the expiration of the member's term, the vacancy shall be noticed in compliance with the Maddy Act (Government Code Section 54974).

All persons appointed by the full Council to boards and committees serve at the pleasure of the Council and shall serve for the term indicated or until a successor has been appointed, unless removed by a majority vote of the appointing body.

Members of boards and committees appointed by the full Council shall be interviewed at a duly noticed open Council meeting and shall be selected by motion and majority vote of the Council.

5.9 Attendance.

Board, commission and committee members are expected to regularly attend and participate on their respective boards, committees and commissions.

A board, commission or committee member whose attendance is less than seventy five (75%) of the required meetings over a period of a year may be subject to removal by the Council Member who appointed the person or the full Council if appointed by the Council.

The Council may grant an approved leave of absence for a board, commission or committee member for such reasons as the Council determines appropriate. During the approved leave of absence, the Council Member who appointed the person, or full Council, depending on how the person was appointed, may appoint a temporary person to fill the position.

5.10 Norms and Procedures and Conflicts of Interest.

Board, committee and commission members shall be expected to adhere to the Council Norms and Procedures.

Board, committee and commission members shall comply with all state and local laws with respect to ethics and conflicts of interests to the extent that such laws apply to their position, including state and local requirements to timely file Statements of Economic Disclosure if the member is designated as a filer by state law or by the City's Conflict of Interest Code.

Members of City boards, commissions or committees may not use their board, commission or committee position title for political endorsements.

5.11 Conflicts with Federal, State or Local Law. In case of a conflict between this section of the Norms and Procedure policy with federal, state or local law, such federal, state or local law shall be the controlling factor.

SECTION 6. MEETINGS

6.1 Open to Public. All meetings of the City Council whether regular, special, or study sessions, shall be open to the public, unless a closed session is held as authorized by law. All meetings shall be noticed as required to allow action to be taken by the Council.

6.2 Broadcasting of City Council Meetings. All regular Council meetings shall be scheduled in the Council Chambers to allow for web streaming and simulcast on the City's Public Education Government Access Channel, unless the number of participants exceeds room capacity. The final decision shall be the responsibility of the Mayor.

6.3 Teleconferencing. Teleconferencing into a City Council meeting allows City Council Members to join a City Council meeting while out of the area or ill. However, the use of teleconferencing requires compliance with specific requirements set out in t~~T~~he Brown Act. In the event a Council Member wishes to use teleconferencing, check with the City Manager and City Attorney well in advance of the meeting. ~~allows for teleconferencing subject to the traditional requirements of posting and public access. However, during the Covid-19 State of Emergency, those traditional requirements were waived by AB 361, signed by the Governor on September 17, 2021.~~

~~With the end of the Covid-19 State of Emergency, AB 2449 waives the requirement to post and allow public access to the remote teleconference location in certain circumstances. Commencing February 18, 2023, and while AB 2449 is in effect, the following criteria must be satisfied in order for members of the City Council to teleconference into a meeting:~~

~~1. At least a quorum of the Council Members must participate from a singular physical location, such as the Council Chambers, and the location must be (a) clearly identified on the agenda, (b) open and accessible to the public, and (c) within the boundaries of the agency's territorial jurisdiction.~~
~~2. The City must provide at least one of the following methods to allow the public to hear, observe and participate remotely: (a) two-way audiovisual platform, such as Zoom, or (b) two-way telephonic service and a live webcasting of the meeting.~~
~~3. The agenda must identify and include an opportunity for the public to participate in the meeting via a call-in option, an internet-based option, and in-person at the in-person location of the meeting; and~~
~~4. Public comment cannot be required in advance of the meeting and must be allowed in real time.~~

~~In addition to the requirements above, the City Council Member teleconferencing must qualify under one of the following:~~

~~1 The City Council Member must declare during roll call of the need to participate remotely for "just cause" as defined below, with a general description of the circumstances relating to their need to appear remotely. The City Council Member may also request the City Council allow them to participate in the meeting remotely due to "emergency circumstances" and ask the City Council to take action to approve the request. In this case, the City Council must request a general description of the circumstances relating to the need to appear remotely at the meeting.~~
~~2 "Just cause" is defined as one of the following:~~
~~a. A childcare or caregiving need of a child, parent, grandparent, sibling, spouse, or domestic partner that requires remote participation;~~
~~b. A contagious illness that prevents the City Council Member from attending in person;~~
~~c. A need related to a physical or mental disability as defined by law; or~~
~~d. Travel while on official business of the City Council or another public agency.~~
~~e. "Emergency circumstance" is defined as a physical or family medical emergency that prevents the City Council Member from attending in person.~~
~~3 Just cause may not be utilized by a City Council Member more than twice per calendar year, for longer than three consecutive months, or more than 20% of the regular meetings.~~
~~4 The City Council Member teleconferencing under AB 2449 must participate in the meeting using both audio and video and must identify any individual over the age of 18 present in the room with the City Council Member and generally describe the person's relationship to the City Council Member.~~

~~The City Council may not take any action during any disruption to the broadcast or any disruption to the public's ability to publicly comment via call-in or internet-based service provider.~~

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6.4 Regular Meetings. At the first regular meeting in January, the City Council will approve the schedule of meetings for the calendar year, which in addition to the regular meeting

schedule, may include the cancellation of regular meetings and the addition of special meetings and study sessions. This practice does not, however, preclude the Mayor or a majority of the members of the City Council from calling additional meetings pursuant to Section 6.5, if necessary.

The City Council shall convene its regular City Council meetings at 6:00 p.m. on the first and third Thursday of each month. The City Council may, as the Council deems necessary, cancel regular meetings provided that the City Council shall hold a regular meeting at least once each month pursuant to Government Code Section 56803. The regular 6:00 p.m. starting time of a council meeting can be varied by the City Manager with the concurrence of the Mayor to commence earlier or later (but in no event past 7:00 p.m.) depending upon the volume or nature of business for the council to consider at any given meeting, provided the City Clerk gives appropriate prior written notice of the adjusted starting time to the press and public.

Regular Meetings shall be terminated at 10:00 P.M.; however, the Mayor may, by majority vote of the Council, extend the meeting past 10:00 P.M. whenever the Council deems such extension necessary.

6.5 Cancelling Meetings. Any meeting of the City Council may be cancelled in advance by majority vote of the Council. The Mayor may cancel a meeting in the case of an emergency or when a majority of members have confirmed their unavailability to attend a meeting. The City Council may, as the Council deems necessary, cancel no more than four (4) Regular Meetings per calendar year, by majority vote, provided, however, that the City Council shall hold a Regular Meeting at least once each month pursuant to Government Code Section 36805.

6.6 Special Meetings. A special meeting may be called at any time by the Mayor or by a majority of the City Council in accordance with the Brown Act. Written notice of any such meeting must specify the purpose of the meeting. Notice of the meeting must be given in accordance with law. Public comments at special meetings shall be limited to only those items described on the special meeting notice/agenda.

The City Council may hold study sessions or joint meetings with other boards, commissions, committees, or agencies as deemed necessary to resolve City business. These meetings will be coordinated by the City Clerk. Study sessions are scheduled to provide Council Members the opportunity to better understand a particular item. While Council may legally take action at any noticed meeting, generally no formal action is taken at study sessions. If action is to be taken at a study session, then the agenda will state that action may be taken.

6.7 Closed Sessions. The City Council may hold closed sessions at any time authorized by law (and in consultation with the City Attorney), to consider or hear any matter, which is authorized by law. The Mayor or any three Council Members may call closed session meetings at any time.

6.8 Quorum. Three (3) members of the City Council shall constitute a quorum and shall be sufficient to transact business. If fewer than three Council Members appear at a regular meeting, the Mayor, Vice Mayor in the absence of the Mayor, any Council Member in the absence of the Mayor and Vice Mayor, or in the absence of all Council Members, the City Clerk or Deputy City Clerk, shall adjourn the meeting to a stated day and hour.

Business of the City Council may be conducted with a minimum of three members being present; however, pursuant to the California Government Code, matters requiring the expenditure of City funds and all resolutions and non-urgency ordinances must receive three affirmative votes for approval.

6.9 Minutes. The City Clerk shall prepare minutes of all public meetings of the City Council. Copies shall be distributed to each Council Member.

6.10 Adjourned Meetings. The City Council may adjourn any regular, adjourned regular, special, or closed session meeting to a time and place specified in the order of adjournment and permitted by law.

SECTION 7. POSTING NOTICE AND AGENDA

7.1 Posting of Notice and Agenda. For every regular, special, or study session meeting, the City Clerk or other authorized person shall post a notice of the meeting, specifying the time and place at which the meeting will be held, and an agenda containing a brief description of all items of business to be discussed at the meeting. This notice and agenda may be combined in a single document. Posting is to be according to law.

7.2 Location of Posting. The notice and agenda shall be posted at City Hall in a place to which the public has unrestricted access and where the notice and agenda are not likely to be removed or obscured by other posted material, and to the City website.

SECTION 8. AGENDA CONTENTS

8.1 Mayor's Responsibility. The Mayor is responsible for running a timely and orderly meeting. If the Mayor is unavailable to run a Council meeting, the Vice Mayor shall run the meeting. If the Mayor and the Vice Mayor are both unavailable to run a Council meeting, the Mayor shall, before the meeting, designate another councilmember to run the meeting. If the Mayor is unavailable to make this designation, the Vice Mayor shall do so. If the designation is not made before the meeting, the City Clerk shall, by lot, designate a council member to run a meeting. The Mayor, in consultation with the City Manager and his/her designee, and the City Clerk shall organize the agenda.

8.2 Description of Matters. All items of business to be discussed at a meeting of the City Council shall be briefly described on the agenda. The description should set forth the proposed action to be considered so that members of the public will know the nature of the action under review and consideration. As stated in Section 4.2, if a Council Member has a question on a subject, the Council Member should contact the City Manager prior to any meeting at which the subject may be discussed.

8.3 Availability to the Public. The agenda for any regular, special, or study session meeting, shall be made available to the general public as required by law.

8.4 Limitation to Act Only on Items on the Agenda. No action shall be taken by the City Council on any item not on the posted agenda, subject only to the exceptions listed below:

(a) Upon a majority determination that an "emergency situation" (as defined by State Law) exists; or

(b) Upon determination by a 4/5 vote of the full City Council, or a unanimous vote if less than a full Council, that there is a need to take immediate action and that the need to take the action came to the attention of the City Council subsequent to posting of the agenda.

8.5 "Timing" of Agenda. Staff and/or the Mayor may "time" the agenda as a way for the Council to maintain a sense of how much time can be committed to any one item without going past an established ending time for the meeting.

8.6 Order of Agenda. The prescribed order of the agenda for Regular Meetings of the Council will be as follows: Roll Call, Pledge of Allegiance, Invocation/Moment of Silence, Adoption of the Agenda, Closed Session Announcement (if needed), Presentations, Public Comments on Items not on the Agenda, Consent Calendar, Public Hearings, Business Items, City Manager and City Council Reports, Future Agenda Items, and Adjournment.

8.7 Change in Order of Business. The Mayor, or the majority of the Council, may decide to take matters listed on the agenda out of the prescribed order. Council Members shall be given the opportunity to ask questions about Consent Items for clarification without having them removed.

8.8 Agenda Request Policy. ~~The City Council adopted the Agenda Request Policy on August 14, 2008 which establishes a procedure for submittal of various items for the City Council agenda.~~ Requests for placement of items on the agenda can be submitted to the City Clerk using the Agenda Request Form available by request. Also, a majority~~any member~~ of the Council may ~~request that~~direct staff to place an item ~~be placed~~ on a future agenda by indicating their desire to do so under that portion of the City Council agenda designated, "Future City Council Agenda Items." Additionally, the City Manager may place items on the agenda.

8.9 Consent Agenda. All items listed under the Consent Agenda are considered to be routine in nature and will be approved by one motion. There will be no separate discussion of these items. Council Members or the City Manager may remove items from the Consent Agenda for separate discussion and action by City Council. Any item removed for separate discussion and action will be taken up following the motion to approve the Consent Agenda.

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SECTION 9. PROCEDURES FOR THE CONDUCT OF PUBLIC MEETINGS

9.1 Role of Mayor. The Mayor shall be responsible for maintaining the order and decorum of meetings. It shall be the duty and responsibility of the Mayor to ensure that the rules of operation and decorum contained herein are observed. The Mayor shall maintain control of communication between Council Members and among Council, staff and public. The Mayor shall intervene when

a Council Member, staff or other meeting participant is being verbally or otherwise attacked by a member of the public.

9.2 Communication with Council Members. Council Members shall request the floor from the Mayor before speaking. When one member of the Council has the floor and is speaking, other Council Members shall not interrupt or otherwise disturb the speaker.

9.3 Communication with members of the public addressing the Council on agendized items.

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1. The Mayor shall open the floor for public comment as appropriate.

2. Council Members may question a person addressing the Council at the conclusion of the person's comments or upon expiration of the person's time to speak.

3. Any staff member with an item on the agenda will be available to the City Council to answer questions arising during discussions between Council Members and among Council Members and members of the public.

4. Members of the public shall direct their questions and comments to the Council.

9.2 Rules of Order. The City Council shall refer to *Rosenberg's Rules of Order*, as a guide for the conduct of meetings, with the following modifications:

(a) A motion is not required prior to a general discussion on an agenda item. A pre-motion discussion allows the members to share their thoughts on the agendized item so that a motion can more easily be made that takes into account what appears to be the majority position.

(b) All motions require a second.

(c) A motion may be amended at the request of the maker and the consent of the person who seconded the motion. Such a procedure is often used to accommodate concerns expressed by other members.

(d) A motion to amend may still be used.

The Mayor has the discretion to impose reasonable rules at any particular meeting based upon facts and circumstances found at any particular meeting. These latter rules will be followed unless objected to by a majority of the City Council Members present.

9.3 Appeal Procedures. Appellants shall be given the opportunity to speak first. Appellants and applicants responding to appeals may be given a total of up to 10 minutes each to present their positions to the City Council prior to hearing public comments. Appellants shall be given up to 5 minutes of rebuttal time after public comments are heard.

9.4 Applicants. Persons bringing to the City Council a request for approval shall be given a total of up to 10 minutes to present their positions/input prior to hearing public comments. An

extension can only be granted by consent of a majority of the Council Members. Applicants shall be given up to 5 minutes of rebuttal time after public comments are heard.

9.5 Staff and Consultant Reports. In general, staff and consultant reports should be clear, brief and concise. Staff is to assume that the Council has read all materials submitted. Council shall be given an opportunity to ask questions of staff prior to hearing public comments.

9.6 Public Comment.

Persons present at meetings of the City Council may comment on individual items on the agenda at the time the items are scheduled to be heard. During Regular City Council meetings, comments may be offered on items not on the agenda under that portion of the agenda identified for Public Comment.

The limit for speakers will be 1 to 3 minutes, depending on the number of speakers. If there are 10 or fewer requests to speak on any agenda item, the limit for each speaker will be 3 minutes. Speakers are not allowed to delegate their time to another speaker. The Mayor may limit the time to be spent on an item and may continue the item, with the approval of the majority of the Council, to a future meeting at his/her discretion.

Upon addressing the Council, each speaker is requested, but not required, to first state his/her name, whom they represent and/or city of residence.

After the speaker has completed their remarks, the Mayor may direct the City Manager or City Attorney to briefly address the issues brought forth by the speaker. Council Members shall be respectful of the speakers and shall not enter into a debate with any member of the public nor discuss amongst themselves.

All Council Members shall listen to all public discussion as part of the Council's community responsibility. Individual Council Members should remain open-minded to informational comments made by the public.

The Mayor has the right to ask a member of the public to step down if over the allotted time or if the speaker's comments are not within the city's jurisdiction.

9.7 Motions. It will be the practice of the City Council for the Mayor to provide Council Members an opportunity to ask questions of staff, comment on, and discuss any agendized item in order to help form a consensus before a motion is offered. After such discussion, the Mayor or any Council Member may make a motion. Before the motion can be considered or discussed, it must be seconded. Once a motion has been properly made and seconded, the Mayor shall open the matter to full discussion offering the first opportunity to speak to the moving party, and thereafter, to any Council Member recognized by the Mayor. Customarily, the Mayor will take the floor after all other Council Members have been given the opportunity to speak.

If a motion clearly contains divisible parts, any Council Member may request the Mayor or moving party divide the motion into separate motions to provide Council Members an opportunity for more specific consideration.

Tie Votes: Tie votes shall be lost motions. When all Council Members are present, a tie vote on whether to grant an appeal from official action shall be considered a denial of such appeal, unless the Council takes other action to further consider the matter. If a tie vote results at a time when fewer than all members of the Council, who may legally participate in the matter are present, the matter shall be automatically continued to the agenda of the next regular meeting of the Council, unless otherwise ordered by the Council.

9.8 Reconsideration. Requests for reconsideration.

1. Request by a member of the public.

Notwithstanding *Rosenberg's Rules of Order*, a request for reconsideration may be made by a member of the public to the City Council at the next regular meeting of the City Council or at any intervening special meeting of the City Council.

2. Request by a member of the City Council.

Only a member of the City Council who voted on the prevailing side may request reconsideration. The request may be made at the same meeting or at the next regular meeting of the City Council or at any intervening special meeting of the City Council.

3. The member of the public or City Council Member making the request should state orally or in writing the reason for the request, without dwelling on the specific details or setting forth various arguments.

Reconsideration at the same meeting.

A motion to reconsider an action taken by the City Council may be made at the same meeting at which the action was taken (including an adjourned or continued meeting).

A motion to reconsider an action taken by the City Council may be made only by a Council Member who voted on the prevailing side, but may be seconded by any Council Member and is debatable. The motion must be approved by a majority of the entire City Council.

Reconsideration at a subsequent meeting.

If an intent to request a motion for reconsideration is communicated to the City Council prior to the deadline for posting the City Council meeting agenda, then the request for reconsideration may be agendized if support for said action exists in accordance with the *Council Norms* Section 10.8. Otherwise, no City Council discussion or action on a possible reconsideration may occur unless the item is appropriately added to the agenda pursuant to Government Code section 54954.2(b), which addresses adding items that are not listed on a posted agenda (urgency agenda item). At the time such motion for reconsideration is heard, testimony shall be limited to the facts giving rise to the motion.

Effect of approval of motion.

Upon approval of a motion to reconsider, and at such time as the matter is heard, the City Council shall only consider any new evidence or facts not presented previously with regard to the item or a claim of error in applying the facts.

If the motion to reconsider is made and approved at the same meeting at which the initial action was taken and all interested persons (including applicants, owners, supporters and opponents) are still present, the matter may be reconsidered at that meeting or at the next regular meeting or intervening special meeting (subject to the discretion of the maker of the motion) and no further public notice is required.

If the motion to reconsider is made and approved at the same meeting at which the initial action was taken but all interested persons are not still present, or if the motion is made and approved at the next regular meeting or intervening special meeting, the item shall be scheduled for consideration at the earliest feasible City Council meeting and shall be re-noticed in accordance with the Government Code, the City Municipal Code and the *Council Norms and Procedures*. The Clerk shall provide notice to all interested parties as soon as possible when a matter becomes the subject of a motion to reconsider.

9.9 Discussion.

The discussion and deliberations at meetings of the City Council are to secure the mature judgment of Council Members on proposals submitted for decision. This purpose is best served by the exchange of thought through discussion and debate.

To the extent possible, Council Members should disclose any ex parte communication prior to discussion on an item. Ex parte communications are those made in private between an interested party and an official in a decision-making process.

Discussion and deliberation are regulated by these rules in order to assure every member a reasonable and equal opportunity to be heard.

After the Council has commented on an issue, and a motion has been stated to the Council and seconded, any member of the Council has a right to discuss it after obtaining the floor. The member obtains the floor by seeking recognition from the Mayor. A member who has been recognized should make their comments clear, brief and concise.

To encourage the full participation of all members of the Council, no member or members shall be permitted to monopolize the discussion of the question. If a Council Member has already spoken, other Council Members wishing to speak shall then be recognized. No Council Member shall be allowed to speak a second time until after all other Council Members have had an opportunity to speak.

All discussion must be relevant to the issue before the City Council. A Council Member is given the floor only for the purpose of discussing the pending question; discussion which departs is out of order. Council Members shall avoid repetition and strive to move the discussion along.

A motion, its nature, or consequences, may be attacked vigorously. It is never permissible to attack the motives, character, or personality of a member either directly or by innuendo or implication. It is the duty of the Mayor to instantly rule out of order any Council Member who engages in personal attacks. It is the motion, not its proposer, that is subject to debate.

Arguments~~,~~ for or against a measure, should be stated as concisely as possible. It is the responsibility of each Council Member to maintain an open mind on all issues during discussion and deliberation.

It is not necessary for all City Council Members to speak or give their viewpoints if another Council Member has already addressed their concerns. However,~~Although~~ issues with potential to be litigated or otherwise appealed should have comments by each Council Member on the record.

The Mayor has the responsibility of controlling and expediting the discussion. A Council Member who has been recognized to speak on a question has a right to the undivided attention of the Council.

It is the duty of the Mayor to keep the subject clearly before the members, to rule out irrelevant discussion, and to restate the question whenever necessary.

9.10 Council Member Respect. At all times, Council Members in the minority on an issue shall respect the decision and authority of the majority.

9.11 Council and Staff Reports and Directions on Future Agenda Items. Council and staff reports at the end of Council meetings shall be limited to announcing Mayor-appointed Regional Board activities on which Council Members serve, City and City-sponsored activities and items which directly affect the City. Community groups may announce their activities during Public Comments at the beginning of Council meetings. Council Members should refrain from making personal comments, stating personal activities, or items that do not impact their role as a Council Member.

SECTION 10. CLOSED SESSIONS

10.1 Purpose. It is the policy of the City Council to conduct its business in public to the greatest extent possible. However, state law recognizes that, in certain circumstances, public discussion could potentially jeopardize the public interest, compromise the City's position, and could cost the taxpayers of Clearlake financially. Therefore, closed sessions shall be held from time to time as allowed by law. The procedures for the conduct of these meetings shall be the same as for public meetings, except that the public will be excluded.

Prior to convening the closed session meeting, the Mayor shall publicly announce the closed session items and ask for public input regarding any items on the closed session agenda.

City Council Members shall keep all written materials and verbal information provided to them in closed session in complete confidence to insure that the City's position is not compromised. No mention of information in these materials shall be made to anyone other than Council Members, the City Attorney or City Manager, except where authorized by a majority of the City

Council. All written materials provided to Council Members during closed session shall be returned to the City Manager at the conclusion of each closed session.

10.2 Rule of Confidentiality. The City Council recognizes that breaches in confidentiality can severely prejudice the City's position in litigation, labor relations and real estate negotiations. Further, breaches of confidentiality can create a climate of distrust among Council Members and can harm the Council's ability to communicate openly in closed sessions, thereby impairing the Council's ability to perform its official duties.

The City Council further recognizes that confidentiality of discussions and documents are at the core of a closed session. Confidentiality is essential if the closed session is to serve its purpose. Therefore, the City Council will adhere to a strict policy of confidentiality for closed sessions.

10.3 Breach of Rule of Confidentiality. No person who attends a closed session may disclose any statements, discussions, or documents used in a closed session except where specifically authorized by State law. Any authorized disclosure shall be in strict compliance with these rules and the Ralph M. Brown Act. Violation of this rule shall be considered a breach of this rule of confidentiality.

10.4 Agenda. The City Council agenda will contain a brief general description of the items to be discussed at the closed session, as required by law.

10.5 Permissible Topics. All closed sessions will be held in strict compliance with the Ralph M. Brown Act. The City Attorney, or his/her designee, will advise in advance on topics that may be discussed in a closed session.

10.6 Rules of Decorum.

The same high standard of respect and decorum as apply to public meetings shall apply to closed sessions. There shall be courtesy, respect and tolerance for all viewpoints and for the right of Council Members to disagree. Council Members shall strive to make each other feel comfortable and safe to express their points of view. All Council Members have the right to insist upon strict adherence to this rule.

Prior to a vote, the Mayor shall ensure that the motion is clearly stated and clearly understood by all Council Members.

The Mayor shall keep the discussion moving forward so that debate and a vote can occur in the time allotted for the closed session. The Mayor will determine the order of debate in a fair manner.

10.7 Conduct of Meeting.

(a) The Mayor will call the closed session to order promptly at its scheduled time.

(b) The Mayor will keep discussion focused on the permissible topics.

(c) The use of handouts and visual aids such as charts is encouraged to focus debate and promote understanding of the topic. All such materials are strictly confidential.

(d) If the City Council in closed session has provided direction to City staff on proposed terms and conditions for any type of negotiations, whether it be related to property acquisitions or disposal, a proposed or pending claim or litigation, or employee negotiations, all contact with the other party will be through the designated City person(s) representing the City in the handling of the matter. A Council Member, not so designated by the Council, will not under any circumstances have any contact or discussion with the other party or its representative concerning the matter which was discussed in the closed session, and will not communicate any discussions conducted in closed session to such party.

10.8 Public Disclosure After Final Action.

The Ralph M. Brown Act requires that, as a body, the City Council make certain public disclosure of closed session decisions when those actions have become final. Accordingly, the City Council shall publicly report any final action taken in closed session, and the vote, including abstentions, at a publicly noticed meeting as follows:

* Real Estate negotiations: After the agreement is final and accepted by the other party;

* Litigation: After approval to defend or appeal a lawsuit or to initiate a lawsuit;

* Settlement: After final settlement of litigation or claims;

* Employees: Action taken to appoint or dismiss a Council-appointed employee;

* Labor relations: After the Memorandum of Understanding is final and has been accepted by both parties.

The report may be oral or written. The report will state only the action taken and the vote. Unless authorized by the majority of the City Council, the report will not state the debate or discussion that occurred. Except for the action taken and the vote, all closed session discussions will remain confidential.

SECTION 11. DECORUM

11.1 Council Members. Members of the City Council value and recognize the importance of the trust invested in them by the public to accomplish the business of the City. Council Members shall accord the utmost courtesy to each other, City employees, and the public appearing before the City Council. The City Manager or his/her designee shall act as the sergeant-at-arms.

11.2 City Employees. Members of the City staff shall observe the same rules of order and decorum applicable to the City Council. City staff shall act at all times in a businesslike and professional manner towards Council Members and members of the public.

11.3 Public. Members of the public attending City Council meetings shall observe the same rules of order and decorum applicable to the City Council. These Norms and Procedures shall apply to all City Council Meetings.

11.4 Noise in the Chambers. Noise emanating from the audience, whether expressing opposition or support within the Council Chambers or lobby area, which disrupts City Council meetings, shall not be permitted. All cell phones and other electronic devices shall be muted while in the chambers. Refusal is grounds for removal.

~~**11.5 Removal.** Any member of the public making personal, impertinent, and/or slanderous or profane remarks, or who becomes boisterous or belligerent while addressing the City Council, staff or general public, or while attending the City Council meeting and refuses to come to order at the direction of the Mayor/Presiding Officer, shall be removed from the Council Chambers by the sergeant-at-arms and may be barred from further attendance before the Council during that meeting. Unauthorized remarks from the audience, stamping of feet, whistles, yells, and similar demonstrations shall not be permitted by the Mayor/Presiding Officer. The Mayor/Presiding Officer may direct the sergeant-at-arms to remove such offenders from the room.~~

11.5 Removal of Individuals or Groups Engaging in Disruptive Behavior.

City staff shall post these standards at a public location in City Hall and at the dais.

(a) Definition. Disruptive behavior is any action that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting. Verbal conduct is disruptive when it meets the standards described below.

(b) Disruptive verbal conduct based on identity. Continued use of loud, threatening, profane, or abusive language or verbal conduct that denigrates an individual because of race, color, gender, religion, sexual orientation, age, national origin, disability, or other protected category after a verbal warning from the presiding officer impedes the orderly conduct of the meeting. It interferes with the Council's ability to accomplish its functions in a reasonably efficient matter by causing a distraction from City business, chilling other members of the public's participation, interfering with the ability of those present to listen and understand the business and proceedings of the City or Council, and may constitute or contribute to employment or other types of discrimination.

(c) Removal procedure (general). The Mayor or presiding member of the Council has the authority to remove, or designate the sergeant-at-arms to remove, an individual or group for disrupting the Council meeting. Before taking this action, the Mayor/presiding member shall warn the individual or group that their behavior is disruptive and that failure to cease this behavior may result in their removal. If the behavior does not promptly cease, the individual may be removed.

No warning is required to precede removal if an individual engages in behavior that is a true threat of force. A true threat of force has sufficient indicia of intent and seriousness so that a reasonable observer would perceive it to be an actual threat to use force by the person who makes the threat.

(d) Removal procedure (disruptive verbal conduct based on identity). When a person engages in verbal conduct that denigrates an individual because of their race, color, gender, religion, sexual orientation, age, national origin, disability, or other protected category, the Mayor or presiding member of the Council shall take the following actions:

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1. The Mayor/presiding member shall stop the speaker and read the relevant portions of the City's Harassment-Free Workplace Policy. The Mayor/presiding member shall state that the City does not condone comments in violation of the City's Policy and that the speaker's harassment is unwanted and unwelcome and impedes the orderly conduct of the meeting by interfering with the Council's ability to accomplish its functions in a reasonably efficient matter by causing a distraction from City business, chilling participation from other members of the public, interfering with the ability of those present to listen and understand the business and proceedings of the City, and may constitute or contribute to employment or other forms of discrimination.

2. The Mayor/presiding member shall state that any City employee present may be excused from attendance at the meeting during the speaker's remarks.

3. The Mayor/presiding member shall hold the speaker's time and the speaker may resume speaking after the Mayor/presiding member's statement, unless the speaker's comments continue to disrupt, disturb, or impede the orderly conduct of the meeting. If the speaker continues to disrupt, disturb, or impede the orderly conduct of the meeting, the Mayor/presiding member may prohibit the speaker from further commenting or may order the speaker to be removed from the meeting.

4. After the end of the speaker's comments, any Councilmember may make a brief response to such comments, if desired.

(e) Removal procedure (disruptive group). If a meeting is willfully disrupted by a group of people so as to render the orderly conduct of the meeting infeasible, the Mayor/presiding member shall first attempt to maintain order. If unsuccessful, the Mayor/presiding member may call a recess, adjourn the meeting to another date, or order the removal of the people disrupting the meeting. If order is not restored by removing the people disrupting the meeting, the Mayor/presiding member may order the meeting room cleared and continue holding the meeting. Representatives of the media, except those participating in the disturbance, shall be allowed to continue attending the meeting.

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11.6 Dangerous Instruments. No person may enter the chambers of a legislative body as defined in Section 54852 of the Government Code of the State of California or any place where such legislative body is in session, with any firearm, weapon, or explosive device of any nature. The provisions of this section shall not apply to authorized peace officers or to those persons authorized by the Penal Code of the State to carry such weapons.

11.7 Prosecution. Aggravated cases shall be prosecuted on appropriate complaint signed by the Mayor/Presiding Officer.

[Remove this section as it is now addressed in 11.5.]~~**SECTION 12. ENFORCEMENT OF DECORUM**~~

~~In extreme cases, such as when a meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals as provided for in this Policy, the Mayor/Presiding Officer may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Duly accredited representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this Section. Nothing in this Section shall prohibit the City Council from establishing~~

~~a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.~~

SECTION 1~~3~~2. VIOLATIONS OF PROCEDURES

Nothing in these Norms and Procedures shall invalidate a properly noticed and acted upon action of the City Council in accordance with State Law.

This document shall remain in effect until modified by the City Council.

APPROVED: November 12, 2015.
Amended: March 10, 2016
Amended: June 22, 2017
Amended: April 12, 2018
Amended: December 12, 2019
Amended: February 16, 2023

CITY OF CLEARLAKE

City Council

STAFF REPORT

SUBJECT: Second Reading and Adoption of Ordinance No. 272-2024, An Ordinance Establishing Article 6-10 of the Clearlake Municipal Code Regulating Tobacco Retailers	**MEETING DATE:** Nov. 21, 2024
SUBMITTED BY: Alan D. Flora, City Manager	
PURPOSE OF REPORT: ☐ Information only ☐ Discussion ☒ Action Item	

WHAT IS BEING ASKED OF THE CITY COUNCIL:

Hold second reading, read by title only, waive further reading and adopt ordinance.

From the November 7, 2024 staff report:

BACKGROUND/ DISCUSSION:

Lake County as a whole suffers from significant health challenges, including a high rate of tobacco use. Tobacco use and vaping are prevalent among ever younger populations and is a significant problem in our school system. In June the Council heard a presentation of information around tobacco use from Blue Zones, the Konocti Unified School District and Lake County Public Health.

At the time the Council expressed strong support of establishing tobacco retailer regulations. The City has engaged in conversations with the County of Lake and City of Lakeport over establishing consistent tobacco retailer regulations to be implemented by Lake County Public Health countywide.

On August 16, 2024 the Lake County Board of Supervisors adopted an ordinance regulating tobacco retailers. The ordinance before you is substantially consistent with the County ordinance, but also places the regulation in the Clearlake Municipal Code. This allows delegation of enforcement to Lake County Public Health, City staff or another applicable agency. Pending other direction from the Council, staff recommend delegation to the County at this time.

OPTIONS:

1. Hold second reading, read by title only, waive further reading and adopt ordinance
2. Other direction to staff.

FISCAL IMPACT:

☒ None ☐ $ Budgeted Item? ☐ Yes ☐ No

Budget Adjustment Needed? ☐ Yes ☒ No If yes, amount of appropriation increase: $

Affected fund(s): ☐ General Fund ☐ Measure P Fund ☐ Measure V Fund ☐ Other:

Comments**:** N/A

STRATEGIC PLAN IMPACT

☒ Goal #1: Make Clearlake a Visibly Cleaner City

☒ Goal #2: Make Clearlake a Statistically Safer City

☐ Goal #3: Improve the Quality of Life in Clearlake with Improved Public Facilities

☒ Goal #4: Improve the Image of Clearlake

☒ Goal #5: Ensure Fiscal Sustainability of City

☐ Goal #6: Update Policies and Procedures to Current Government Standards

☐ Goal #7: Support Economic Development

☒ **Attachment: 1)** Ordinance No. 272-2024

ORDINANCE NO. 272-2024

AN ORDINANCE OF THE CITY OF CLEARLAKE REGULATING TOBACCO PRODUCT SALES, REQUIRING THE LICENSURE OF TOBACCO RETAILERS, AND AMENDING THE CLEARLAKE MUNICIPAL CODE

The City Council of the City of Clearlake, State of California, ordains as follows:

SECTION 1. ARTICLE 6-10 OF THE CLEARLAKE MUNICIPAL CODE IS HEREBY ADDED AS FOLLOWS:

6-10.100. Findings and Purpose.

a. Findings. The City Council finds:
   1. A local licensing system for tobacco retailers is appropriate to ensure that retailers comply with tobacco control laws and business standards of the City, to protect the health, safety, and welfare of our residents; and
   2. Approximately four hundred eighty thousand (480,000) people die in the United States from smoking-related diseases and exposure to secondhand smoke every year, making tobacco use the nation's leading cause of preventable death and continues to be an urgent public health issue; and
   3. Despite the state's efforts to limit youth access to tobacco, youth are still able to access tobacco products, and
   4. Requiring tobacco retailers to obtain a tobacco retailer license will not unduly burden legitimate business activities of retailers who sell tobacco products to adults but will, however, allow the City of Clearlake to regulate the operation of lawful businesses to discourage violations of federal, state, and local tobacco control and youth tobacco access laws, as evidenced by studies which found increased retailer compliance and reduced tobacco sales to youth following implementation and active enforcement of youth tobacco sales laws paired with penalties for violations; and
   5. The State of California acknowledges that youth usage of flavored tobacco products continues to rise and that while the Food and Drug Administration recently announced a partial ban of certain flavored electronic cigarette products, the policy does not adequately address the health and safety of California children as it makes dangerous exemptions; and6. The State of California, in response to the rising epidemic of youth usage of flavored tobacco products, the intentional targeted marketing of certain flavored tobacco products to communities of color, low-income individuals, and the lesbian, gay, bisexual, transgender and queer community, and the aggressive marketing of menthol-flavored products to African American community members, enacted SB 793, which came into effect on December 21, 2022; and
   6. Unlike cigarette use that has steadily declined among youth, the prevalence of the use of non-cigarette tobacco products has increased among California youth; and

7. Strong policy enforcement and monitoring of retailer compliance with tobacco control policies (e.g., requiring identification checks) is necessary to achieve reductions in youth tobacco sales; and
8. State law explicitly permits cities to enact local tobacco retail licensing ordinances, and allows for the suspension or revocation of a local license for a violation of any state tobacco control law (Cal. Bus. & Prof. Code Section 22971.3); and
9. The City has a substantial interest in protecting youth and underserved populations from the harms of tobacco use; and
10. The City Council finds that a local licensing system for tobacco retailers is appropriate to ensure that retailers comply with tobacco control laws and business standards of the City and Lake County in order to protect the health, safety, and welfare of our residents; and
11. The Board of Supervisors of Lake County has recently enacted a comprehensive tobacco retailer licensing ordinance in substantially similar format to the provisions below; and
12. The City of Clearlake and Lake County contemplate a process by which the Lake County Department of Public Health implements the City's tobacco retailer licensing ordinance; and
13. The City of Clearlake wishes to authorize the County Department of Public Health to implement its tobacco retailer licensing ordinance while retaining the City's authority to monitor compliance and otherwise implement the ordinance;

b. It is the intent and purpose of the City Council, in enacting this ordinance, to ensure compliance with the business standards and practices of the City of Clearlake and Lake County and to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those which prohibit or discourage the sale or distribution of tobacco products to youth, but not to expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or to alter the penalties provided therein.

6-10.101. Definitions. The following words and phrases, whenever used in this article, shall have the meanings defined in this section unless the context clearly requires otherwise:

ARM'S LENGTH TRANSACTION means a sale in good faith and for valuable consideration that reflects the fair market value between two informed and willing parties, neither of which is under any compulsion to participate in the transaction.

CHILD-RESISTANT PACKAGING means packaging that meets the definition set forth in Code of Federal Regulations, title 16, Section 1700.15(b), as in effect on January 1, 2015, and was tested in accordance with the method described in Code of Federal Regulations, title 16, Section 1700.20, as in effect on January 1, 2015.

CIGAR means any roll of tobacco other than a cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing more than 4.5 pounds per thousand.

CIGARETTE means: (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and (2) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described herein.

CITY means the City of Clearlake.

CITY COUNCIL means the City Council of the City of Clearlake.

COMPLIANCE CHECKS means systems the department uses to investigate and ensure that tobacco retailers are following and complying with the requirements of this article. Compliance checks may involve the use of persons between the ages of 18 and 20 who purchase or attempt to purchase tobacco products. Compliance checks may also be conducted by the department or other units of government for educational, research, and training purposes or for investigating or enforcing federal, state, or local laws and regulations relating to tobacco products.

COUNTY means Lake County.

DELIVERY SALE means the sale of any tobacco product to any person for personal consumption and not for resale when the sale is conducted by any means other than an in-person, over-the-counter sales transaction in a tobacco retail establishment. Delivery sale includes the sale of any tobacco product when the sale is conducted by telephone, other voice transmission, mail, the internet, or app-based service. Delivery sale includes delivery by licensees or third parties by any means, including curbside pick-up.

DEPARTMENT means Lake County Department of Health Services and any agency or person designated by the Department to enforce or administer the provisions of this article. “Department” also means employees designated by the City of Clearlake to enforce or administer the provisions of this article.

ELECTRNIC SMOKING DEVICE means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

FLAVORED TOBACCO PRODUCT means any tobacco product that imparts a taste or odor distinguishable by an ordinary consumer, other than the taste or odor of tobacco, either prior to or during the consumption of such tobacco product, including but not limited to tastes or odors relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, mint, wintergreen, menthol, herb, or spice; or a cooling or numbing sensation distinguishable by an ordinary consumer during the consumption of such tobacco product.

LICENSEE means a person granted a tobacco retailer's license for the location at which tobacco retailing is to occur.

LITTLE CIGAR means any roll of tobacco other than a cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing no more than 4.5 pounds per thousand. “Little Cigar” includes, but is not limited to, tobacco products known or labeled as small cigar, little cigar, or cigarillo.

MANUFACTURER means any person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a tobacco product; or imports a finished tobacco product for sale or distribution into the United States.

MOVEABLE PLACE OF BUSINESS means any form of business that is operated out of a kiosk, truck, van, automobile or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

PERSON means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

PROPRIETOR means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a 10% or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person has or shares ultimate control over the day-to-day operations of a business.

RECREATION FACILITY means an area, place, structure, or other facility that is used either permanently or temporarily for community recreation, even though it may be used for other purposes, and includes but is not limited to a gymnasium, playing court, playing field, and swimming pool.

SALE OR SELL means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner or by any means whatsoever.

SELF SERVICE DISPLAY means the open display or storage of tobacco products in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct face-to-face transfer

between the purchaser and the retailer or employee of the retailer. A vending machine is a form of self-service display.

SMOKING means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. “Smoking” includes using an electronic smoking device.

TOBACCO PRODUCT means:

a. any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;
b. any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or
c. any component, part, or accessory of (1) or (2), whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, mouthpieces, and pipes.

Tobacco product does not mean drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

TOBACCO RETAILER means any person who sells, offers for sale, or exchanges or offers to exchange for any form of consideration, tobacco products. This definition is without regard to the quantity of tobacco products sold, offered for sale, exchanged, or offered for exchange.

TOBACCO RETAILING means engaging in the activities of a tobacco retailer.

6-10.102. General Requirements and Prohibitions.

a. *Tobacco Retailer’s License Required.* It shall be unlawful for any person to engage in tobacco retailing in Lake County without first obtaining and maintaining a valid tobacco retailer's license for each location at which tobacco retailing is to occur. Tobacco retailing without a valid tobacco retailer's license is a nuisance as a matter of law.
b. *Lawful Business Operation.* In the course of tobacco retailing or in the operation of the business or maintenance of the location for which a license issued, it shall be a violation of this article for a licensee, or any of the licensee's agents or employees, to violate any local, state, or federal law applicable to the sale of tobacco products.
c. *Smoking Prohibited.* Smoking, including smoking for the purpose of sampling any tobacco product, is prohibited within the indoor area of any retail establishment licensed under this article. Smoking is also prohibited outdoors within 25 feet of any retail establishment licensed under this article.

d. *Minimum Legal Sales Age.* No person engaged in tobacco retailing shall sell a tobacco product to a person under 21 years of age.
e. *Display of License.* Each tobacco retailer license shall be prominently displayed in a publicly visible location at the licensed location.
f. *Positive Identification Required.* No person engaged in tobacco retailing shall sell a tobacco product to another person without first verifying by means of government-issued photographic identification that the recipient is at least 21 years of age.
g. *Self-Service Displays Prohibited.* Tobacco retailing by means of a self-service display is prohibited. All tobacco products must be stored behind the sales counter, in a locked case, in a storage unit, or in another area not freely accessible to the general public.
h. *Distance From Youth Appealing Products.* It is unlawful for a tobacco retailer to place or maintain, or cause to be placed or maintained, any displays containing tobacco products within five feet of toys, candy, snacks or non-alcoholic beverages inside a licensed retail establishment.
i. *On-site Sales.* All sales of tobacco products shall be conducted in-person in the licensed location. It shall be a violation of this article for any tobacco retailer or any of the tobacco retailer's agents or employees to engage in the delivery sale of tobacco products or to knowingly or recklessly sell or provide tobacco products to any person that intends to engage in the delivery sale of the tobacco product in the City of Clearlake.

6-10.103. Sale of Flavored Tobacco Products Prohibited.

a. *Flavored Tobacco Product Sales Prohibited.* It shall be unlawful for any tobacco retailer to sell any flavored tobacco product.
b. *Presumptive Flavored Tobacco Product.* A public statement or claim made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has a taste or smell other than tobacco shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

6-10.104. Tobacco Product Pricing and Packaging.

a. *Packaging and Labeling.* No tobacco retailer shall sell any tobacco product to any consumer unless the tobacco product: (1) is sold in the manufacturer's packaging intended for sale to consumers; (2) conforms to all applicable federal labeling requirements; and (3) conforms to all applicable child-resistant packaging requirements.
b. *Display of Price.* The price of each tobacco product offered for sale shall be clearly and conspicuously displayed on the tobacco product or on any related shelving, posting, advertising, or display at the location where the item is sold or offered for sale.
c. *Distribution of Tobacco Samples or Promotional Items.* It is unlawful for any person to distribute free or nominally priced tobacco products.

6-10.105. Limits on Eligibility for a Tobacco Retailer License.

a. *Mobile Vending.* No license may issue to authorize tobacco retailing at other than a fixed location. No tobacco retail license will be issued to a moveable place of business.
b. *Licensed Cannabis Businesses.* No license may issue, and no existing license may be renewed, to authorize tobacco retailing at a location licensed for commercial cannabis activity by the State of California.

6-10.106 Application Procedure.

a. An application for a tobacco retailer's license shall be submitted in the name of each proprietor proposing to conduct retail tobacco sales and shall be signed by each proprietor or an authorized agent thereof. All applications shall be submitted on a form supplied by the Department.
b. A license issued contrary to article, contrary to any other law, or on the basis of false or misleading information shall be revoked pursuant Section 13(c) of this article. Nothing in this article shall be construed to vest in any person obtaining, and maintaining a tobacco retailer's license any status or right to act as a tobacco retailer in contravention of any provision of law.
c. Applicant submissions shall contain the following information:
    1. The name, address, and telephone number of each proprietor of the business seeking a license.
    2. The business name, address, and telephone number of the location for which a license is sought.
    3. The name and mailing address authorized by each proprietor to receive all communications and notices required by, authorized by, or convenient to the enforcement of this article.
    4. Proof that the location for which a tobacco retailer's license is sought has been issued all necessary state and local licenses for the sale of tobacco products.
    5. Whether or not any proprietor or any agent of the proprietor has admitted violating, or has been found to have violated, this article or any other local, state, or federal law governing the sale of tobacco products and, if so, the dates and locations of all such violations within the previous five years.
    6. Such other information as the Department deems necessary for the administration or enforcement of this article as specified on the application form required by this section.
d. A licensed tobacco retailer shall inform the Department in writing of any change in the information submitted on an application for a tobacco retailer's license within 30 calendar days of a change.

6-10.107. License Issuance or Denial.

a. *Issuance of License.* Upon the receipt of a complete and adequate application for a tobacco retailer's license and the license fee required by

this article, the Department may approve or deny the application for a license, or it may delay action for a reasonable period of time to complete any investigation of the application or the applicant deemed necessary.

b. *Denial of Application.* The Department may deny an application for a tobacco retailer's license based on any of the following:
    1. The information presented in the application is inaccurate or false. Intentionally supplying inaccurate or false information shall be a violation of this article;
    2. The application seeks authorization for tobacco retailing at a location for which the jurisdiction prohibits a license to be issued;
    3. The application seeks authorization for tobacco retailing for a proprietor to whom this article prohibits a license to be issued; or
    4. The application seeks authorization for tobacco retailing in a manner that is prohibited pursuant to this article, that is unlawful pursuant to any other chapter of this Code, or that is unlawful pursuant to any other law.
    5. Any other any other reason the granting of a license to the applicant that is not consistent with the requirements of this article, including the applicant's history of noncompliance with this article and other laws relating to the sale of tobacco products.

6-10.108. License Renewal and Expiration.

A tobacco retailer's license is invalid if the appropriate fee has not been timely paid in full or if the term of the license has expired. The term of a tobacco retailer license is 1 year. Each tobacco retailer shall apply for the renewal of their tobacco retailer's license and submit the license fee no later than 30 days prior to expiration of the current license. A retailer that fails to timely submit a renewal application and fee is ineligible for license renewal and must submit a new application pursuant to Section 6-10.106.

6-10.109. Licenses not Transferable; Past Violations at Retail Location.

a. *Licenses not Transferable.* A tobacco retailer's license may not be transferred from one person to another or from one location to another. A new tobacco retailer's license is required whenever a tobacco retailing location has a change in proprietors.
b. *Past Violations.* Notwithstanding any other provision of this article, prior violations at a location shall continue to be counted against a location and license ineligibility periods shall continue to apply to a location unless:
    1. the location has been transferred to new proprietor(s) in an arm's length transaction; and
    2. the Department determines that there is adequate documentary evidence submitted by the new proprietor(s) establishing that the new proprietor(s) have acquired the location in an arm's length transaction.

6-10.110. License Conveys a Limited, Conditional Privilege.

Nothing in this article shall be construed to grant any person obtaining and maintaining a tobacco retailer's license any status or right other than the limited conditional privilege to act as a tobacco retailer at the location in the City of Clearlake identified on the face of the permit. Nothing in this article shall be construed to render inapplicable, supersede, or apply in lieu of, any other provision of applicable law.

6-10.111. Fee for License.

The fee to issue or to renew a tobacco retailer's license shall be established by resolution of the City of Clearlake and shall be reviewed annually with the master fee schedule. The fee shall be calculated so as to recover the total cost of administration and enforcement of this article, including, but not limited to, issuing a license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators, ensure the licensee has a hazardous waste management plan for disposal of tobacco product waste but shall not exceed the cost of the administration and enforcement of this article. All fees and interest upon proceeds of fees shall be used exclusively to fund the administration and enforcement of this article. Fees are nonrefundable except as may be required by law.

6-10.112. Compliance Monitoring.

a. Compliance with this article may be monitored by the County, acting as the Department via agreement with the City, or City staff acting as the Department. The City Manager may also designate another agency to perform these functions under agreement with that agency. Any peace officer may enforce the penal provisions of this Article.
b. All licensed premises must be open to inspection by Department staff or designated persons during regular business hours. At the conclusion of any premise inspection, the license holder shall be provided a report, which, among other things, shall note any documented violations and provide the license holder no greater than fourteen (14) days to cure such violations. Any corrections shall be verified via documentation submitted by the license holder and/or in a subsequent inspection after the period to cure has lapsed.
c. Prior to the Department's approval or denial of an application for a license, the Department shall inspect each proposed location for which a complete application for a tobacco retail license is submitted and a nonrefundable application fee has been paid.
d. The Department shall endeavor to check the compliance of each tobacco retailer at least three times per 12-month period to ensure compliance with this article.
e. Compliance checks shall determine, at a minimum, if the tobacco retailer is conducting business in a manner that complies with tobacco laws regulating youth access to tobacco. When appropriate, the compliance

checks shall determine compliance with other laws applicable to tobacco retailing.

f. The Department may conduct compliance checks based on allegations of violations received from the public, as resources allow. In collaboration with law enforcement, compliance checks may involve the participation of persons between the ages of 18 and 20 to enter licensed premises to attempt to purchase tobacco products.
g. The Department shall not enforce any law establishing a minimum age for tobacco purchases or possession against any person who otherwise might be in violation of such law because of the person's age (hereinafter "youth decoy") if the potential violation occurs when:
    1. The youth decoy is participating in a compliance check supervised by a peace officer or a code enforcement official of the City or County; or
    2. The youth decoy is participating in a compliance check funded, in part, either directly or indirectly through subcontracting, by the City or the County, or funded, in part, either directly or indirectly, through subcontracting, by the California Department of Health Services.
h. Nothing in this section shall create a right of action in any licensee or other person against the City, the County or their agents.

6-10.113. Suspension or Revocation of License.

a. *Fines, Suspension, or Revocation of License for Violation.* In addition to any other penalty authorized by law, the following penalties shall be imposed on a tobacco retailer or licensee if the Department finds, after the licensee is afforded notice and an opportunity to be heard, that the licensee, or any of the licensee's agents or employees, have violated any of the requirements, conditions, or prohibitions of Sections 6-10.102through 6-10.105 of this Article.
    i. Upon a finding by the Department of a first violation at a location, the license shall be suspended for 30 days and the tobacco retailer shall pay a $1000 fine.
    ii. Upon a finding by the Department of a second violation at a location within any 60-month period, the license shall be suspended for 90 days and the tobacco retailer shall pay a $2500 fine.
    iii. Upon a finding by the Department of a third violation at a location within any 60-month period, the license shall be suspended for 120 days and the tobacco retailer shall pay a $5000 fine.
    iv. Upon a finding by the Department of four or more violations at a location within any 60-month period, the license shall be revoked, and no new license shall issue for the licensee until 5 years have passed from the date of revocation.
b. *Appeal of Suspension or Revocation.* A decision of the Department to impose penalties under Section 6-10.113.a is appealable to a third-party Hearing Officer designated by the Department and any appeal must be

filed in writing with the Department within 10 days of mailing of the Department's decision. The appeal shall comply with the provisions of subsections b.1 through b.5 below. If such an appeal is timely made, it shall stay enforcement of the appealed action. An appeal to a Hearing Officer is not available for a revocation made pursuant to subsection c below.

1. Upon determining the existence of any of the grounds pursuant to this article for the suspension or revocation of a license, or the imposition of a penalty for tobacco retailing without a license, the Hearing Officer shall issue a notice of intended decision to the licensee, or the person against whom the penalty for tobacco retailing without a license is directed. The notice shall be provided by personal service or by first class mail, postage prepaid, and shall include a copy of the affidavit or certificate of mailing.
2. The notice of intended decision shall state all the grounds upon which the revocation, suspension, or imposition of penalty is based.
3. The notice of intended decision shall specify the effective date of the action.
4. The notice of intended decision shall state that the Department shall give the licensee, or the person subject to the penalty for tobacco retailing without a license, an opportunity to request a hearing thereon. The hearing shall be an informal hearing before the Hearing Officer. Within 30 days of the hearing, or within 10 days if no hearing is requested, the Hearing Officer shall issue a decision and serve the decision.

c. *Revocation of License Wrongly Issued.*. A tobacco retailer's license shall be revoked if the Department finds, after the licensee is afforded notice and an opportunity to be heard, that one or more of the bases for denial of a license under Section 6-10.107 existed at the time application was made or at any time before the license issued. The decision by the Department shall be the final decision of the Department.

6-10.114. Tobacco Retailing Without a Valid License.

a. *Ineligible for License.* In addition to any other penalty authorized by law, if the Department finds, or if a court of competent jurisdiction determines, after notice and an opportunity to be heard, that any person has engaged in tobacco retailing at a location without a valid tobacco retailer's license, either directly or through the person's agents or employees, the person shall be ineligible to apply for, or to be issued, a tobacco retailer's license as follows: After a first violation of this section at a location, no new license may issue for the person or the location (unless ownership of the business at the location has been transferred in an arm's length transaction), until 30 days have passed from the date of the violation; and the tobacco retailer will be issued a $5000 fine for selling without a

license. Notification of this violation will be sent to the jurisdiction in which the tobacco retailer was selling without a license.

6-10.115. Sale of Tobacco Products to Minors.

a. Any licensee or tobacco retailer who sells, gives, or in any way furnishes to another person who is under 21 years of age any tobacco products resulting in an arrest or citation under the California Penal Code shall result in the suspension of the tobacco retail owner's license pending final disposition of the case. During the period of suspension, the licensee or tobacco retail owner shall be given reasonable notice and an opportunity to demonstrate to the Department that the tobacco products were not sold, given, or in any way furnished to another person who is under 21 years of age.
    1. Upon a finding by the Department of a first violation at a location, the license shall be suspended for 30 days unless final disposition of the case does not result in a conviction.
    2. Upon a finding by the Department of a second violation at a location within any 60-month period, the license shall be suspended for 90 days unless final disposition of the case does not result in a conviction.
    3. Upon a finding by the Department of a third violation at a location within any 60-month period, the license shall be suspended for 120 days unless final disposition of the case does not result in a conviction.
    4. Upon a finding by the Department of four or more violations at a location within any 60-month period, the license shall be revoked, and no new license shall issue for the licensee until 5 years have passed from the date of revocation unless final disposition of the case does not result in a conviction.

6-10.116. Additional Remedies.

a. The remedies provided by this article are cumulative and in addition to any other remedies available at law or in equity.
b. Whenever evidence of a violation of this article is obtained in any part through the participation of a person under the age of 21 years, such person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this article and the alleged violation shall be adjudicated based upon the evidence presented.
c. In addition to other remedies provided by this chapter or by other law, any violation of this article may be remedied by criminal prosecution by the District Attorney and/or administrative or judicial nuisance abatement proceedings, civil code enforcement proceedings, and suits for injunctive relief.
d. For the purposes of the civil remedies provided in this article:

1. Each day on which a tobacco product is distributed, sold, or offered for sale in violation of this article shall constitute a separate violation of this article; and
2. Each individual tobacco product that is distributed, sold, or offered for sale in violation of this article shall constitute a separate violation of this article.

e. All tobacco retailers are responsible for the actions of their employees relating to the sale, offer to sell, and furnishing of tobacco products at the retail location. The sale of any tobacco product by an employee shall be considered an act of the tobacco retailer.

6-10.117. Exceptions.

a. Nothing in this article prevents the provision of tobacco products to any person as part of an indigenous practice or a lawfully recognized religious or spiritual ceremony or practice.
b. Nothing in this chapter shall be construed to penalize the purchase, use, or possession of a tobacco product by any person not engaged in tobacco retailing.

6-10.118. Construction and Severability.

It is the intent of the City Council to supplement applicable state and federal law and not to duplicate or contradict such law and this ordinance shall be construed consistently with that intention. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this article, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases of this article, or its application to any other person or circumstance. The City Council hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION 2. The City Council finds this ordinance is not a project within the meaning of section 15378 of the California Environmental Quality Act (“CEQA”) Guidelines, because there is no potential for it to result in an impact to or physical change in the environment, either directly or indirectly. In the event this ordinance is found to be subject to CEQA, it is exempt from CEQA pursuant to section 15061(b)(3) of the CEQA Guidelines, known as the “Common Sense” exemption, because it can be seen with certainty that there is no possibility of a significant effect on the environment.

SECTION 3. EFFECTIVE DATE. This ordinance shall be in full force and effect commencing thirty (30) days after its final adoption and a summary hereof shall be published once within fifteen (15) days in a newspaper of general circulation printed and published in the County of Lake and circulated in the City of Clearlake, hereby designated for that purpose by the City Council.

SECTION 7. The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published in the manner and form provided by law in a newspaper of general circulation printed and published in the City of Clearlake, State of California.

Introduced at a regular meeting of the City Council on the 7th day of November, 2024, by the following roll call vote:

MOTION:

AYES:
NOES:
ABSENT
ABSTAINED

Passed and approved at the regular meeting of the City Council on the 21st day of November, 2024, by the following roll call vote:

MOTION:

AYES:
NOES:
ABSENT:
ABSTAINED:

ATTEST:

_____ _____
, City Clerk , Mayor

APPROVED AS TO FORM:

_____
Dean J. Pucci, City Attorney

MINUTES OF PREVIOUS MEETING

October 9, 2024

The regular monthly meeting of the Board of Trustees of the Lake County Vector Control District was called to order at 1:34 P.M. by President Giambruno.

Board Present: Rob Bostock, Curt Giambruno, Frank Lincoln, Ron Nagy, and George Spurr.

Absent: None.

District Personnel: Jamesina J. Scott, Ph.D., District Manager and Research Director.

Guests: None.

Citizen's Input: None.

Agenda Additions and/or Deletions: A budget transfer was needed to cover an unanticipated increase to the Reclamation property levee maintenance assessment. Mr. Spurr moved to add the budget transfer to the agenda as Item 9.5. Mr. Bostock seconded the motion. Motion carried unanimously.

Approve Minutes of September 11, 2024 Regular Meeting with Corrections to the Check Numbers to Include Checks 22814-22831 Making the Total Expenditures for September 2024. $117,841.33

Mr. Lincoln moved to approve the Board Minutes of September 11, 2024 with corrections. Mr. Nagy seconded the motion. Motion carried unanimously.

Research Report

Dr. Scott reported on arbovirus activity. West Nile virus (WNV) activity has been detected in thirteen mosquito samples from Lake County. In addition, three dead birds have tested positive for WNV this year as well as five sentinel chickens.

For the rest of California, thirty-one counties have reported West Nile virus activity. Sixty-three residents from 20 counties have been diagnosed with WNV illness with forty-six of the cases having neuroinvasive disease and 6 fatalities. In addition, 474 dead birds from 20 counties have tested positive

for WNV, 1,835 mosquito samples from 25 counties have tested positive for WNV, and 139 sentinel chickens have seroconverted for WNV in 2024.

Twenty-six SLEV-positive mosquito samples have been reported from five California counties in 2024.

Five cases of locally acquired dengue (DEN) virus infection have been reported from residents of Los Angeles County this year.

In the rest of the nation, 856 human cases of West Nile virus illness have been reported from forty-five states.

Thirteen cases of eastern equine encephalitis virus (EEEV) infections have been reported from residents of seven states. Three of the cases were fatal.

Thirteen human cases of Jamestown Canyon virus (JCV) have been reported from five states in 2024.

Twenty-three human cases of La Crosse encephalitis virus (LACV) have been reported from five states this year.

Forty-five human cases of Powassan virus (POWV), a tick-borne virus, have been reported from nine states this year. Five of the cases were fatal.

There have been 115 chikungunya virus disease cases in travelers returning to the United States from affected areas. No locally acquired cases have been reported this year.

There have been 21 Zika virus disease cases reported this year. Twelve of the cases were in travelers returning from affected areas and nine cases were locally acquired in residents for Puerto Rico.

There have been 11,769,579 suspected cases of dengue reported in the Americas this year. Through October 2, 5,608 dengue cases have been reported in the United States and its territories. Of these cases, 3,617 were locally acquired in California, Florida, and the US Territories of Puerto Rico and the US Virgin Isles. The rest of the cases were in travelers returning from affected areas.

There have been ninety Oropouche Fever cases identified in travelers who recently returned from Cuba, South America, and Central America this year.

Eighty-six of the cases were in Florida, and single cases were reported in California, Colorado, Kentucky, and New York.

Dr. Scott reported on adult biting fly activity. Carbon-dioxide-baited-traps were sent in various locations around the county in September. The most abundant mosquito species was *Culex tarsalis.* Large numbers of *Culicoides* spp. (biting black gnats) were collected as well.

The New Jersey Light Traps set in Clearlake and Upper Lake were sampled in September. The most abundant mosquito species collected were *Anopheles franciscanus, Culex tarsalis,* and *Anopheles freeborni*.

Dr. Scott reported on tick testing. Eight *Ixodes pacificus* ticks have been submitted for testing. All the samples were negative for *Borrelia burgdorferi*, the causative agent for Lyme Disease.

Dr. Scott reported on the Clear Lake Gnat, Chironominae, and Tanypodinae Surveillance in Clear Lake. Lake checks were not completed in September due to the employee availability.

Operation Report

No rainfall was recorded at the District in September. The total rainfall for the season is 29.88 inches, which is 14% above the average annual rainfall.

The level of Clear Lake was at 3.06 feet on the Rumsey Gauge on September 1, and declined to 2.23 feet by September 30.

The Vector Control Technicians responded to 63 service requests in September, including 12 yellowjacket requests and 5 technician-initiated larval source treatments. In addition, 13 online service requests were submitted in September.

In September Environmental Health Technician Shanna Parsons updated the District on the County's progress in contacting property owners regarding septic tanks that were exposed during the 2015 Valley Fire. So far, five tanks have been removed from the District's list. Ms. Parsons and Environmental Health Director Craig Weatherbee are working on the next round of letters to be mailed out.

The biennial inspection of the District's Todd Road facility for the Certified Unified Program Agencies (CUPA) compliance was completed on

September 30 by Mr. Dan Goold the Hazardous Materials Specialist for Lake County Environmental Health. The District was found to be in compliance.

Dr. Scott participated in a special meeting of the Employer Risk Management Authority (ERMA) Board of Directors on September 25. Dr. Scott serves as the Vector Control Joint Powers Agency (VCJPA) Alternate Representative.

During September, Office Manager Jacinda Franusich completed compiling documents for destruction in accordance with the District's document retention policy.

Seasonal Field Assistant, Avery Thurman, completed his employment with the District in September.

In September, the goats returned to the Districts property in the Reclamation for vegetation abatement. Some of the goats were also brought to the Todd Road facility where they removed vegetation from the perimeter and back of the property.

Three employees complete their forklift certification in September. Vector Control Technician Brad Hayes completed training last year that enables him to certify new employees and recertify existing employees.

On September 20, the District participated in the Lakeport Unified School District's annual Trucks on the Track event. Both lab and vector control staff participated in the event.

On September 5, Dr. Scott and the District's Labor Negotiator, Austris Rungis, met with Jacinda Franusich and the Employee's Union Agent, Carl Carr, and Operating Engineers #3 Director of Benefits, Mike McCall to discuss retirement medical benefits that are available through OE3.

Dr. Scott worked with VC3 on the District's application to the State and Local Cybersecurity Grant Program (SLCGP). Dr. Scott submitted the application and received confirmation of its receipt by the California Governor's Office of Emergency Services (CalOES).

Dr. Scott attended the Society for Vector Ecology (SOVE) Annual Conference from September 15-19 in Fort Collins, CO.

Dr. Scott attended the California Special District Association's (CSDA) Webinar titled "Talent Pipeline: How to Develop and Maintain Your Agency's Succession Plan."

Dr. Scott continues to review and prepare updates to the District's policy handbook.

Approve Budget Transfer

Mr. Spurr moved to approve the Budget Transfer from 796.90-01 Contingencies, in the amount of $2,000, to 796.48-00 Taxes/Assessments. Mr. Nagy seconded the motion. Motion carried unanimously.

Board Review and Consideration to Approve LCVCD Certificate/Log of Records to be Destroyed/Disposed

After some discussion, Mr. Bostock moved to approve the LCVCD Certificate/Log of Records to be Destroyed/Disposed. Mr. Spurr seconded the motion. Motion carried unanimously.

Approve Checks for the Month of October 2024

Mr. Nagy moved to approve checks 22832-22881 for the month of October 2024 in the amount of $93,073.88. Mr. Bostock seconded the motion. Motion carried unanimously.

Other Business

No other business was discussed.

Announcement of Next Regular Board Meeting

The next regular meeting of the Board will be at 1:30 PM on November 13, 2024 at the Lake County Vector Control District Office, 410 Esplanade Lakeport, CA 95453.

Mr. Nagy moved to adjourn the meeting. Mr. Spurr seconded the motion. There being no other business to discuss, the meeting was adjourned by President Giambruno at 2:30 PM.

Respectfully submitted,

Ronald Nagy
Secretary

Clearlake, CA

Check Register

Packet: APPKT03434 - 11/14/24 AP CHECK RUN AA

By Check Number

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
Bank Code: AP-Accounts Payable						
001897	AIRMEDCARE NETWORK	11/14/2024	Regular	0.00	21.00	17984
001435	ARGONAUT CONSTRUCTORS	11/14/2024	Regular	0.00	50,677.51	17985
000024	CLEARLAKE POLICE ASSOCIATION	11/14/2024	Regular	0.00	1,825.00	17986
000077	COUNTY OF LAKE RECORDER	11/14/2024	Regular	0.00	95.00	17987
001212	DEPT OF HOUSING COMM DEVELOP	11/14/2024	Regular	0.00	22.00	17988
001212	DEPT OF HOUSING COMM DEVELOP	11/14/2024	Regular	0.00	11.00	17989
VEN01545	LARKYN E FEILER	11/14/2024	Regular	0.00	2,766.06	17990
002280	LAW OFFICES OF P SCOTT BROWNE	11/14/2024	Regular	0.00	2,046.43	17991
001489	NAPA AUTO PARTS	11/14/2024	Regular	0.00	8.12	17992
000027	OPERATING ENGINEERS PUBLIC EMF	11/14/2024	Regular	0.00	87,936.00	17993
VEN01578	SAFE RESRAINTS, INC.	11/14/2024	Regular	0.00	1,774.93	17994
VEN01369	STEPHEN J FOGEL - SJF ELECTRIC	11/14/2024	Regular	0.00	748.56	17995
000708	VALIC LOCKBOX	11/14/2024	Regular	0.00	470.00	17996

Bank Code AP Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	16	13	0.00	148,401.61
Manual Checks	0	0	0.00	0.00
Voided Checks	0	0	0.00	0.00
Bank Drafts	0	0	0.00	0.00
EFT's	0	0	0.00	0.00
	16	**13**	**0.00**	**148,401.61**

Fund Summary

Fund	Name	Period	Amount
999	Pooled Cash	11/2024	148,401.61
			148,401.61

CITY OF CLEARLAKE

City Council

STAFF REPORT

SUBJECT: Continuation of Director of Emergency Services/City Manager Proclamation Declaring a Local Emergency for Winter Storms	
SUBMITTED BY: Melissa Swanson, Administrative Services Director/City Clerk	
PURPOSE OF REPORT: ☐ Information only ☐ Discussion ☒ Action Item	

WHAT IS BEING ASKED OF THE CITY COUNCIL:

On February 9, 2024, the Director of Emergency Services/City Manager issued a Proclamation of Local Emergency due to winter storms (attached), which was ratified by the City Council on February 15, 2024.

Pursuant to Section 2-11.6.a.6.a of the Clearlake Municipal Code, the Director is empowered to make and issue rules and regulation on matters reasonably related to the protection of life and property as affected by such emergency; provide, however such rules and regulations must be confirmed at the earliest practical time by the City Council. Thereafter, the emergency declaration must be continued by affirmation of the Council every 30 days.

Staff believe there is still a need to continue the local emergency order and it is in the best interests of the City to have the Council ratify and continue this order until the state of emergency can be lifted.

OPTIONS:

1. Continue to ratify order.

FISCAL IMPACT:

☒ None ☐ Budgeted Item? ☐ Yes ☐ No

Budget Adjustment Needed? ☐ Yes ☒ No If yes, amount of appropriation increase: $

Affected fund(s): ☐ General Fund ☐ Measure P Fund ☐ Measure V Fund ☐ Other:

Comments:

STRATEGIC PLAN IMPACT:

☒ Goal #1: Make Clearlake a Visibly Cleaner City

☒ Goal #2: Make Clearlake a Statistically Safer City

☐ Goal #3: Improve the Quality of Life in Clearlake with Improved Public Facilities

☒ Goal #4: Improve the Image of Clearlake

☐ Goal #5: Ensure Fiscal Sustainability of City

☐ Goal #6: Update Policies and Procedures to Current Government Standards

☐ Goal #7: Support Economic Development

SUGGESTED MOTIONS:

☒ **Attachments:** 1) Proclamation Declaring a Local Emergency for Winter Storms

City of Clearlake

14050 Olympic Drive, Clearlake, California 95422
(707) 994-8201 Fax (707) 995-2653

PROCLAMATION BY THE CITY OF CLEARLAKE DIRECTOR OF EMERGENCY SERVICES DECLARING A LOCAL EMERGENCY FOR WINTER STORMS

WHEREAS, City of Clearlake Municipal Code Section 2-11.6 empowers the Director of Emergency Services (City Manager) to proclaim the existence or threatened existence of a local emergency when the city is affected or likely to be affected by a public calamity and the City Council is not in session; and

WHEREAS, Government Code Section 8550 et seq., including Section 8558(c), authorize the City Manager to proclaim a local emergency when the City is threatened by conditions of disaster or extreme peril to the safety of persons and property within the City that are likely to be beyond the control of the services, personnel, equipment, and facilities of the City; and

WHEREAS, starting on February 2, 2024 a winter storm resulted in high winds and heavy rain; and

WHEREAS, these conditions have caused a loss of stability to trees and hillsides, including significant damage to property, infrastructure and public safety within the city limits; and

WHEREAS, the mobilization of local resources, ability to coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and allow for future reimbursement by the state and federal governments will be critical to successfully responding to the impacts of the winter storms; and

WHEREAS, the City Manager, as the City's Director of Emergency Services, has the power to declare a local emergency as authorized by Government Code section 8630 and Clearlake Municipal Code section 2-11.6.

NOW, THEREFORE, IT IS PROCLAIMED AND ORDERED by the City Manager of the City of Clearlake as follows:

A. A local emergency exists based on the existence of conditions of disaster or of extreme peril to the safety of persons and property, as detailed in the recitals set forth above.

B. The area within the City which is endangered and/or imperiled.

C. During the existence of this local emergency, the powers, functions, and duties of the emergency organization of this City shall be those prescribed by state law and by ordinances, resolutions, and orders of this City, including but not limited to the City of Clearlake Emergency Operations Plan.

D. The City Council shall review and ratify this proclamation within seven (7) days as required by state law, and if ratified, shall continue to exist until the City Council proclaims the termination of this local emergency. The City Council shall review the need for continuing the local emergency as required by state law until it terminates the local emergency, and shall terminate the local emergency at the earliest possible date that conditions warrant.

E. That a copy of this proclamation be forwarded to the Director of California Governor's Office of Emergency Services requesting that the Director find it acceptable in accordance with State Law; that the Governor of California, pursuant to the Emergency Services Act, issue a proclamation declaring an emergency in the City of Clearlake; that the Governor waive regulations that may hinder response and recovery efforts; that recovery assistance be made available under the California Disaster Assistance Act; and that the State expedite access to State and Federal resources and any other appropriate federal disaster relief programs.

DATED: February 9, 2024

Alan D. Flora
Director of Emergency Services

CITY COUNCIL SPECIAL MEETING

Clearlake City Hall Council Chambers
14050 Olympic Dr, Clearlake, CA
Thursday, October 24, 2024
Special Meeting 5:00 PM

MINUTES

A. ROLL CALL

PRESENT
Vice Mayor Joyce Overton
Council Member Russ Cremer
Council Member Russ Perdock

ABSENT
Mayor David Claffey
Council Member Dirk Slooten

B. PLEDGE OF ALLEGIANCE

C. BUSINESS

1. Designating Agent for Non-State Agencies-CalOES Reso No. 2024-45
   Authorization to: Designate City Manager as Agent for City of Clearlake for Open/Future Disasters (3 years)

   City Manager Flora gave the staff report.

   Motion made by Council Member Perdock, Seconded by Council Member Cremer.
   Voting Yea: Vice Mayor Overton, Council Member Cremer, Council Member Perdock

2. Consideration of a Resolution Acknowledging Completion of Oak Valley Villas (CDBG) Reso. 2024-46
   Recommended Action: Adopt resolution

   City Manager Flora gave the staff report.

   Motion made by Council Member Cremer, Seconded by Council Member Perdock.
   Voting Yea: Vice Mayor Overton, Council Member Cremer, Council Member Perdock

D. ADJOURNMENT

The meeting was adjourned at 5:06 p.m.

Melissa Swanson, Administrative Services Director/City Clerk

CITY OF CLEARLAKE

City Council

STAFF REPORT

SUBJECT: Discussion and Consideration of Ordinance No. 276-2024, An Ordinance Amending Section 3-5 of the Municipal Code Related to the Fire Mitigation Fee	**MEETING DATE:** Nov. 21, 2024
SUBMITTED BY: Alan Flora, City Manager	
PURPOSE OF REPORT: ☐ Information only ☒ Discussion ☒ Action Item	

WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The City Council is being asked to consider Ordinance No. 276-2024, which updates Clearlake Municipal Code ("CMC") §3-5, Fire Mitigation Fee, hold first reading of the ordinance, read it by title only, waive further reading, and set the second reading and adoption for the December 5, 2024 meeting.

BACKGROUND/DISCUSSION:

This year the City Council has considered several agenda items related to the fire mitigation fees that have been requested by the Lake County Fire Protection District. On March 7th, the Council held a workshop, public hearing on March 21st, and adopted an ordinance amendment on April 4th. This ordinance amendment removed the specific fee from the ordinance and referenced a resolution which actually set the fee on July 18th. There were other clean up items in the ordinance that required updating. Those items are what is now before the Council for consideration and 1st reading.

At the June 18th meeting the Council gave specific direction on a few items to include in the ordinance amendments. First, that the City collect the fee during the building permit process and then remit the funds to the District. Second, that an automatic annual adjustment to the fee be included based on a CPI index. Third, that the District submit an annual report to the Council on the amount of the fee and what it was spent on, and finally, the use of the funds collected in the City be only spent on facilities within the City.

OPTIONS:

1. Move to hold first reading of Ordinance No. 276-2024, read it by title only, waive further reading, and set second reading and adoption for the December 5th meeting.
2. Provide other direction to staff.

FISCAL IMPACT:

☐ None ☐ $ Budgeted Item? ☐ Yes ☐ No

Budget Adjustment Needed? ☐ Yes ☐ No If yes, amount of appropriation increase: $

Affected fund(s): ☐ General Fund ☐ Measure P Fund ☐ Measure V Fund ☐ Other:

Comments**:** Minimal staff impact for fee collection on behalf of the District and management of fund, interest allocation and remittance to the District.

STRATEGIC PLAN IMPACT:

☐ Goal #1: Make Clearlake a Visibly Cleaner City

☐ Goal #2: Make Clearlake a Statistically Safer City

☐ Goal #3: Improve the Quality of Life in Clearlake with Improved Public Facilities

☐ Goal #4: Improve the Image of Clearlake

☐ Goal #5: Ensure Fiscal Sustainability of City

☐ Goal #6: Update Policies and Procedures to Current Government Standards

☐ Goal #7: Support Economic Development

☒ **Attachments:** 1)Draft Ordinance 276-2024

2)Redline comparison with existing ordinance

Ordinance No. 276-2024

AN ORDINANCE OF THE CITY OF CLEARLAKE, CALIFORNIA, AMENDING CHAPTER 3-5 OF THE CLEARLAKE MUNICIPAL CODE, RELATING TO A FIRE MITIGATION FEE

RECITALS

WHEREAS, subject to the restrictions of the Mitigation Fee Act (Section 66000 *et* seq. of the California Government Code), the City has the authority to levy mitigation fees upon new development to defray all or a portion of the cost of public facilities related to the development project; and

WHEREAS, in order to serve new development with fire protection and emergency medical services, it is necessary to construct, acquire or expand facilities and equipment needed to these services; and

WHEREAS, pursuant to Chapter 3-5 of the Municipal Code, the City has established a fire mitigation fee to fund needed facilities and equipment; and

WHEREAS, because fire protection and emergency medical services in the City have historically been provided by one or more agencies that are legally distinct from the City, the City largely has relied on these entities to determine what facilities and equipment are required by new development, and what fees will be necessary to fund the costs of providing those facilities and that equipment; and

WHEREAS, the Lake County Fire Protection District is the entity that currently provides these services in the City; and

WHEREAS, the City desires to clarify Chapter 3-5 of the Municipal Code to provide that the City will collect the fire mitigation fees and to make other changes; and

WHEREAS, it is the intention of the City Council to set the rates of the fire mitigation fee by resolution, and to make the findings required by the Mitigation Fee Act at the time it sets the rates of the fee; and

WHEREAS, the City, pursuant to the provisions of the California Environmental Quality Act ("CEQA") (Cal. Pub. Res. Code §§21000 and following) and State CEQA Guidelines (14 CCR §§15000 and following) has determined that this ordinance is not a project under CEQA pursuant to Title 14, Section 15378 (b)(5) of the California Code of Regulations;

NOW, THEREFORE, The City Council of the City of Clearlake, California, does hereby ordain as follows:

Section 1. The above recitals are true and are hereby incorporated into this ordinance.

Section 2. Chapter 3-5 of the Clearlake Municipal Code is hereby amended to read as follows:

3-5 FIRE MITIGATION FEE.

3-5.1 Title.

This Chapter shall be known and may be cited as the "Fire Mitigation Fee Ordinance."

3-5.2 Need.

The Council of the City of Clearlake finds and declares as follows:

a. Adequate fire protection and emergency medical response facilities and equipment must be available to serve new development.

b. New development requires the construction or expansion of fire protection and emergency medical response facilities and the acquisition of equipment.

c. Property taxes and fire suppression assessments collected by the Fire Agency are insufficient to provide funds for expansion of construction of fire protection and emergency medical response facilities and purchase of equipment necessitated by new development resulting in the potential for inadequate fire protection and emergency medical response coverage for the new development and the growing population of Clearlake.

d. The above conditions place the City of Clearlake's growing population in a condition perilous to its health and safety.

e. The impacts of development on the existing fire protection and emergency medical response facilities and equipment cannot be alleviated without City involvement.

For the above reasons, new methods for funding fire protection and emergency medical response facilities and equipment necessitated by development are needed in the City of Clearlake.

3-5.3 Purpose.

The purpose of this section is to implement the City of Clearlake General Plan policy providing for the adoption of fire mitigation fees and for the collection of said fees to be allocated to the Fire Agency for the development and acquisition of facilities and equipment in order to ensure the provision of the facilities and equipment necessary to provide fire protection and emergency medical response services necessitated by new development.

3-5.4 Definitions.

a. DEVELOPMENT shall mean all construction for which a building permit or other permit is required.

b. DIRECTOR shall mean the Director of the Department of Community Development of the City of Clearlake.

c. OTHER PERMITS shall mean conditional use permits and site plan review permits.

d. CLERK shall mean the City Clerk of the City of Clearlake.

e. FIRE AGENCY and AGENCY shall mean any special district providing fire protection services within the incorporated area of the City of Clearlake, currently Lake County Fire Protection District.

f. FACILITIES and EQUIPMENT shall mean any long-term capital facilities and equipment used by a Fire Agency for the fire protection or emergency medical response services including all land, buildings, and other structures, as well as all apparatus, ambulances, vehicles, and other equipment.

3-5.5 Establishment of Fire Service Impact Fees Under New Development.

There is hereby established a fee to be paid by all applicants for building permits or other permits for development and in particular on all classes of covered occupancies constructed within the City, unless otherwise excepted therefrom. A covered occupancy is defined as a roof assembly as the same is described within the Uniform Building Code heretofore adopted by the City Council and as readopted and amended from time to time in accordance with State law. This fee shall be paid to the Agency as provided for in subsection 3-5.9 of this section

3-5.5.50 Prior Agreements and in Lieu Dedication.

a. Any agreement existing prior to the operative date of this section between an applicant for development and a Fire Agency or the City pertaining to the dedication of land or payment of fees for facilities and equipment to serve the property which is the subject of the application, or any portion thereof, shall satisfy the requirements of this section.

b. If land, facilities or equipment has been dedicated or donated to, and accepted by, the Fire Agency as a condition of approval of a discretionary permit, such dedication or donation may be considered by the City Council as satisfying the requirements of this section.

3-5.6 Deposit and Expenditure of Fees.

a. Fees paid under this section shall be collected by the City and held in a separate account or fund in a manner to avoid any commingling of the fees with other revenues and funds of the City, except for temporary investments. Interest on fee revenue shall also be placed in that account or fund.

b. The City may retain from this account or fund the amount necessary to reimburse the City for its reasonable costs of collecting and administering the fees.

c. The remaining balance of the fund shall be transferred quarterly, or on some other interval as agreed upon, to the Fire Agency serving the area from which the fees were collected, subject to the requirement that the Fire Agency retains this balance its City of Clearlake Fire Mitigation Fee account or fund that is governed by the requirements of its resolution adopted in compliance with Chapter 3-5.7.50(b) of this Code, that the Fire Agency is in compliance with the requirements of such resolution, and that such resolution has not been amended by the Agency without the permission of the City. Funds may only be expended in accordance with the requirements of the resolution setting the rate for the fee.

   All fees collected pursuant to this section and transferred to a Fire Agency, including any interest accrued after transfer, shall be used by the Agency for the purpose of providing for capital facilities and equipment. Facilities funded by fees collected within the City shall only be spent on facilities within the Clearlake City boundary. .

3-5.7 Exemptions.

a. There shall be exempt from the requirements of this article, building permits for the following types of

Development:

1) Piers which are not covered, ramps, boat lifts, docks, suspended platforms, and pilings;

2) Agricultural buildings requiring an exempt building permit.

b. The requirements of this article shall not apply to buildings and structures constructed owned and used by governmental entities.

c. The requirements of this section shall not apply to the replacement on the same parcel by the owner of a dwelling or dwellings destroyed by fire or other calamity or demolished for replacement, provided that:

a. The application for a building permit to replace such dwelling is filed with the Director within one (1) year after destruction or demolition of the dwelling, or within three (3) years of the date a local emergency is declared if the destruction or demolition occurred within the geographical area encompassed by that local emergency declaration and resulted from events giving rise to said declaration;

b. There is no change in class of occupancy or type of use; and

c. The square footage is not increased. Fees shall be required only for additional square footage greater than five hundred (500) square feet

3-5.7.50 Required Actions of the Fire Agency.

This section shall become applicable to development within that area which is within the boundaries of a Fire Agency and the incorporated area of the City when the following events occur:

a. The governing body of the Fire Agency adopts a resolution making the following findings:

1. The Agency does not have existing fire protection facilities and equipment which could be used to provide an adequate level of services to new development within the Agency's boundaries.

2. The Agency has determined it does not have sufficient funds available to construct additional facilities from fund balances, capital facility funds, property tax sources, fire suppression assessments, or any other appropriate sources.

3. The lack of facilities and equipment to serve new development would create a situation perilous to the public health and safety if fire mitigation fees are not levied within the Agency's district.

b. The governing body of a Fire Agency resolves as follows:

1. The Agency requests that the City collect a specified fire mitigation fee on the Agency's behalf from applicants for building permits or other permits for development.
2. The Agency makes the findings with respect to the proposed rate that would be required by Section 66001 of the Government Code in connection with the imposition of the rate.

3. The Agency (i) adopts and proposes to the City a Capital Fire Facility and Equipment Plan, containing the

information required by Government Code Section 66002, that identifies how the Agency will use proceeds of the fee at the proposed rate, and (ii) adopts and proposes to the City a Nexus Study containing the information required by Government Code Section 66016.5 with respect to such fee and rate. The Capital Fire Facilities and Equipment Plan and the Nexus Study may be combined in one document.

3. Mitigation fees paid under this section shall only be used to expand the availability of facilities and equipment to serve new development in the City of Clearlake, as identified in the Capital Facilities Plan adopted by the Agency for the Fee.. Fees collected by the City must be used on facilities within the boundary of the City. Fee proceeds shall not be used to defray costs attributable to existing deficiencies in public facilities, but may be used to defray costs attributable to the increased demand for public facilities reasonably related to the development project in order to (1) refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent with the general plan

4. The Agency shall place all funds received from the City under this section and all interest subsequently accrued by the Agency on these funds, in a separate account or fund to be known as the "City of Clearlake Fire Mitigation Fee".

5. The Agency shall submit a Fire Mitigation Fee Annual Report no later than October 31 of each year to the City Clerk. Said report shall include, but not be limited to, the balance in the account at the end of the previous fiscal year, the fee revenue received, the amount and type of expenditures made, and the ending balance in the fund. In addition, the report shall specify the actions the Agency plans to take to alleviate the facility and equipment needs caused by new development in a capital fire facilities and equipment plan adopted at a noticed public hearing. The Agency shall make available, upon request by the City Clerk, a copy of its annual audit report. The annual report shall also include all information that is needed by the City to comply with its annual reporting obligations under the Mitigation Fee Act.

6. The Agency shall make its records available to the public on request which justify the basis for the fee amount.

7. The Agency shall defend, indemnify, and hold the City harmless for any errors made by the City in collecting or transmitting the fees to the Agency, and for any alleged errors made by the Agency that are challenged in proceedings against the City for a refund of fees collected.

8. The Agency shall make findings, with respect to any portion of the fee remaining unexpended or uncommitted in its account five (5) or more years after deposit of the fee, to identify the purpose to which the fee is to be put and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged. The Agency shall refund to the then current record owner or owners of the development project or projects on a prorated basis, the unexpended or uncommitted portion of the fee and any interest accrued thereon, for which need cannot be demonstrated. Such findings shall include all information needed for the City to Comply with its reporting obligations under the Mitigation Fee Act with respect to such unexpended or uncommitted funds.

c. The governing body of the Fire Agency shall send a certified copy of the Resolution, the Capital Fire Facility and Equipment Plan, and the Nexus Study to the City Clerk.

d. If the City Council approves an ordinance or resolution changing the rate of the fire fee, it shall send a certified copy of the resolution to the Fire District,

3-5.8 Fire Mitigation Fee Set By Resolution.

a. *Fire Mitigation Fee.* A fire mitigation fee is hereby authorized and shall be allocated to the affected fire agency for the acquisition of capital facilities and equipment in order to ensure the provision of necessary levels of fire protection services necessitated by new development via a nexus study adopted by the agency.

b. The City Council shall, by resolution, set forth the specific amount of the fire mitigation fees, describe the benefit and impact area on which the fees are imposed, list the specific public improvements to be financed, describe the estimated cost of these facilities and the reasonable relationship between the fees and the various types of new development on which the fees are imposed, and set forth the time and terms of payment of the fees.

c. On an annual basis, the City Council shall review the fire mitigation fees to determine whether the fee amounts are reasonably related to the impacts of development and whether the described public facilities are still needed.

3-5.9 Fire Mitigation Fee Payment.

a. Prior to the issuance of any building permit or other permit for Development, unless exempted, the applicant shall pay to the City fees prescribed by the Fire Mitigation Fee resolution as approved by the City Council and the applicant shall present written evidence to the Director that the provisions of this section have otherwise been satisfied with respect to the development for which permits are sought.

b. Prior to the date of the final inspection or of the issuance of a certificate of occupancy, whichever occurs first, for residential building permits or other permits for development, the applicant shall pay to the City the fees prescribed by the Fire Mitigation Fee resolution as approved by the City Council, or shall present written evidence that the provisions of this Article have otherwise been satisfied with respect to the development for which permits are sought. In a residential development project of more than one dwelling, the City will determine whether to collect the fees either for individual units or for project phases upon final inspection or certificate of occupancy, whichever occurs first, or for the entire project upon final inspection or certificate of occupancy, whichever occurs first, for the first dwelling unit. The City may require fee payment from residential development at an earlier time:

1. If the City determines that the fees will be collected for public improvements or facilities for which an account has been established and funds appropriated and for which the local agency has adopted a proposed construction schedule or plan prior to final inspection or issuance of the certificate of occupancy.

2. When the fees are to reimburse the Agency for expenditures previously made.

c. The amount of such fees shall be determined by the Fire Mitigation Fee in effect on the date of the payment of fees for an unexpired plan check.

d. When application is made for a new building permit following the expiration of a previously issued building permit for which fees were paid, the fee payment shall not be required.

e. In the event that subsequent development occurs on a property, additional fees shall be required only for additional square footage of development which was not included in computing the prior fee.

3.5.10 Reserved.

3-5.11 Changes to Fee

a. The Fire Agency may, at any time, request that the rate of the Fee be changed, that the Capital Fire Facility and Equipment Plan applicable to the Fee be amended, or that the Fee be terminated. Except with respect to a request to terminate the fee, which shall be made by resolution, the Fire Agency shall make such request by following the procedure set forth in Section 3-5.7.50 of this chapter.

b. If rate of the then current Fee was recommended by the Fire Agency to include an inflation adjustment, the Fire Agency need not take action to request that the City implement each year of the adjustment; however, each annual implementation of the inflation adjustment will not take effect unless the City Council approves the adjustment to its rates.

c. In order to allow the Fee to comply with the requirements of Section 66016.5(a)(7), the Fire Agency must adopt a new Nexus Study and make a new request pursuant to Section 3-5.7.50 of this chapter at least once every eight years.

SECTION 3. **ENVIRONMENTAL DETERMINATION.** The proposed ordinance has been reviewed for compliance with CEQA, the CEQA Guidelines, and the City's environmental procedures. Because the proposed ordinance is an administrative activity which will not result in direct or indirect physical changes to the environment, it has been found to be not a project under Section 15378 (b)(5) of the CEQA Guidelines.

SECTION 4. **INCONSISTENCIES.** Any provision of the Clearlake Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and/or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

Section 5. **EXISTING FEE.** Notwithstanding Section 4 of this ordinance, the adoption of this ordinance is not intended to interfere with the ongoing collection and use of any fee already adopted by the City Council under the existing provisions of Section 3-5 of the Municipal Code. The existing fire mitigation fee applicable in the territory of a Fire Agency shall continue to be collected until both (i) the City Council adopts a new rate pursuant to this Ordinance for such fire mitigation fee and (ii) said new rate becomes effective. At that point, new rate shall replace the existing rate.

SECTION 5. **SEVERABILITY.** If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

SECTION 6. **EFFECTIVE DATE.** This ordinance shall be in full force and effect commencing thirty (30) days after its final adoption and a summary hereof shall be published once within fifteen (15) days in a newspaper of general circulation printed and published in the County of Lake and circulated in the City of Clearlake and hereby designated for that purpose by the City Council.

SECTION 7. The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published in the manner and form provided by law in a newspaper of general circulation printed and published in the City of Clearlake, State of California, which said newspaper is hereby designated for that purpose.

Introduced at a regular meeting of the City Council on the 21st day of November, 2024, by the following roll call vote:

MOTION:

AYES:
NOES:
ABSENT
ABSTAINED

Passed and approved at the regular meeting of the City Council on the ____ day of ____, 2024, by the following roll call vote:

MOTION:

AYES:
NOES:
ABSENT:
ABSTAINED:

ATTEST:

_____ _____
City Clerk David Claffey, Mayor

APPROVED AS TO FORM:

_____
Dean J. Pucci, City Attorney

3-5 FIRE MITIGATION FEE.

3-5.1 Title.

This Chapter shall be known and may be cited as the "Fire Mitigation Fee Ordinance."

3-5.2 Need.

The Council of the City of Clearlake finds and declares as follows:

a. Adequate fire protection and emergency medical response facilities and equipment must be available to serve new development.

b. New development requires the construction or expansion of fire protection and emergency medical response facilities and the acquisition of equipment.

c. Property taxes and fire suppression assessments collected by the Fire Agency are insufficient to provide funds for expansion of construction of fire protection and emergency medical response facilities and purchase of equipment necessitated by new development resulting in the potential for inadequate fire protection and emergency medical response coverage for the new development and the growing population of Clearlake.

d. The above conditions place the City of Clearlake's growing population in a condition perilous to its health and safety.

e. The impacts of development on the existing fire protection and emergency medical response facilities and equipment cannot be alleviated without City involvement.

For the above reasons, new methods for funding fire protection and emergency medical response facilities and equipment necessitated by development are needed in the City of Clearlake.

3-5.3 Purpose.

The purpose of this section is to implement the City of Clearlake General Plan policy providing for the adoption of fire mitigation fees and for the collection of said fees to be allocated to the Fire Agency for the development and acquisition of facilities and equipment in order to ensure the provision of the facilities and equipment necessary to provide fire protection and emergency medical response services necessitated by new development.

3-5.4 Definitions.

a. DEVELOPMENT shall mean all construction for which a building permit or other permit is required.

b. DIRECTOR shall mean the Director of the Department of Community Development of the City of Clearlake.

c. OTHER PERMITS shall mean conditional use permits and site plan review permits.

d. CLERK shall mean the City Clerk of the City of Clearlake.

e. FIRE AGENCY and AGENCY shall mean any special district providing fire protection services within the incorporated area of the City of Clearlake, currently Lake County Fire Protection District.

f. FACILITIES and EQUIPMENT shall mean any long-term capital facilities and equipment used by a Fire Agency for the fire protection or emergency medical response services including all land, buildings, and other structures, as well as all apparatus, ambulances, vehicles, and other equipment.

3-5.5 Establishment of Fire Service Impact Fees Under New Development.

There is hereby established a fee to be paid by all applicants for building permits or other permits for development and in particular on all classes of covered occupancies constructed within the City, unless otherwise excepted therefrom. A covered occupancy is defined as a roof assembly as the same is described within the Uniform Building Code heretofore adopted by the City Council and as readopted and amended from time to time in accordance with State law. This fee shall be paid to the Agency as provided for in subsection 3-5.9 of this section

3-5.5.50 Prior Agreements and in Lieu Dedication.

a. Any agreement existing prior to the operative date of this section between an applicant for development and a Fire Agency or the City pertaining to the dedication of land or payment of fees for facilities and equipment to serve the property which is the subject of the application, or any portion thereof, shall satisfy the requirements of this section.

b. If land, facilities or equipment has been dedicated or donated to, and accepted by, the Fire Agency as a condition of approval of a discretionary permit, such dedication or donation may be considered by the City Council as satisfying the requirements of this section.

3-5.6 Deposit and Expenditure of Fees.

a. Fees paid under this section shall be collected by the City and held in a separate account or fund in a manner to avoid any commingling of the fees with other revenues and funds of the City, except for temporary investments. Interest on fee revenue shall also be placed in that account or fund.

b. The City may retain from this account or fund the amount necessary to reimburse the City for its reasonable costs of collecting and administering the fees.

c. The remaining balance of the fund shall be transferred quarterly, or on some other interval as agreed upon, to the Fire Agency serving the area from which the fees were collected, subject to the requirement that the Fire Agency retains this balance its City of Clearlake Fire Mitigation Fee account or fund that is governed by the requirements of its resolution adopted in compliance with Chapter 3-5.7.50(b) of this Code, that the Fire Agency is in compliance

with the requirements of such resolution, and that such resolution has not been amended by the Agency without the permission of the City. Funds may only be expended in accordance with the requirements of the resolution setting the rate for the fee.

All fees collected pursuant to this section and transferred to a Fire Agency, including any interest accrued after transfer, shall be used by the Agency for the purpose of providing for capital facilities and equipment. Facilities funded by fees collected within the City shall only be spent on facilities within the Clearlake City boundary. .

3-5.7 Exemptions.

a. There shall be exempt from the requirements of this article, building permits for the following types of Development:

1) Piers which are not covered, ramps, boat lifts, docks, suspended platforms, and pilings;

2) Agricultural buildings requiring an exempt building permit.

b. The requirements of this article shall not apply to buildings and structures constructed owned and used by governmental entities.

c. The requirements of this section shall not apply to the replacement on the same parcel by the owner of a dwelling or dwellings destroyed by fire or other calamity or demolished for replacement, provided that:

a. The application for a building permit to replace such dwelling is filed with the Director within one (1) year after destruction or demolition of the dwelling, or within three (3) years of the date a local emergency is declared if the destruction or demolition occurred within the geographical area encompassed by that local emergency declaration and resulted from events giving rise to said declaration;

b. There is no change in class of occupancy or type of use; and

c. The square footage is not increased. Fees shall be required only for additional square footage greater than five hundred (500) square feet.

3-5.7.50 Required Actions of the Fire Agency.

This section shall become applicable to development within that area which is within the boundaries of a Fire Agency and the incorporated area of the City when the following events occur:

a. The governing body of the Fire Agency adopts a resolution making the following findings:

1. The Agency does not have existing fire protection facilities and equipment which could be used to provide an adequate level of services to new development within the Agency's boundaries.

2. The Agency has determined it does not have sufficient funds available to construct additional facilities from fund balances, capital facility funds, property tax sources, fire suppression assessments, or any other

appropriate sources.

3. The lack of facilities and equipment to serve new development would create a situation perilous to the public health and safety if fire mitigation fees are not levied within the Agency's district.

b. The governing body of a Fire Agency resolves as follows:

1. The Agency requests that the City collect a specified fire mitigation fee on the Agency's behalf from applicants for building permits or other permits for development.

2. The Agency makes the findings with respect to the proposed rate that would be required by Section 66001 of the Government Code in connection with the imposition of the rate.

3. The Agency (i) adopts and proposes to the City a Capital Fire Facility and Equipment Plan, containing the information required by Government Code Section 66002, that identifies how the Agency will use proceeds of the fee at the proposed rate, and (ii) adopts and proposes to the City a Nexus Study containing the information required by Government Code Section 66016.5 with respect to such fee and rate. The Capital Fire Facilities and Equipment Plan and the Nexus Study may be combined in one document.

3. Mitigation fees paid under this section shall only be used to expand the availability of facilities and equipment to serve new development in the City of Clearlake, as identified in the Capital Facilities Plan adopted by the Agency for the Fee.. Fees collected by the City must be used on facilities within the boundary of the City. Fee proceeds shall not be used to defray costs attributable to existing deficiencies in public facilities, but may be used to defray costs attributable to the increased demand for public facilities reasonably related to the development project in order to (1) refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent with the general plan

4. The Agency shall place all funds received from the City under this section and all interest subsequently accrued by the Agency on these funds, in a separate account or fund to be known as the "City of Clearlake Fire Mitigation Fee".

5. The Agency shall submit a Fire Mitigation Fee Annual Report no later than October 31 of each year to the City Clerk. Said report shall include, but not be limited to, the balance in the account at the end of the previous fiscal year, the fee revenue received, the amount and type of expenditures made, and the ending balance in the fund. In addition, the report shall specify the actions the Agency plans to take to alleviate the facility and equipment needs caused by new development in a capital fire facilities and equipment plan adopted at a noticed public hearing. The Agency shall make available, upon request by the City Clerk, a copy of its annual audit report. The annual report shall also include all information that is needed by the City to comply with its annual reporting obligations under the Mitigation Fee Act.

6. The Agency shall make its records available to the public on request which justify the basis for the fee amount.

7. The Agency shall defend, indemnify, and hold the City harmless for any errors made by the City in collecting or transmitting the fees to the Agency, and for any alleged errors made by the Agency that are challenged in proceedings against the City for a refund of fees collected.

8. The Agency shall make findings, with respect to any portion of the fee remaining unexpended or uncommitted in its account five (5) or more years after deposit of the fee, to identify the purpose to which the

fee is to be put and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged. The Agency shall refund to the then current record owner or owners of the development project or projects on a prorated basis, the unexpended or uncommitted portion of the fee and any interest accrued thereon, for which need cannot be demonstrated. Such findings shall include all information needed for the City to Comply with its reporting obligations under the Mitigation Fee Act with respect to such unexpended or uncommitted funds.

c. The governing body of the Fire Agency shall send a certified copy of the Resolution, the Capital Fire Facility and Equipment Plan, and the Nexus Study to the City Clerk.

d. If the City Council approves an ordinance or resolution changing the rate of the fire fee, it shall send a certified copy of the resolution to the Fire District,

3-5.8 Fire Mitigation Fee Set By Resolution.

a. *Fire Mitigation Fee.* A fire mitigation fee is hereby authorized and shall be allocated to the affected fire agency for the acquisition of capital facilities and equipment in order to ensure the provision of necessary levels of fire protection services necessitated by new development via a nexus study adopted by the agency.

b. The City Council shall, by resolution, set forth the specific amount of the fire mitigation fees, describe the benefit and impact area on which the fees are imposed, list the specific public improvements to be financed, describe the estimated cost of these facilities and the reasonable relationship between the fees and the various types of new development on which the fees are imposed, and set forth the time and terms of payment of the fees.

c. On an annual basis, the City Council shall review the fire mitigation fees to determine whether the fee amounts are reasonably related to the impacts of development and whether the described public facilities are still needed.

3-5.9 Fire Mitigation Fee Payment.

a. Prior to the issuance of any building permit or other permit for Development, unless exempted, the applicant shall pay to the City fees prescribed by the Fire Mitigation Fee resolution as approved by the City Council and the applicant shall present written evidence to the Director that the provisions of this section have otherwise been satisfied with respect to the development for which permits are sought.

b. Prior to the date of the final inspection or of the issuance of a certificate of occupancy, whichever occurs first, for residential building permits or other permits for development, the applicant shall pay to the City the fees prescribed by the Fire Mitigation Fee resolution as approved by the City Council, or shall present written evidence that the provisions of this Article have otherwise been satisfied with respect to the development for which permits are sought. In a residential development project of more than one dwelling, the City will determine whether to collect the fees either for individual units or for project phases upon final inspection or certificate of occupancy, whichever occurs first, or for the entire project upon final inspection or certificate of occupancy, whichever occurs first, for the first

dwelling unit. The City may require fee payment from residential development at an earlier time:

1. If the City determines that the fees will be collected for public improvements or facilities for which an account has been established and funds appropriated and for which the local agency has adopted a proposed construction schedule or plan prior to final inspection or issuance of the certificate of occupancy.

2. When the fees are to reimburse the Agency for expenditures previously made.

c. The amount of such fees shall be determined by the Fire Mitigation Fee in effect on the date of the payment of fees for an unexpired plan check.

d. When application is made for a new building permit following the expiration of a previously issued building permit for which fees were paid, the fee payment shall not be required.

e. In the event that subsequent development occurs on a property, additional fees shall be required only for additional square footage of development which was not included in computing the prior fee.

3.5.10 Reserved.

3-5.11 Changes to Fee

a. The Fire Agency may, at any time, request that the rate of the Fee be changed, that the Capital Fire Facility and Equipment Plan applicable to the Fee be amended, or that the Fee be terminated. Except with respect to a request to terminate the fee, which shall be made by resolution, the Fire Agency shall make such request by following the procedure set forth in Section 3-5.7.50 of this chapter.

b. If rate of the then current Fee was recommended by the Fire Agency to include an inflation adjustment, the Fire Agency need not take action to request that the City implement each year of the adjustment; however, each annual implementation of the inflation adjustment will not take effect unless the City Council approves the adjustment to its rates.

c. In order to allow the Fee to comply with the requirements of Section 66016.5(a)(7), the Fire Agency must adopt a new Nexus Study and make a new request pursuant to Section 3-5.7.50 of this chapter at least once every eight years.

CITY OF CLEARLAKE

City Council

STAFF REPORT

SUBJECT: Discussion and Consideration of Ordinance NO. 275-2024, An Ordinance Adding Chapter 13-3 of the Clearlake Municipal Code Establishing Fire Hydrant Inspection and Testing Requirements	**MEETING DATE:** Nov. 21, 2024
SUBMITTED BY: Alan D. Flora, City Manager	
PURPOSE OF REPORT: ☐ Information only ☒ Discussion ☒ Action Item	

WHAT IS BEING ASKED OF THE CITY COUNCIL:

Consideration of regulation related to inspection, testing, maintenance, and marking of fire hydrants as recommended by staff and the City's Water Ad Hoc Committee made up of Councilmembers Dirk Slooten and Russ Cremer.

BACKGROUND/ DISCUSSION:

Wildfire has unfortunately caused frequent and significant harm to our community, particularly in the past decade. Significant disasters have resulted from the Sulphur Fire in 2017, Cache Fire in 2021 and Boyles Fire in 2024, ultimately resulting in over 230 lost homes in the City. While mitigation of wildfire is a multifaceted approach, ensuring first responders have adequate available water for response is a key. The City's somewhat haphazard development, which started long before incorporation, resulted in water supplied by various entities. Currently the three water providers in the City are Highlands Mutual Water Company, Golden State Water Company and Konocti County Water District. The entities each have different standards, procedures and regulatory oversight of operations. It is in the community's best interest that there is a clear understanding of fire hydrant capability.

In 2021, as part of the Konocti County Water District Sphere of Influence Update and Municipal Service Review, the Lake Local Agency Formation Commission (LAFCo) reviewed fire flow data from all three districts in Clearlake, as well as Lower Lake County Water District. More recently some of the districts have indicated the fire flow data that they provided to LAFCo is incomplete or inaccurate, but updated data has not been made available. Mutual water companies are already required to perform and record annual flow tests pursuant to California Code of Regulations, Title 10, Section 260.140.71.8. The recorded test results become a part of the mutual water company's books and records. In most jurisdictions this lack of reliable data is not a concern as the municipality is also the utility provider.

There are various standards for testing, but the recommended baseline is NFPA 291 (National Fire Protection Association) – *Recommended Practice for Water Flow Testing and Marking of Hydrants*. This standard outlines the practice for conducting an acceptable fire hydrant flow test, including the test reports, hydraulic graphing, etc.

In addition to fire flow requirements the inspection and operation of hydrants is critical to ensuring they are ready and operable during an emergency. This is addressed more completely in the California Fire Code, which has already been adopted by the City.

Finally, the NFPA 291 standards also delineate a marking system for hydrants that indicate the hydrant capacity with color coding. This way first responders can rapidly identify the hydrant capacity.

The City, as an authority having jurisdiction, can require the tests and inspections be completed and reported to the City and Fire District. This is a critical step in understanding the capability of the water systems in responding to emergencies and informing the districts and City in planning for growth and needed infrastructure upgrades. This ordinance is a critical step in ensuring community resilience and protecting public health and safety.

The proposed ordinance requires all hydrants to be inspected and operated each year, with flow testing of each hydrant required by July 1, 2025 and then every five years.

OPTIONS:

1. Introduce the Ordinance and Hold a First Reading, and Schedule Second Reading and Adoption at a subsequent Council meeting.
2. Direction to Staff.

FISCAL IMPACT:

☒ None ☐ $ Budgeted Item? ☐ Yes ☐ No

Budget Adjustment Needed? ☐ Yes ☒ No If yes, amount of appropriation increase: $

Affected fund(s): ☐ General Fund ☐ Measure P Fund ☐ Measure V Fund ☐ Other:

Comments**:** N/A

STRATEGIC PLAN IMPACT

☐ Goal #1: Make Clearlake a Visibly Cleaner City

☒ Goal #2: Make Clearlake a Statistically Safer City

☒ Goal #3: Improve the Quality of Life in Clearlake with Improved Public Facilities

☒ Goal #4: Improve the Image of Clearlake

☐ Goal #5: Ensure Fiscal Sustainability of City

☒ Goal #6: Update Policies and Procedures to Current Government Standards

☒ Goal #7: Support Economic Development

☒ **Attachments:**

1. **Draft Ordinance 275-2024**
2. **NFPA 291 -** ***Recommended Practice for Water Flow Testing and Marking of Hydrants***

Ordinance No. 275-2024

AN ORDINANCE OF THE CITY OF CLEARLAKE, CALIFORNIA, ADDING CHAPTER 13-3 TO THE CLEARLAKE MUNICIPAL CODE, ESTABLISHING FIRE HYDRANT INSPECTION AND TESTING REQUIREMENTS

WHEREAS, the City of Clearlake is responsible for providing for the health, safety and welfare of its residents, visitors, animals, wildlife, and water supply; and

WHEREAS, under Cal. Const. art. XI, §7, cities may make and enforce within their limits all local, police, sanitary and other ordinances not in conflict with general laws; and

WHEREAS, the City Council of the City of Clearlake finds that substantial evidence supports a determination that local climatic, geological and topographical conditions are present in Clearlake which necessitate local regulations to ensure proper flow from fire hydrants in the City, in that:

1. Wildfire is a severe threat to our way of life and has greatly impacted our community, through small fires as well as the Sulphur Fire in 2017, the Cache Fire in 2021 and the Boyles Fire in 2024.
2. The City is not responsible for providing water service to the community and instead relies on three separate water companies, Highlands Mutual Water Company, Golden State Water Company and Konocti County Water District. Each company/district uses different standards and processes for maintaining their systems and infrastructure.
3. Fire response has been impacted by lack of available fire hydrants and lack of adequate fire flow in some areas; past experience shows that adequate water flow to buildings is critical to protecting property and human life.
4. Information provided by companies/districts on fire flow has been dated, incomplete or difficult to obtain.
5. It is in the community's interest to have clear, accurate and up to date information on the adequacy of fire flows and infrastructure readiness throughout the City in hopes of avoiding future wildfire disasters and other emergencies. It is also in the community's interest to provide for public safety and protection of property.
6. The Safety Element of the Clearlake General Plan lists fire hazards as a key safety theme; Goal SA-1 seeks to provide "a community protected from injury, loss of life and property damage resulting from…fire;" Objective SA 1.3 aims to "reduce the risk of damage and destruction from wild land fires;" and Program SA1.3.3.3 "…recognizes that portions of the City are located in a Very High Fire Hazard Severity Zone…." and

WHEREAS, the City, pursuant to the provisions of the California Environmental Quality Act ("CEQA") (Cal. Pub. Res. Code §§21000 and following) and State CEQA Guidelines (14 CCR §§15000 and following) has determined that this ordinance is not a project under CEQA pursuant to Title 14, Section 15378 (b)(5) of the California Code of Regulations;

NOW, THEREFORE, the City Council of the City of Clearlake, California does hereby ordain as follows:

SECTION 1. The above recitals are true and hereby incorporated into this ordinance.
SECTION 2. Chapter 13-3 is hereby added to the Clearlake Municipal Code, to read as follows:

13-3 FIRE HYDRANT INSPECTION, TESTING, AND MAINTENANCE.

13-3.1 Purpose.

It is the intent and purpose of the City Council, in enacting this ordinance to ensure compliance with established standards and protocols in inspection, testing, maintenance, and marking of fire hydrants throughout the City.

13-3.2 Definitions.

Authority Having Jurisdiction (AHJ).

An organization, office, or individual responsible for enforcing the requirements of a code or standard, or for approving equipment, materials, an installation, or a procedure.

Fire Flow.

The flow rate of a water supply, measured at 20 pounds per square inch (1.4 bar) residual pressure, that is available for firefighting.

National Fire Protection Association (NFPA).

A non-profit organization that sets standards and codes for fire, electrical and building safety.

Hydrant Definitions.

a. Dry Barrel Hydrant (Frostproof Hydrant).
A type of hydrant with the main control valve below the frost line between the footpiece and the barrel.

b. **Fire Hydrant.**
A valved connection on a water supply system having one or more outlets and that is used to supply hose and fire department pumpers with water.

c. Flow Hydrant.
The hydrant that is used for the flow and flow measurement of water during a flow test.

d. Flush Hydrant (Below Ground Hydrant).
A type of hydrant that is installed below the ground level that is intended for use in congested urban areas or aircraft movement areas.

e. Private Fire Hydrant.
A valved connection on a water supply system having one or more outlets that is used to supply hose and fire department pumpers with water on private property.

f. Public Hydrant.
A valved connection on a water supply system having one or more outlets that is used to supply hose and fire department pumpers with water.

g. Residual Hydrant.
The hydrant that is used for measuring static and residual pressures during a flow test.

h. Wet Barrel Hydrant.
A type of hydrant that is intended for use where there is no danger of freezing weather and where each outlet is provided with a valve and an outlet.

Rated Capacity.

The flow available from a hydrant at the designated residual pressure (rated pressure), either measured or calculated.

Residual Pressure.

The pressure that exists in the distribution system, measured at the residual hydrant at the time the flow readings are taken at the flow hydrants.

Static Pressure.

The pressure that exists at a given point under normal distribution system conditions measured at the residual hydrant with no hydrants flowing.

13-3.3 Inspection, Testing, and Maintenance Required.

Inspection, testing, and maintenance of fire hydrants, public and private, throughout the City is hereby required. National Fire Protection Association ("NFPA") 291, Recommended Practice for Water Flow Testing and Marking of Hydrants, as then in effect, shall be the standard for conducting hydrant inspection, testing and reporting.

13-3.4 Annual Inspection and Testing Required.

a. Prior to July 1, 2025, each water district/company providing service in the City of Clearlake shall perform an initial inspection and flow test on each hydrant in the City through which they deliver water to the City in compliance with the NFPA 291 standard, using one of the licensed professionals listed in 13-3.4, below.

b. No later than July 1, 2025, each water district/company providing service in the City of Clearlake shall submit a report of the inspection and testing required in subparagraph a. to the Lake County Fire Protection District and City of Clearlake. The report shall be in a format approved by the City of Clearlake and contain information regarding the timing, location, findings and corrective actions taken for each inspection and flow test as provided in NFPA 291.

c. After the initial inspection and flow test, and prior to July 1 of the year, each water district/company providing service in the City of Clearlake shall perform the maintenance required by this Chapter annually and the flow testing as provided by NFPA 291 every five (5) years.

13-3.4 Maintenance, Testing, and Recordkeeping Required.

Each water district/company providing service in the City of Clearlake shall perform maintenance and testing, and maintain records in a form and format acceptable to the City of Clearlake, for each hydrant through which they deliver water in the City as set out below.

a. Annual Maintenance shall be conducted by a certified Water Distribution Operator or person with equal or greater qualifications, and shall include at least the following:
    1. Ensure hydrant is visible and accessible
    2. Remove caps and inspect threads, gaskets and cap chains.

3. Clean and lubricate threads
4. Check condition of pentagon operating nut.
5. Locate and exercise the underground control valve (key valve, road box or foot valve)
6. Clean and paint hydrant per NFPA 291 standard
7. Immediate correction of any deficiency noted.

b. Five Year Maintenance shall include at least the following:
1. Perform annual maintenance as outlined above using a certified Water Distribution Operator or person with equal or greater qualifications.
2. Perform flow testing in accordance with NFPA 291, Recommended Practices for Fire Flow Testing and Marking of Hydrants. Flow testing must be completed by one of the following licensed professionals:
i. C-16 – Fire Protection Contractor
ii. C-36 – Plumbing Contractor
iii.C-34- Pipeline Contractor
iv. California State Fire Marshal – License A, Type
v. California Registered Civil Engineer
3. Immediately correct any deficiencies noted.

c. Record Keeping
1. Records in a form and format acceptable to the City of Clearlake shall be maintained for all maintenance and testing performed on, and all corrective actions taken on, public fire hydrants. Copies of such records for the previous calendar year shall be delivered to the Fire District and City annually, no later than July 1.
2. Records in a form and format acceptable to the City of Clearlake shall be maintained by the property owner for all maintenance and testing of private fire hydrants. Copies of such records for the previous calendar year shall be delivered to the Fire District and City annually, no later than July 1.

13-3.5 Compliance With Requirements for Water Discharged During Inspections and Flow Testing.

Flow testing constitutes a planned event and shall comply with all applicable discharge requirements set by any jurisdictional agency, including the City and the Regional Water Quality Control Board. Public drinking water contains disinfecting chemicals that may be harmful to certain aquatic species. Best Management Practices shall be employed to ensure compliance with all discharges to the City storm drainage systems or to natural drainage courses.

13-3.6 Damage to City or Private Property and Public Safety.

The owner of all fire hydrants subject to the inspection and testing requirements of this ordinance shall assume sole liability for all actions taken to comply, including causing damage to public or private property, or causing a violation of downstream permit conditions or receiving water limitations.

In addition, the discharge of large quantities of water can cause temporary local flooding and present traffic hazards. The fire hydrant owner shall employ proper traffic control measures to protect vehicles, pedestrians and other users of all public and private property impacted by inspection and testing operations.

13-3.7 Violation; Penalty.

Violation of this Chapter is a public nuisance and misdemeanor. Whenever an act is made unlawful by this Chapter, or the doing of an act is required by this Chapter, the violation shall be punished by a fine not exceeding one thousand dollars ($1000) or imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment; provided, nevertheless, that any such aforesaid violation or offense may be deemed an infraction as defined by Section 19C of the California Penal Code and charged as such in the discretion and at the election of the City prosecuting attorney, in which event the punishment therefor shall not be imprisonment, but a fine not to exceed the amounts specified by Government Code Section 36900 as then in effect.

SECTION 3. **ENVIRONMENTAL DETERMINATION.** The proposed ordinance has been reviewed for compliance with CEQA, the CEQA Guidelines, and the City's environmental procedures. Because the proposed ordinance is an administrative activity which will not result in direct or indirect physical changes to the environment, it has been found to be not a project under Section 15378 (b)(5) of the CEQA Guidelines.

SECTION 4. **INCONSISTENCIES.** Any provision of the Clearlake Municipal Code or appendicies thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and/or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

SECTION 5. **SEVERABILITY.** If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

SECTION 6. **EFFECTIVE DATE.** This ordinance shall be in full force and effect commencing thirty (30) days after its final adoption and a summary hereof shall be published once within fifteen (15) days in , a newspaper of general circulation printed and published in the County of Lake and circulated in the City of Clearlake and hereby designated for that purpose by the City Council.

SECTION 7. The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published in the manner and form provided by law in , a newspaper of general circulation printed and published in the City of Clearlake, State of California, which said newspaper is hereby designated for that purpose.

Introduced at a regular meeting of the City Council on the ___ day of ____, 2024, by the following roll call vote:

MOTION:

AYES:
NOES:
ABSENT
ABSTAINED

Passed and Adopted this day of December, 2024 by the following vote:

AYES:
NOES:
ABSENT OR NOT VOTING: None

_____
David Claffey
Mayor, City of Clearlake

ATTEST:

_____
Melissa Swanson
City Clerk, City of Clearlake

APPROVED AS TO FORM:

_____

Dean J. Pucci, City Attorney

CITY OF CLEARLAKE

City Council

STAFF REPORT

SUBJECT:	Discussion and Consideration of Ordinance NO. 277-2024, An Ordinance Amending Section 8-5 of the Municipal Code Related to Requirements for Utility Construction and Maintenance in the Public Right of Way and Standards for Relocation of Underground Utilities	**MEETING DATE:**	Nov. 21, 2024
SUBMITTED BY:	Alan D. Flora, City Manager		
PURPOSE OF REPORT:	☐ Information only ☒ Discussion ☒ Action Item		

WHAT IS BEING ASKED OF THE CITY COUNCIL:

Consideration of regulation related to utility construction and maintenance work in the City right of way.

BACKGROUND/ DISCUSSION:

As the Council is aware the City of Clearlake relies on three water companies and Lake County Special Districts to provide water and sewer services to our residents. This creates frequent conflicts when the construction and maintenance work is done on these utilities, in particular when the City performs road maintenance projects. The scale and scope of the road maintenance work being undertaken in the City is unprecedented. It is wonderful to be able to get so much work done, however the lack of maintenance and investment in City infrastructure for several decades has resulted in very degraded roads in many areas. This condition requires much more significant reconstruction work to be accomplished, and therefore higher likelihood of conflict with underground utilities. The history of utility construction in Clearlake, which almost entirely happened prior to incorporation of the City, is very haphazard. We are commonly determining that lines were abandoned in place, too shallow to meet any type of current acceptable standard, undersized, varying pipe types etc. Utilities often do not have adequate plans and specifications of what is in the ground, making locating the facilities difficult.

The City has requirements for encroachment permits that covers most work by utilities in the right of way. The City's enforcement of these requirements has been spotty over the years, but the standards will be strictly followed moving forward. In addition to these requirements, it is necessary for additional standards to be in place that would regulate the relocation of underground utilities that conflict with City road projects and that fail to meet acceptable standards for separation from other utilities. Additionally, utility infrastructure must be safely installed or adjusted to ensure they do not become a hazard to the traveling public. While all of these items are common practice in the industry, and have been largely followed on projects in the City over the years, it is appropriate to more consistently regulate this work.

OPTIONS:

1. Introduce the Ordinance and Hold a First Reading, and Schedule Second Reading and Adoption at a subsequent Council meeting.
2. Direction to Staff.

FISCAL IMPACT:

☒ None ☐ $ Budgeted Item? ☐ Yes ☒ No

Budget Adjustment Needed? ☐ Yes ☒ No If yes, amount of appropriation increase: $

Affected fund(s): ☐ General Fund ☐ Measure P Fund ☐ Measure V Fund ☐ Other:

Comments**:** N/A

STRATEGIC PLAN IMPACT

☐ Goal #1: Make Clearlake a Visibly Cleaner City

☒ Goal #2: Make Clearlake a Statistically Safer City

☒ Goal #3: Improve the Quality of Life in Clearlake with Improved Public Facilities

☒ Goal #4: Improve the Image of Clearlake

☐ Goal #5: Ensure Fiscal Sustainability of City

☒ Goal #6: Update Policies and Procedures to Current Government Standards

☒ Goal #7: Support Economic Development

☒ **Attachments:**

1. **Draft Ordinance 277-2024**

CITY OF CLEARLAKE ORDINANCE NO. 277-2024

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLEARLAKE AMENDING CHAPTER VIII, SECTION 8-5 TO ADD SUBSECTION 8-5.7 TO ESTABLISH ADDITIONAL REQUIREMENT FOR UTILITY CONSTRUCTION AND MAINTENANCE IN THE PUBLIC RIGHT OF WAY AND SUBSECTION 8-5.8 TO ESTABLISH STANDARDS FOR RELOCATION OF UNDERGROUND UTILITIES IN THE PUBLIC RIGHT OF WAY

WHEREAS, the City Council finds that the maintenance of City streets and the integrity of the City street surfaces are of vital concern to the citizens of the City; and

WHEREAS, the coordination of the City's street reconstruction and capital improvement projects with the separate water and sewer districts serving the Clearlake citizens is essential in providing both water and sanitation services and safe streets; and

WHEREAS, the proposed amendments to the City of Clearlake Municipal Code, provide for the "public necessity and convenience and general welfare;"

WHEREAS, the proposed amendments would not be detrimental to the public's health, safety and welfare;

WHEREAS, the City of Clearlake staff, pursuant to the provisions of the California Environmental Quality Act (hereinafter "CEQA") (California Public Resources Code Sections 21000 et seq.) and State CEQA guidelines (Sections 15000 et seq.) has determined that the Ordinance is exempt pursuant to Section 15061(b)(3) of Title 14 the California Code of Regulations; and, no further environmental analysis is required, and a notice of exemption will be filed.

THE CITY COUNCIL OF THE CITY OF CLEARLAKE DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Findings.

The City Council hereby incorporates by reference the above recitals and the finding of exemption set forth in Section 3.

Section 2. Chapter VIII, Section 8-5 of the Clearlake Municipal Code is amended to add a new subsection 8-5.7 to read as follows:

8-5.7 Permit Requirements for Utilities in the Public Right of Way

a. Utility Operation and Maintenance

1. No utility company shall place, maintain, or operate any facility in the public

right-of-way unless it holds a valid permit issued by the City. The permit shall specify the location, nature, and scope of the encroachment.

2. Utilities shall be responsible for maintaining their facilities in good repair, ensuring that they do not obstruct or interfere with public use of the right-of-way, including sidewalks, streets, and other infrastructure. All utilities (including but not limited to electric, gas, water, telecommunications, fiber optic, and sewer services) operating in or under the public right-of-way in the City are responsible for the installation, maintenance, and repair of their facilities, including pipes, conduits, valves and valve boxes, wires, cables, poles, manholes, and any other associated infrastructure.

b. Utility Repair and Restoration

1. Whenever a utility causes any damage to the public right-of-way, including roadways, sidewalks, or other public infrastructure, the utility shall be responsible for restoring the area to its original condition or better.
2. The utility must complete all restoration work within a timeframe and to standards determined by the City Engineer, based on the scope of the work and public safety concerns. Failure to restore the right-of-way to an acceptable condition within the approved timeframe will result in the City taking corrective action, with all the costs charged to the utility.

c. Evacuation and Restoration Standards

1. Utilities must follow the City's specific excavation and restoration standards as outlined in the City standards. This includes requirements for trenching, backfilling, surface restoration, compliance with and applicable permit conditions or environmental documents, and compliance with any traffic control measures during construction.
2. After performing any excavation in the right-of-way, the utility must restore the area to the condition prescribed by the City within a period of no more than 10 days, unless an extension is granted by the City due to special circumstances. Temporary resurfacing may be allowed subject to the City Engineer’s discretion, provided the City has approved a schedule for final resurfacing.

d. Emergency Repair Procedures

1. In the event of an emergency where immediate repair to utility infrastructure is necessary for public safety or to restore service, the utility may proceed without prior City approval. However, the utility must notify the City within 24 hours of the emergency and submit a report detailing the work completed, as well as any damage caused.
2. The utility is still required to comply with the City's restoration standards and complete permanent repairs in accordance with City standards and approval of the City Engineer.

e. Liability for Damage to Public Property

1. The utility is liable for any damage caused to public infrastructure as a result of its activities in the right-of-way. This includes damage to road surfaces, curbs, sidewalks, storm drains, trees, signage and traffic signals, and any other improvements within the public right-of-way.
2. The utility is required to indemnify and hold the City harmless for any claims arising from the utility's operations, including damage to the right-of-way or

injury to individuals due to the utility's actions.

f. City's Right to Perform Repairs

1. If the utility fails to make repairs or restorations within allowed timeframes as required by this section, the City may perform the work and bill the utility for the costs, including labor, materials, and overhead.

g. Inspection of Utility Work

1. The City reserves the right to inspect all work conducted by utilities in the public right-of-way and review and approve any test results required. Inspections shall be performed at reasonable times, and utilities must provide reasonable notice and access to their facilities as necessary for inspection purposes.
2. If the utility's work does not meet City standards, the utility will be required to make corrections at its own expense.

h. Abandonment of Underground Facilities, Reports, and Maps

1. Whenever any infrastructure is abandoned in the public right-of-way, the utility owning, using, controlling or having an interest therein, shall, within 30 calendar days after such abandonment, file with the City Engineer a report in writing, giving in detail the location of the infrastructure so abandoned. Each map, set of maps, or plans filed pursuant to the provisions of this section shall show in detail the location of all such infrastructure abandoned subsequent to the filing of the last preceding map, set of maps, or plans.
2. It shall be unlawful for any person to fail, refuse, or neglect to file any map or set of maps at the time, and in all respects as required by this Section.

8-5.8 Relocation of Utilities Required

a. Conflict with City Improvements

1. All underground or above ground utility pipelines, conduits, structures, connections, and ancillary facilities owned by any public or private utility in the public right of way which interfere or conflict with City capital improvement projects or street reconstruction or maintenance projects, shall be relocated to locations and depths to eliminate such conflicts with the specific City project. Relocations shall be done to engineering standards adopted by the City and state laws and regulations in effect as of the date of notification of the City project. Relocations shall be accomplished within 180 days of written notice of the City project, or such other period of time reasonably necessary to complete the relocation when such additional time for performance of the relocation is approved by the City Council. This includes the utility owner's requirement to lower conflicting infrastructure such as valve boxes and manholes to allow repair of the roadway structural section, or grinding and resurfacing operations, and subsequently raising of such infrastructure following street repair/resurfacing.

b. Permit Required

1. All relocation projects required by subpart a. above shall only be constructed after application for and the issuance of an encroachment permit signed by the City Engineer, subject to all procedures set forth in this section 8-5. The City Engineer shall evaluate the encroachment permit application and render a

decision to deny, conditionally approve, or approve the encroachment permit. Such approval constitutes the granting of a conditional revocable permit for an encroachment and such permit shall remain in effect as long as the permittee complies with all conditions established for the granting of such permit.

c. Appeals

1. Any person or entity aggrieved by the refusal of an encroachment permit required by this subsection may appeal to the city council. All appeals must be filed with the city clerk within thirty days of the mailing of the decision of the city engineer for scheduling on the city council's calendar.

Section 3. Environmental Determination. The proposed ordinance has been reviewed for compliance with CEQA, the CEQA Guidelines, and the City's environmental procedures. Because the proposed ordinance is an administrative activity which will not result in direct or indirect physical changes to the environment, it has been found to be not a project under Section 15378 (b)(5) of the CEQA Guidelines.

Section 4. Inconsistencies. Any provision of the Clearlake Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and/or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

Section 5. Severability. If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

Section 6. Effective Date. This ordinance shall be in full force and effect commencing thirty (30) days after its final adoption and a summary hereof shall be published once within fifteen (15) days in a newspaper of general circulation printed and published in the County of Lake and circulated in the City of Clearlake and hereby designated for that purpose by the City Council.

Section 7. Certification. The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published in the manner and form provided by law in a newspaper of general circulation printed and published in the City of Clearlake, State of California, which said newspaper is hereby designated for that purpose.

The foregoing ordinance was introduced before the City Council on the 21st day of November 2024 and passed by the following vote:

AYES:

NOES:

ABSENT OR NOT VOTING:

Mayor David Claffey

ATTEST:

Melissa Swanson, City Clerk

CITY OF CLEARLAKE

City Council

STAFF REPORT

SUBJECT: Discussion and Consideration of Amendments to the City's Environmental Guidelines to Include Native Sovereign Nation Consultation Guidelines	**MEETING DATE:** Nov. 21, 2024
SUBMITTED BY: Alan D. Flora, City Manager	
PURPOSE OF REPORT: ☐ Information only ☒ Discussion ☒ Action Item	

WHAT IS BEING ASKED OF THE CITY COUNCIL:

The City Council is being asked to consider amending the City's current environmental guidelines to include more detail on management of tribal cultural resources and consultation.

BACKGROUND/DISCUSSION:

In 2016 the City adopted a set of environmental guidelines, including Appendix O "Native American Tribal Consultation Program". While this is only one small part of the guidelines, it was in part, to implement the requirements of AB 52 from 2015. Back on October 20, 2022, the Council first discussed new guidelines and embarked on a process of consultation on the guidelines that has lasted over 2 years.

Historically, there have been three tribes with connections to ancestorial lands within the City of Clearlake boundaries; the Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, the Koi Nation of Northern California, and the Middletown Rancheria of Pomo Indians of California. While in large part consultation and coordination between the City as lead agency and the tribes has worked quite well, that has not always been the case. Staff hoped that by adopting a more comprehensive policy framework related to tribal cultural resources would result in more predictability, less room for disagreement, and a more streamlined and economical project completion.

The draft policy before you has undergone many iterations, but has ultimately been brought back in a format that more comprehensively summarizes the existing requirements of the City under state and federal law, but does not significantly expand the City's responsibilities beyond those requirements.

OPTIONS:

1. Adopt Volume 1: Native Sovereign Nation Consultation Guidelines
2. Provide alternative direction to staff.

FISCAL IMPACT:

☐ None ☐ $ Budgeted Item? ☐ Yes ☒ No

Budget Adjustment Needed? ☐ Yes ☒ No If yes, amount of appropriation increase: $

Affected fund(s): ☐ General Fund ☐ Measure P Fund ☐ Measure V Fund ☐ Other:

Comments:

STRATEGIC PLAN IMPACT:

☐ Goal #1: Make Clearlake a Visibly Cleaner City

☐ Goal #2: Make Clearlake a Statistically Safer City

☐ Goal #3: Improve the Quality of Life in Clearlake with Improved Public Facilities

☐ Goal #4: Improve the Image of Clearlake

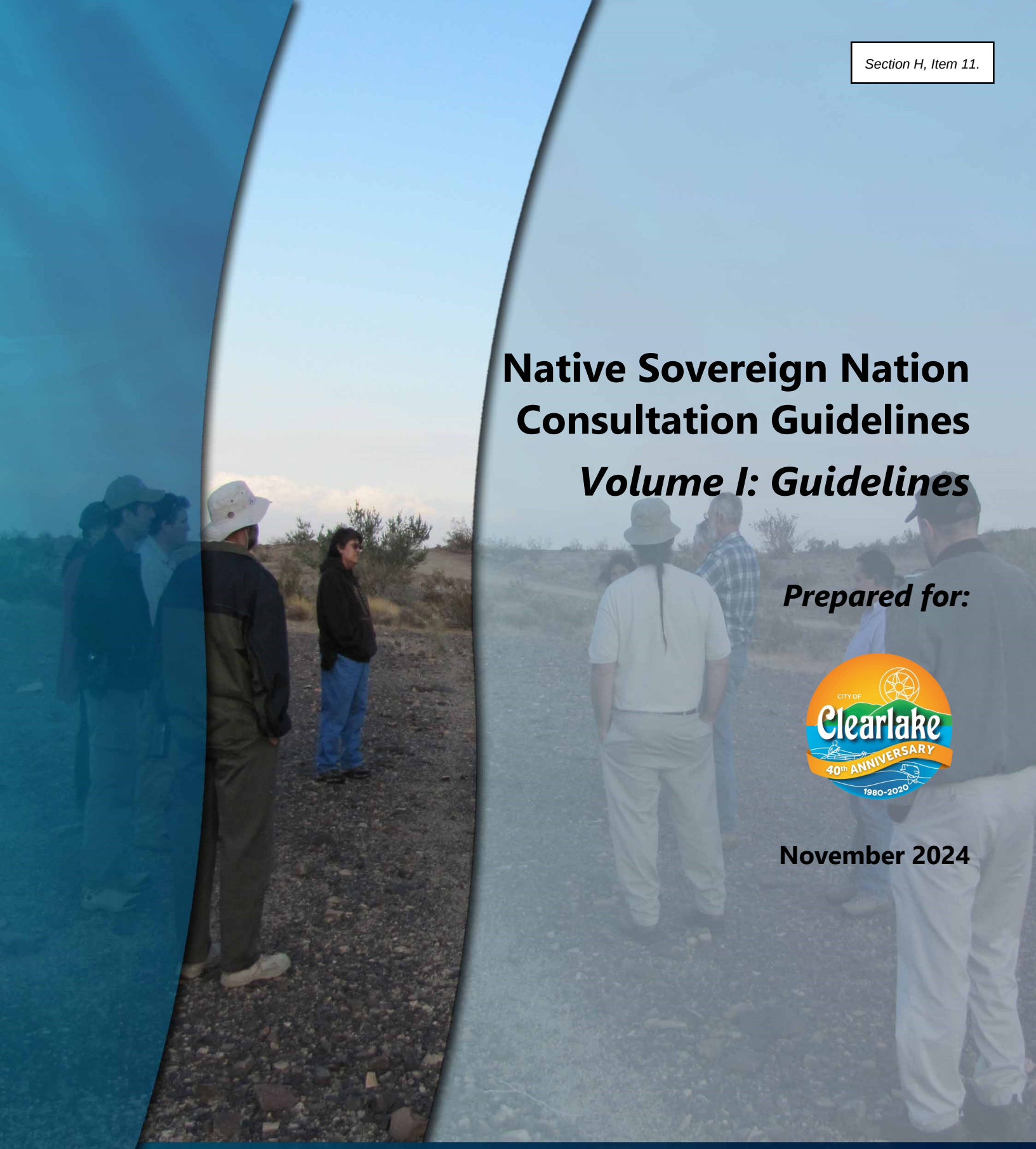
☒ Goal #5: Ensure Fiscal Sustainability of City

☒ Goal #6: Update Policies and Procedures to Current Government Standards

☒ Goal #7: Support Economic Development

SUGGESTED MOTIONS:

☒ **Attachments:** Volume 1: Native Sovereign Nation Consultation Guidelines



Native Sovereign Nation Consultation Guidelines

Volume I: Guidelines

Prepared for:

November 2024

ECORP Consulting, Inc.
ENVIRONMENTAL CONSULTANTS

Contents

1.0 INTRODUCTION

In recent years, a number of changes have occurred in the regulatory context within which the City of Clearlake operates. These changes occurred at various levels of jurisdiction, including at the city, state, and national levels and in the thresholds and expectations for best professional practices in cultural resources management. Changes have also occurred in terms of the level of involvement by stakeholders in cultural resources, particularly Native American tribes, as well as historical societies and the general public. The changes germane to these guidelines relate to tribal consultation.

At the direction of the City Council, staff and consultants prepared these Native Sovereign Nation Consultation Guidelines to assist City staff in navigating the complex regulatory environment. On December 7, 2022, the City's consultant, ECORP Consulting, Inc., contacted the NAHC with a request for a list of culturally affiliated Native American tribes associated with the City.

On January 4, 2023, the NAHC responded to indicate that the search of the SLF was positive for sacred lands and included a list of 22 individuals representing 12 culturally affiliated tribes.

On May 24, 2023, the City of Clearlake mailed notification letters to 22 individuals representing 12 culturally affiliated tribes recommended by the California Native American Heritage Commission. The notification letters invited each representative to participate in the development of formal Native Sovereign Nation consultation guidelines for the City. Of these 12 tribes:

- three accepted the invitation and actively consulted on the guidelines (Koi Nation, Elem Indian Colony Pomo Tribe, and Middletown Rancheria of Pomo Indians);
- two deferred to other local tribes (Yocha Dehe Wintun Nation and Habematolel Pomo of Upper Lake); and
- the balance failed to respond to the opportunity to consult (Big Valley Rancheria of Pomo Indians, Cachil Dehe Band of Wintun Indians, Guidiville Indian Rancheria, Mishewal-Wappo Tribe of Alexander Valley, Pinoleville Pomo Nation, Robinson Rancheria of Pomo Indians, and Scotts Valley Band of Pomo).

The City and it's consultant exchanged drafts and met with the three consulting tribes separately and periodically throughout 2023 and 2024. On April 23, 2024, the Middletown Rancheria approved the draft guidelines. On May 2, 2024, the Elem Indian Colony provided its final comments on the draft, which were incorporated. The final meeting with the Koi Nation occurred on July 19, 2024, and their comments were addressed in the final guidelines, as feasible.

1.1 Definition of Consultation

Consultation is defined in California state law. California Public Resources Code Section 21080.3.1(b)(2) states:

> For purposes of [compliance with AB 52], c*onsultation* shall have the same meaning as provided in Section 65352.4 of the Government Code.

California Government Code 65352.4 states:

> For purposes of [compliance with Senate Bill 18], c*onsultation* means the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is

> cognizant of all parties' cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American tribes shall be conducted in a way that is mutually respectful of each party's sovereignty. Consultation shall also recognize the tribes' potential needs for confidentiality with respect to places that have traditional tribal cultural significance.

The City has identified the need to develop Native Sovereign Nation Consultation Guidelines to guide staff during tribal consultation.

1.2 Government-to-Government

The relationship of the consultation between the City and culturally affiliated California Native American tribes is referred to as government-to-government, which is defined in state and federal law. This definition is provided herein to the extent that federal requirements apply.

Section 1 of the November 30, 2022 memorandum from President Joseph R. Biden, Jr. to the heads of executive departments and agencies on uniform standards for tribal consultation states:

> The United States has a unique, legally affirmed Nation-to-Nation relationship with American Indian and Alaska Native Tribal Nations, which is recognized under the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. The United States recognizes the right of Tribal governments to self-govern and supports Tribal sovereignty and self-determination. The United States also has a unique trust relationship with and responsibility to protect and support Tribal Nations. In recognition of this unique legal relationship, and to strengthen the government-to-government relationship, Executive Order 13175 of November 6, 2000 (Consultation and Coordination With Indian Tribal Governments), charges all executive departments and agencies (agencies) with engaging in regular, meaningful, and robust consultation with Tribal officials in the development of Federal policies that have Tribal implications. Executive Order 13175 also sets forth fundamental principles and policymaking criteria.

The Department Manual of the US Department of the Interior (512 DM 4, November 30, 2022) defines "government-to-government" as:

> … a process based on a bilateral recognition of sovereignty and is generally focused on a given issue or set of issues, including compliance with a variety of statutes, policies and administrative actions that direct the Federal government to consult with Indian Tribes. Consultations are defined as having both Department and Tribal officials with decision-making authorities present at the government-to-government consultation session(s)/ meeting(s) regarding the proposed Departmental Action with Tribal Implications.

The California Governor's Office of Planning and Research, Tribal Consultation Guidelines, Supplement to General Plan Guidelines (2005:16) notes:

> Government leaders of the two consulting parties may consider delegating consultation responsibilities (such as attending meetings, sharing information, and negotiating the needs and concerns of both parties) to staff. Designated representatives should maintain direct relationships with and have ready access to their respective government leaders.

For the purpose of these Guidelines, the City Council of the City of Clearlake has designated the City Manager to consult on behalf of the City.

2.0 DEFINITIONS

2.1 Tribal Cultural Resources

AB 52: California Public Resource Code Section 21074:

> (a) "Tribal cultural resources" are either of the following:
>
> (1) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:
>
> (A) Included or determined to be eligible for inclusion in the California Register of Historical Resources.
>
> (B) Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.
>
> (2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.
>
> (b) A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.
>
> (c) A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a "nonunique archaeological resource" as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).

Public Resources Code 21080.3.1 (a):

> The Legislature finds and declares that California Native American tribes traditionally and culturally affiliated with a geographic area may have expertise concerning their tribal cultural resources.

AB 52: Section I (b)(4):

> …it is the intent of the Legislature, in enacting this act, to… (4) Recognize that California Native American tribes may have expertise with regard to their tribal history and practices, which concern the tribal cultural resources with which they are traditionally and culturally affiliated. Because the California Environmental Quality Act calls for a sufficient degree of analysis, tribal knowledge about the land and tribal cultural resources at issue should be included in environmental assessments for projects that may have a significant impact on those resources.
>
> (5) In recognition of their governmental status, establish a meaningful consultation process between California Native American tribal governments and lead agencies, respecting the interests and roles of all California Native American tribes and project proponents, and the level of required confidentiality concerning tribal cultural resources, at the earliest possible point in the California Environmental Quality Act environmental review process, so that tribal cultural resources can be

identified, and culturally appropriate mitigation and mitigation monitoring programs can be considered by the decision making body of the lead agency.

2.2 Cultural Places

SB 18: Public Resources Code §5097.9 and 5097.993 define "cultural places":

> Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine (Public Resources Code §5097.9).
>
> Native American historic, cultural, or sacred site, that is listed or may be eligible for listing in the California Register of Historic Resources pursuant to Section 5024.1, including any historic or prehistoric ruins, any burial ground, any archaeological or historic site (Public Resources Code §5097.993).

2.3 Historic Properties

Historic Properties are defined in federal law. This definition is provided herein to the extent that federal requirements apply. S 106: 36 CFR 800.16(l)(1) states:

> Historic property means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.

2.4 Indigenous Knowledge

The Advisory Council on Historic Preservation's policy statement on indigenous knowledge and historic preservation in 2024 defines indigenous knowledge as follows. This definition is provided herein to the extent that federal requirements apply.

> "…a body of observations, oral and written knowledge, innovations, practices, and beliefs developed by Tribes, [Native Hawaiians,] and Indigenous Peoples through interaction and experience with the environment. It is applied to phenomena across biological, physical, social, cultural, and spiritual systems. Indigenous Knowledge can be developed over millennia, continues to develop, and includes understanding based on evidence acquired through direct and indirect contact with the environment and long-term experiences, as well as extensive observations, lessons, and skills passed from generation to generation. Each Indian Tribe, Native Hawaiian, and Indigenous community has its own place-based body of knowledge. Indigenous Knowledge is based in ethical foundations often grounded in social, spiritual, cultural, and natural systems that are frequently intertwined and inseparable, offering a holistic perspective. Indigenous Knowledge is inherently heterogeneous due to the cultural, geographic, and socioeconomic differences from which it is derived, and is shaped by the Indigenous Peoples' understanding of their history and the surrounding environment. This knowledge is unique to each [Indian Tribe, Native Hawaiian community, or] group of Indigenous Peoples, and each may elect to utilize different terminology or express it in different ways. Indigenous Knowledge is deeply connected to the Indigenous Peoples holding that knowledge" (Executive Office of the President Office of Science and Technology Policy [OSTP] and Council on Environmental Quality [CEQ], 2022).

2.5 Traditional Cultural Properties

National Register Bulletin 38 defines Traditional Cultural Properties as follows. This definition is provided herein to the extent that federal requirements apply.

> A traditional cultural property… can be defined generally as one that is eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community.

2.6 Cultural Landscapes

The Advisory Council on Historic Preservation's 2016 Information Paper on Cultural Landscapes defines cultural landscapes. This definition is provided herein to the extent that federal requirements apply.

> Landscapes can be defined as large-scale properties often comprised of multiple, linked features that form a cohesive area or place. They have cultural and historical meanings attached to them by the peoples who have traveled, used, and interwoven these places into generations of practice. In addition to the physical, on the ground components, visual and audio aspects of place are often important to how they are defined.

2.7 Confidentiality

Public Resources Code Section 21082.3(c):

> (c) (1) Any information, including, but not limited to, the location, description, and use of the tribal cultural resources, that is submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with subdivision (r) of Section 6254 of, and Section 6254.10 of, the Government Code, and subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations, without the prior consent of the tribe that provided the information. If the lead agency publishes any information submitted by a California Native American tribe during the consultation or environmental review process, that information shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. This subdivision does not prohibit the confidential exchange of the submitted information between public agencies that have lawful jurisdiction over the preparation of the environmental document.
>
> (2) (A) This subdivision does not prohibit the confidential exchange of information regarding tribal cultural resources submitted by a California Native American tribe during the consultation or environmental review process among the lead agency, the California Native American tribe, the project applicant, or the project applicant's agent. Except as provided in subparagraph (B) or unless the California Native American tribe providing the information consents, in writing, to public disclosure, the project applicant or the project applicant's legal advisers, using a reasonable degree of care, shall maintain the confidentiality of the information exchanged for the purposes of preventing looting, vandalism, or damage to a tribal cultural resources and shall not disclose to a third party confidential information regarding tribal cultural resources.
>
> (B) This paragraph does not apply to data or information that are or become publicly available, are already in the lawful possession of the project applicant before the provision of the

information by the California Native American tribe, are independently developed by the project applicant or the project applicant's agents, or are lawfully obtained by the project applicant from a third party that is not the lead agency, a California Native American tribe, or another public agency.

(4) This subdivision does not prevent a lead agency or other public agency from describing the information in general terms in the environmental document so as to inform the public of the basis of the lead agency's or other public agency's decision without breaching the confidentiality required by this subdivision.

Section 6254.10 of the California Code:

Nothing in [the Public Records Act] requires disclosure of records that relate to archaeological site information and reports maintained by, or in the possession of, the Department of Parks and Recreation, the State Historical Resources Commission, the State Lands Commission, the Native American Heritage Commission, another state agency, or a local agency, including the records that the agency obtains through a consultation process between a California Native American tribe and a state or local agency.

For Federal actions, to the extent that federal requirements apply, the following provisions are potentially applicable:

Title 43 Subtitle A Part 7.18 Implementing16 U.S.C. 470aa-mm:

(a) The Federal land manager shall not make available to the public, under subchapter II of chapter 5 of title 5 of the United States Code or any other provision of law, information concerning the nature and location of any archaeological resource, with the following exceptions:

(1) The Federal land manager may make information available, provided that the disclosure will further the purposes of the Act and this part, or the Act of June 27, 1960, as amended (16 U.S.C. 469 through 469c), without risking harm to the archaeological resource or to the site in which it is located.

(2) The Federal land manager shall make information available, when the Governor of any State has submitted to the Federal land manager a written request for information, concerning the archaeological resources within the requesting Governor's State, provided that the request includes:

(i) The specific archaeological resource or area about which information is sought;

(ii) The purpose for which the information is sought; and

(iii) The Governor's written commitment to adequately protect the confidentiality of the information.

54 U.S.C. 307103:

(a) AUTHORITY TO WITHHOLD FROM DISCLOSURE.-The head of a Federal agency, or other public official receiving grant assistance pursuant to this division, after consultation with the Secretary, shall withhold from disclosure to the public information about the location, character, or ownership of a historic property if the Secretary and the agency determine that disclosure may-

(1) cause a significant invasion of privacy;

(2) risk harm to the historic property; or

(3) impede the use of a traditional religious site by practitioners.

(b) ACCESS DETERMINATION.-When the head of a Federal agency or other public official determines that information should be withheld from the public pursuant to subsection (a), the Secretary, in consultation with the Federal agency head or official, shall determine who may have access to the information for the purpose of carrying out this division.

(c) CONSULTATION WITH COUNCIL.-When information described in subsection (a) has been developed in the course of an agency's compliance with section 306107 or 306108 of this title, the Secretary shall consult with the Council in reaching determinations under subsections (a) and (b).

Exemption 3 of the Federal Freedom of Information Act:

Information that is prohibited from disclosure by another federal law [is withheld from disclosure under the Freedom of Information Act].

3.0 REGULATORY CONTEXT

3.1 City of Clearlake General Plan

Excerpt from the City of Clearlake General Plan:

"Recognizing the importance of cultural resources in the region, the City entered into a Memorandum of Agreement (MOA) with the Koi Nation of Northern California [Koi Nation] on August 28, 2014. The MOA memorializes the City's policy of respecting the City's rich cultural heritage and provides a pro-active approach to preserving these resources by formalizing a collaborative effort between the City and [Koi Nation] for consultation on development projects received by the City for processing. In addition, the MOA provides for additional collaborative preservation work, such as developing a cultural resources management plan among other things. The City has also established Tribal Consultation Procedures within the City's Environmental Guidelines to provide the opportunity for tribes, including the [Koi Nation], Elem [Indian Colony of Pomo Indians of the Sulphur Bank Ranchera] and Middletown Rancheria [of Pomo Indians], to consult with the City over projects to evaluate impacts on tribal cultural resources in accordance with Assembly Bill 52.

Goal CO 10 Important cultural, historical, and archaeological sites managed and protected for the benefit of present and future generations.

Objective CO 10.1 Identify and evaluate Cultural and Archaeological Resources.

Policy CO 10.1.1 The City shall identify and evaluate cultural resources, including "tribal cultural resources" (as defined in AB 52) during the land use planning process pursuant to CEQA and participate in and support efforts by others to identify significant cultural, historical, and archaeological resources using appropriate State and Federal standards.

Program CO 10.1.1.1 The City shall collaborate with California Native American Tribes, as identified by the Native American Heritage Commission, pursuant to Government Code Section 65352.3, through collaboration with the Sonoma State University Northwest Information Center (SSUNIC) to prepare an archaeological, cultural, and historical resources map and inventory within the City.

Policy CO 10.1.2 The City shall continue to solicit views from the local Native American communities regarding cultural resources. Any changes, modifications, or additions to the Clearlake City General Plan will require consultation with local Native American representatives prior to adoption, as specified in California Senate Bill 18.

Program CO 10.1.2.1 The City shall work with the Native American Heritage Commission to identify locations of importance to Native Americans, including archaeological sites and traditional cultural properties.

Objective CO 10.2 Protection of sites of cultural, historical, or archaeological significance are protected for present and future generations.

Policy CO 10.2.1 The City shall encourage the protection of cultural, historical, and archaeological sites.

Program CO 10.2.1.1 The City shall help identify sites of statewide or local significance that have anthropological, cultural, military, political, architectural, economic, scientific, religious, or other values for potential for placement on the National Register of Historic Places and/or inclusion in the California Inventory of Historic Resources.

Program CO 10.2.1.2 The City shall update the City's Grading Ordinance to be consistent with California Code of Regulations, Title 20, and Section 2501 et seq. to ensure protection of cultural resource sites during the grading process.

Policy CO 10.2.2 Development on sites of cultural significance shall follow the guidelines outlined in the California Environmental Quality Act (CEQA) Section 21083.2 (b1, b2, b3, b4) and the CEQA Guidelines Section 15126.4c.

Program CO 10.2.2.1 The City shall develop a set of mitigation measures to be used for any project which may impact an identified site of cultural significance.

Program CO 10.2.2.2 The City shall enforce procedures to ensure that mitigation measures established for the protection of historical resources are carried out prior to development.

Policy CO 10.2.3 The City shall adhere to construction standards for development on sites of cultural, historical, or archaeological significance.

Program CO 10.2.3.1 The City shall establish construction standards for the protection of historic resources during development.

Program CO 10.2.3.2 Use the State Historic Building Code for designated historic properties.

Policy CO 10.2.4 The City shall, to the extent feasible, maintain confidentiality regarding the locations of archaeological sites in order to preserve and protect these resources from vandalism and the unauthorized removal of artifacts.

Policy CO 10.2.5 In the event that archaeological/paleontological resources are inadvertently discovered during ground disturbing activities, the City shall require that all grading and construction work within 100 feet of the find be suspended until the significance of the resource can be determined by a Registered Professional Archaeologist /Paleontologist as appropriate. The City will require that a Registered Professional Archaeologist/Paleontologist make recommendations for measures necessary to protect the find or to undertake data recovery, excavation, analysis, and curation of archaeological/paleontological materials, as appropriate.

Policy CO 10.2.6 Pursuant to CEQA Guidelines (Section 15064.5), if human remains are discovered during project construction, comply with state laws relating to prohibitions on disinterring, disturbing, or removing human remains from any

location other than a dedicated cemetery (California Health and Safety Code Section 7050.5).

Policy CO 10.2.7 If human remains of Native American origin are discovered during project construction, comply with State laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (Public Resources Code Sec. 5097).

Policy CO 10.2.8 The City shall continue to require "Project Reviews" (archaeological/historical) record searches for all discretionary projects under the California Environmental Quality Act (CEQA) that involves any subsurface soil work. If the record search determines that the project site has the potential to contain archaeological, historical or other cultural resources (per Section 15064.5 of the CEQA Guidelines), an archaeological survey shall be conducted of the project site by a Registered Professional Archaeologist selected by the City. The survey shall include consultation with Native American Indian Tribes for the City of Clearlake (as maintained by the Native American Heritage Commission). The survey shall include a report summarizing findings and include any required measures that will mitigate damage to the cultural resource to a level of non-significance. Recommended mitigation measures shall be incorporated into the project to insure potential that impacts are mitigated to a level of non-significance.

Policy CO 10.2.9 The City shall maintain a list of approved Registered Professional Archaeologist [sic] for conducting archaeological, cultural, or historical resource surveys. This list shall undergo periodic review by California Native American Tribes, as identified by the Native American Heritage Commission, pursuant to Government Code Section 65352.3. The City will consider concerns presented regarding those on the list and will consult with Tribes in a good faith effort to resolve concerns received regarding the list.

Policy CO 10.2.10 The City shall enter into a memorandum of understanding, memorandum of agreement, or other agreements with the Native American Heritage Commission (SSUNIC) for facilitated record searches for projects that may result in ground disturbance.

Policy CO 10.2.11 The City shall implement provisions of the Memorandum of Agreement (MOA) with the Koi Nation of Northern California for addressing preservation of cultural resources within the City. The City will consider entering into other similar agreements with other Native American Indian Tribes, as identified by the Native American Heritage Commission, pursuant to Government Code Section 65352.3.

Policy CO 10.2.12 In collaboration with the Koi Nation of Northern California, the Elem Indian Colony of Pomo, and the Middletown Rancheria, the City will establish a consultation protocol for project consultation. The City will encourage other American Indian Tribes to consult with the Koi Nation of Northern California to develop consensus in project consultations with the City. For the purposes of

project consultation pursuant to Public Resources Code Section 21077, the City shall consult with tribes according to the boundary map noted below [redacted]:

Policy CO 10.2.13. The City shall support the development of a Cultural Heritage Preservation Program if developed by the areas Native American Tribes. This program could be used as a preservation tool to apply to properties within the City determined to preserve significant cultural.

Policy CO 10.2.14. In order to assure compliance with the Native American Graves Protection Act, the City will work with California Native American Tribes as identified by the Native American Heritage Commission, pursuant to Government Code Section 65352.3 and other groups to the extent reasonably feasible to communicate develop procedures and enforce existing cultural resource protection laws.

Policy CO 10.3.1 The City will support local, state, and national education programs on cultural, historical, and archaeological resources.

Policy CO 10.3.2 The City shall support public and private efforts to preserve, rehabilitate, and continue the use of historic structures, sites and districts determined to be of significant value by the City.

Program CO 10.3.2.1 The City shall encourage the use of the Secretary of the Interior's Standards for the Treatment of Historic Properties and Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings.

Policy CO 10.3.3 The City should encourage the cooperation of property owners to treat cultural resources as assets rather than liabilities, and encourage public support for the preservation of these resources." (General Plan pages 90-96.)

3.2 City of Clearlake Environmental Review Guidelines

Excerpts from Appendix O of the 2019 City of Clearlake Environmental Review Guidelines (Native American Tribe Consultation Program):

- "The Koi Nation, Elem, and Middletown Rancheria Tribes are the three federally recognized tribes that have requested consultations in the past and are key to the success of the City's programs to address AB 52" (2019:73).
- "The City has been proactive to address this and other related Native American Resource preservation laws, such as SB 18, including:
    - Collaborated with the Koi Nation to develop and execute a Memorandum of Agreement addressing cultural resource preservation.
    - Prepared a Cultural Resource Section in the Draft 2040 General Plan Update (in collaboration with the Koi Nation).
    - Established new cultural resource preservation procedures for addressing archaeological resource impacts for new development projects (in collaboration with the Koi Nation).
    - Assembled an approved list of archaeologists/historic professionals for preparing cultural resource surveys and related reports.
    - Meet regularly with Koi Nation representatives to review and consult on projects."

- "Consultation shall also be provided for those Native American Tribes who have cultural geographic affiliation with the project site. Map A identifies three tribes in Clearlake that must be offered the opportunity for consultation under SB 52, including the Koi, Elem and Middletown Rancheria. Projects falling into the identified territory or within the transition zones identified in Map A need to be notified and offered the opportunity for comment and potentially consult. Note that Map A is subject to change as tribes provide information on their areas of cultural affiliation. The Consultation Process for this shall be conducted in accordance with California Public Resources Code Section 21080.3 (see Diagram A)."

3.3 AB 52 / CEQA

Each CEQA lead agency maintains its own file of general request letters from California Native American tribes under AB 52. The City shall first review project applications and "within 14 days of determining that an application for a project is complete or a decision by a public agency to undertake a project, (California Public Resources Code Section 21080.3.1d)", it shall notify in writing those tribes that specifically requested notification under CEQA. The tribes notified may be different than the tribes being consulted under SB 18 or Section 106, although some overlap may occur. For tribes that respond within 30 days with a request to consult, the City shall initiate consultation within 30 days of receiving the written request to consult. As required by California Public Resources Code Section 21080.3.2(a), "if the California Native American tribe requests consultation regarding alternatives to the project, recommended mitigation measures, or significant effects, the consultation shall include those topics. The consultation may include discussion concerning the type of environmental review necessary, the significance of tribal cultural resources, and, if necessary, project alternatives or the appropriate measures for preservation or mitigation that the California Native American tribe may recommended [sic] to the lead agency."

In accordance with Section 21080.3.2 (b), "the consultation is considered concluded when either of the following occurs: 1) The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource. (2) A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached." The procedures outlined in AB 52 shall be conducted as specified in the California Public Resources Code Sections 21074, 21080.3 et seq., 21082.3, 21083.09, and 21084.3.

3.4 SB 18

If a project will require a general plan or specific plan adoption or amendment, the City must comply with SB 18, which requires local agencies, including cities and counties, to contact and consult with California Native American tribes prior to amending or adopting a general plan or specific plan, or designating land as open space containing Native American cultural resources. The consultation that is conducted under SB 18 is different than that which is normally conducted in conjunction with cultural resources studies under AB 52 or Section 106 of the NHPA. In addition, consultation under SB 18 must be government-to-government, between the Native American community and the local agency and in accordance with the Governor's Office of Planning and Research's Tribal Consultation Guidelines (2005).

3.5 AB 168 / SB 35

In 2018, the Legislature enacted SB 35 to provide a pathway for the ministerial approval of low- and moderate-income housing development projects without the need to be reviewed under the California Environmental Quality Act (CEQA). Because CEQA requires tribal consultation to identify Tribal Cultural

Resources that may be affected by these projects, bypassing CEQA review meant that such resources might be impacted without consideration. As a result, in 2020, the Legislature enacted AB 168, which creates a new AB-52-like "scoping consultation" process before a project can be considered eligible for ministerial approval under SB 35. If consultation is not concluded in agreement with a consulting tribe, the project would not be eligible for ministerial approval and would be required to complete CEQA review instead.

3.6 Section 106 NHPA

The federal law that covers cultural resources that could be affected by federal undertakings is the National Historic Preservation Act (NHPA) of 1966, as amended. Section 106 of the NHPA requires that federal agencies take into account the effects of a federal undertaking on properties listed in or eligible for the NRHP. The agencies must afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on the undertaking. A federal undertaking is defined in 36 CFR 800.16(y):

"A federal undertaking means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency, including those carried out by or on behalf of a federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license, or approval." The regulations that stipulate the procedures for complying with Section 106 are in 36 CFR 800.3 through 800.6. The Section 106 regulations require:

- definition of the Area of Potential Effects (APE);
- identification of cultural resources within the APE;
- evaluation of the identified resources in the APE using NRHP eligibility criteria;
- determination of whether the effects of the undertaking or project on eligible resources will be adverse; and
- agreement on and implementation of efforts to resolve adverse effects, if necessary.

The aforementioned steps may be conducted in a sequential manner or, in accordance with 36 CFR 800.3(g), "A consultation by the agency official with the SHPO [or THPO if on tribal lands, as per 800.16(w)] and other consulting parties may address multiple steps in §§ 800.3 through 800.6 where the agency official and the SHPO [or THPO if on tribal lands] agree it is appropriate as long as the consulting parties and the public have an adequate opportunity to express their views as provided in § 800.2(d)."

The federal agency must seek comment from tribes and other members of the public, the State Historic Preservation Officer (SHPO), if on tribal lands, the Tribal Historic Preservation Officer (THPO) as defined in 36 CFR 800.16(w), and, in some cases, the ACHP, for its determinations of eligibility, effects, and proposed mitigation measures. Section 106 procedures for a specific project can be modified by negotiation of a Memorandum of Agreement or Programmatic Agreement between the federal agency, the SHPO, and, in some cases, the project proponent or tribes. Unless an MOA or PA are needed, concurrence from SHPO is not required.

Effects to a cultural resource are potentially adverse if the lead federal agency, with the SHPO's concurrence, determines the resource eligible for the NRHP, making it a Historic Property, and if application of the Criteria of Adverse Effects (36 CFR 800.5[a][2] et seq.) results in the conclusion that the effects will be adverse.

4.0 ROLES AND RESPONSIBILITIES

4.1 City of Clearlake

The City will serve either as a CEQA lead or responsible agency for discretionary approval of private-sector projects, or as lead agency and a project proponent for City projects. The City also administers the issuance of ministerial approvals, plan checks, and non-discretionary actions related to projects under its jurisdiction, which are not subject to compliance with CEQA. There are three primary divisions or departments that may be expected to implement these Guidelines, in whole or in part, as follows.

- The Community Development Department is responsible for ensuring compliance of all development proposals with the City's zoning, subdivision, and environmental ordinances, as well as various codes, standards, and policies. It also monitors and enforces the building and safety standards contained in the state Building Codes and in various municipal codes and policies. This includes oversight of ministerial actions, which are not subject to these Guidelines.
- The Engineering Department is responsible for the oversight of all matters relating to the design and construction of specific infrastructure projects that serve the citizens of the City of Clearlake, including parks and recreation facilities, city buildings, drainage system/flood control, public facilities, the senior / community center, sidewalks, street lights, streets and commercial/residential development.
- The Public Works Department is responsible for administering and planning City projects that affect public streets, the water and sewer system, and other important infrastructure in the City.

These Departments are those most likely to be responsible for CEQA compliance. The City Planning Commission and City Council may also be responsible for CEQA compliance.

There are two broad types of actions that the City is responsible for: discretionary projects and ministerial actions. Discretionary projects are those that require that the City exercise judgment or deliberation when determining whether or not to approve a project. Because discretionary projects can result in no approval (denial), they are subject to compliance with CEQA and, by extension, these Guidelines.

Ministerial actions are agency decisions involving little or no judgment by City staff as to the wisdom or manner of carrying out the project. These actions include plan checks, over-the-counter building permit issuance, dog or business licenses, and other similar actions for which an agency official has no ability to deny or reject the action, as long as the subject of the action meets the pre-approved parameters and the required terms and conditions are met. Ministerial actions are not subject to CEQA or to these Guidelines. Therefore, the following procedures for the identification, evaluation, determination of effect, and mitigation of significant impacts to tribal cultural resources apply only to discretionary projects (in which the City has the ability to deny a project through the exercise of judgment as to the wisdom or manner of carrying out the project), or to applicable City projects not exempt under CEQA.

4.2 California Native American Tribes

California Native American tribes are defined in Section 21073 of the California Public Resources Code and Chapter 905 of the Statutes of 2004. The City is required to follow the procedures enacted by AB 52 for all California Native American tribes that notified the City in writing of their request to receive notice

of proposed projects. These tribes need not be physically located in or near the City, but must be traditionally and culturally affiliated with the land currently under the jurisdiction of the City.

In addition, California Native American Tribes, including but not limited to those that do not request that the City notice them under AB 52, may be consulted under SB 18, as determined by the NAHC. The City is required to offer consultation under SB 18 to all of the tribes named by the NAHC on its SB 18 list.

Federally recognized tribes are those defined in 25 CFR Part 83 and identified through the Federally Recognized Indian Tribe List Act of 1994, which requires the Secretary of the Interior to publish a list of federally recognized Indian tribes (Pub. L. 103-454, 108 Stat. 4791 (Nov. 2, 1994)). These tribes are recognized by the federal government as having special sovereignty, immunities, and privileges by virtue of their government-to-government relationship with the United States. Federally-recognized tribes are eligible for funding and services from the BIA and are afforded special consultation rights under Section 106 of the NHPA. Federally-recognized tribes may include, but are not limited to, California Native American tribes as described in Section 5.6.

4.3 California Office of Historic Preservation

The California OHP is a state agency led by the SHPO that, through delegation of authority by Congress, acts on behalf of the Advisory Council on Historic Preservation in the implementation of the regulations in 36 CFR Part 800 that implement Section 106 of the NHPA. The OHP is also responsible for maintaining the California Historical Resources Information System (CHRIS), and for administering the CRHR, NRHP, CHL, and various grants and programs related to historic preservation in California. Although OHP does not participate in the CEQA process for individual private-sector projects, it may enter into consultation as part of Section 106 compliance or when state-owned historical resources may be affected by a project.

4.4 California Native American Heritage Commission

The California NAHC is composed of a nine-member governor-appointed advisory body responsible for the identification and cataloging of places of special religious or social significance to Native Americans, including sacred sites and known Native American graves and cemeteries. The NAHC may serve as a trustee agency under CEQA, and is responsible for identifying a Most Likely Descendant for Native American human remains that are unearthed in California.

4.5 Federal Agencies

There are several federal agencies that may issue federal approvals, permits, licenses, or funding for projects in the City, which will trigger compliance with Section 106 NHPA and potential consultation with interested parties including but not limited to California Native American tribes, historical societies, and preservation organizations, etc.:

- U.S. Army Corps of Engineers (USACE): issuance of a permit for temporary and permanent discharge of fill into Waters of the United States, in accordance with Section 404 of the Clean Water Act
- U.S. Fish and Wildlife Service (USFWS): issuance of a biological opinion or incidental take permit for federally-listed biological species
- Federal Highways Administration (FHA), and its designee, California Department of Transportation (Caltrans): issuance of Federal pass-through funds, which will require separate

compliance with the Caltrans Section 106 PA, or issuance of encroachment permits, which will require separate review by Caltrans

- US Forest Service and US Bureau of Land Management as land managing agencies that may require special use permits
- Other federal agencies that may provide funding to City or private projects such as the U.S. Department of Housing and Urban Development's Community Development Block Grant program or US Bureau of Reclamation for water rights

When Section 106 applies to a City project, the City serves in the role of a consulting agency. If the City is also the project proponent, then the City is responsible for implementing requirements from federal agencies as they, not the City, carry out Section 106 consultation.

4.6 Cultural Resources Consultants

Cultural Resources Consultants, and in particular, professional archaeologists, are expected to work collaboratively with Native American tribes when conducting a cultural resources inventory to support the City's discretionary decision for a project. In accordance with General Plan Policy CO 10.2.9, the City maintains a list of professionally qualified cultural resources consultants who meet the Secretary of the Interior's Professional Qualification Standards (PQS) in 36 CFR Part 61 and Volume 62, No 119 of the Federal Register (June 20, 1997). In order for consultants to be included on the City's list, they must sign a Memorandum of Understanding with the City that specifies the standards for adequate studies, and acknowledges the requirement to coordinate with tribes during the preparation of technical studies and meet professional standards. The City's list shall be posted on the City's website for review by any tribe or member of the public. All coordination and communication between consultants and tribes must be described or characterized in all forms of communication as "coordination" and not consultation.

4.7 Private Applicants for Projects

Developers and citizens who propose development projects within the City, which are typically funded wholly with private money on privately-owned property, are considered private-sector applicants. These applicants are subject to compliance with all applicable laws, codes, regulations, and permits, both discretionary and ministerial. Although the City is ultimately responsible for approval or denial of a proposed project, the applicants and City may engage third-party consultants to implement portions of these Guidelines and carry out analyses used to support decision-making of discretionary projects. The City may not delegate its duty to engage in government-to-government consultation with a Native American tribe to any third party.

5.0 TRIBAL CONSULTATION

5.1 General Purpose and Intent

Engaging Native American tribes in project planning of public and private projects is not only consistent with the legislative intent of AB 52, but by involving them early enough in project design, impacts to tribal cultural resources and costly redesigns can be avoided. Planning for tribal participation can also ensure that sufficient funding is secured during the planning process.

The way in which tribes will be engaged in planning depends on the role that the City takes: either as project proponent for City projects or as lead agency for private projects. This is primarily due to the fact that the City may not be aware of future private projects until an application is filed and by that time, much of the preliminary design has been completed.

When the City serves as lead agency for a private project, the City may not have as much advance notice. Therefore, the City shall ensure that the requirement for tribal outreach is communicated to private project proponents to:

- Ensure that cultural resources consultants contracted by private parties extend the opportunity to tribes named on the NAHC list to participate in pre-project surveys and document tribal involvement as appropriate in the report. If no tribes that were noticed send a representative or respond with interest within 30 days, the City will accept a report without tribal participation provided the notice was given and documented.
- Ensure that interested tribes named on the NAHC list are afforded 30 days to review and provide comments on the consultant's technical report before it is submitted to the City.

6.0 PAYMENT POLICY

6.1 Policy of Payment for Consultation

In many areas of California, including the City of Clearlake, some tribes have requested payment of public funds for their participation in the early planning stages of City projects. The purpose of this guidance is to clarify what costs the City will pay in the event the City receives a request for payment for participation in a project planning process.

There are no laws or regulations that require payment to either consulting parties or tribes during project planning activities, consultation, or construction. In fact, "consultation" is defined by Government Code Section 65352.4 as "the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties' cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American tribes shall be conducted in a way that is mutually respectful of each party's sovereignty. Consultation shall also recognize the tribes' potential needs for confidentiality with respect to places that have traditional tribal cultural significance."

The City recognizes the importance of providing information, staff time, or contract labor time at no cost to the tribes and expects tribes to provide information to the City at no cost to the City. Additionally, there are numerous California Native American tribes in the region that may ascribe cultural affiliation to the Clearlake area and may request consultation or participation in the future. Because different tribes have different opinions, interpretations, cultural values, and information, it is the City's intent to consult meaningfully with all California Native American tribes who wish to do so.

Furthermore, because CEQA is founded on consultation with interested parties, commenting agencies, stakeholders, and the public, the City is tasked with consulting with many organizations and individuals regarding all aspects of CEQA review, including biological and wildlife non-profit organizations, professional societies and associations, and members of the public. All voluntarily provide input and information to the City on a wide range of environmental topics covered by CEQA, which is taken into account during the decision-making process for discretionary projects. It has always been the City's view that meaningful consultation cannot take place if such discussions are couched in financial or contractual relationships between the consulting parties and the public.

In addition, the City recognizes the difference between a "consulting party" (as described above) and a "consultant," where the City delegates the preparation of environmental documents and supporting technical information to third party consultants, selected according to qualifications, cost, and technical expertise. Use of registered professionals is defined further in Section 15149 of the CEQA Guidelines and does not include consulting parties.

The City does not generally compensate any "consulting parties," including tribes, members of the public, or stakeholders, during project planning and environmental review for: 1) consultation during the City's project planning process; 2) for information that any consulting tribe or party wishes the City to take into consideration during project planning; and 3) for tribes, members of the public, stakeholders, or other parties to visit or survey project areas to make recommendations to the City.

6.2 Policy of Payment for Tribal Participation During Construction

If the City determines that tribal monitoring or participation is required as a mitigation measure or condition of approval, then payment is appropriate (payment for non-required tribal observation and

for consultation is not). The following policy is intended for both City and private projects under the jurisdiction of the City.

When a mitigation measure of a certified environmental document or a condition of a permit or approval requires tribal monitoring of construction-related activities, the City shall retain the requisite number of tribal monitor(s) under contract from a list of pre-qualified culturally-affiliated Native American tribes that are on a list, maintained by the City, that is generated as a result of a Request for Qualifications advertisement. When the City will require tribal monitoring for a project, tribes on the list will be invited through a public advertisement to provide a scope, cost, and schedule proposal for the City's consideration and selection.

A tribal representative that is paid for his or her participation as a monitor shall:

- have the Tribe's authority to make daily decisions on Native American beliefs, wishes or policy, but may consult with other tribal members with authority and/or experience when it does not delay project progress;
- have the Tribe's authority to consult on their behalf with the Project Archaeologist on the archaeological investigations;
- report to the appropriate tribal members on project progress, activities, finds, problems by whatever methods are appropriate;
- report to the designated job supervisor on a daily basis; and
- have the Tribe's authority to lodge a formal complaint.

Examples (for the purpose of this section) include Tribal Historic Preservation Officers, Tribal Council Members, and Tribal Monitors.

Consistent with the process used for other consultants for the City, retention of tribal monitors will require compliance with Chapter III, Section 3-4 of the Municipal Code.

In addition, the following parameters apply:

- Tribal Monitors shall be compensated only for City-authorized labor spent on the job site and are subject to applicable labor laws with respect to paid rest breaks and unpaid meal periods.
- The City shall not compensate more than one Tribal Monitor per project without prior approval by City staff in advance.
- The City shall not compensate trainees or interns for tribal monitoring.
- The City shall not pay for monitoring of activities that do not involve ground disturbance that would have the potential to impact a TCR, as determined through the City's environmental review and associated consultation process.
- All representatives and monitors must adhere to job site safety protocols.
- Private property owners reserve the right to prohibit entry to private lands.

- The City will identify Tribal Monitors and will discuss Tribal Monitor assignments with culturally affiliated tribes prior to monitoring activities.
- Tribal Monitors shall not be considered employees of the City.

Pay rates for tribal monitoring and participation for private developments (where the City is not the project proponent) may be separately negotiated between the tribe and project proponent. Nothing in these guidelines or in applicable law prohibits a private landowner from separately entering into an agreement with a tribe to provide unrequired monitoring or monitoring at higher rates, so long as doing so does not attempt to circumvent existing laws and consultation processes.

In the event that the City receives a request for tribal monitoring after project approval, which may be just before or during construction, when tribal monitoring was not a mitigation measure or condition of approval, the City shall not pay for tribal monitoring. However, the City will consider requests from interested tribes to visit the project site to observe project activities on a voluntary basis, as long as appropriate safety procedures are followed and a waiver of liability (including proof of workers compensation insurance) is on file with the City.

7.0 CEQA EXEMPTIONS

7.1 Statutory Exemptions

Section 15061 of the CEQA Guidelines requires that the City first consider whether the project is subject to CEQA or exempted by statute or by category. Statutory exemptions are provided in Article 18 of the CEQA statute, from Section 15260 to 15285 and include, but are not limited to:

- projects ongoing since 1970;
- feasibility and planning studies;
- discharge requirements;
- adoption of coastal plans and programs;
- general plan time extensions;
- financial assistance to low or moderate income housing;
- ministerial projects;
- emergency projects;
- family day care homes;
- specified mass transit projects;
- transportation improvement and congestion management programs;
- application of coatings;
- air quality permits;
- specifically named projects either in the CEQA guidelines (Section 15282) and CEQA statute (Section 21080 et seq.).

Statutory exemptions under CEQA are not subject to these guidelines.

7.2 Categorical Exemptions

Section 21084 of the Public Resources Code required the development of a list of classes of projects that have been determined not to have a significant effect on the environment and are therefore exempt from CEQA, as long as there is no exception to the exemption as specified in Section 15300.2 of the CEQA Guidelines. These categorically exempted projects currently include the following projects in Sections 15301 through 15333:

- operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use;
- replacement or reconstruction of existing structures and facilities;
- new construction or conversion of small structures;

- minor alterations to land;
- minor alterations in land use limitations;
- information collection; inspections;
- loans;
- accessory structures;
- surplus government property sales;
- minor additions to schools;
- minor land divisions;
- acquisition or transfers of lands for conservation or preservation of parks, wilderness, historical resource, or wildlife conservation;
- transfer of ownership of land in order to create parks;
- open space contracts or easements;
- annexation of existing facilities;
- educational or training programs;
- normal operations of facilities for public gatherings;
- leasing facilities;
- small hydroelectric or cogeneration projects at existing facilities;
- some types of hazardous materials responses;
- in-fill development; and
- small areas of habitat restoration.

Section 15300.2 of the CEQA Guidelines provides several exceptions which may subject a categorically exempt project to CEQA review. Among those exceptions are when the project will have cumulatively significant effects, when unusual circumstances create a reasonable possibility that the project will have a significant environmental effect, and when the project may cause a substantial adverse change in the significance of a historical resource. When considering potential exceptions to categorical exemptions, the City shall consider TCR.

The City will first screen every discretionary project to determine whether or not it is categorically exempt from CEQA and these Guidelines and does not invoke the exception to the exemption rule. The following types of projects are expected to be categorically exempt and have no likely potential to impact either historical resources or TCRs, and therefore, shall not be subject to tribal consultation:

- statutory exemptions, including ministerial projects;

- subdivisions that do not approve or obligate the City to take any action to approve or permit (ministerially or otherwise) construction or any other ground-disturbing activity;
- wireless communication projects without ground-disturbing activity;
- changes of use of existing structures and facilities without ground-disturbing activity that do not increase the width of the structure or facility;
- sign permits;
- Consistency Determinations;
- time extensions;
- loans;
- annexation or leasing of existing facilities;
- repair, minor alteration, repaving or replacement of existing infrastructure within previously excavated alignments, trenches or facilities that do not include new disturbance of previously undisturbed ground; and
- other similar projects or permits, without ground disturbing activities or occurring within previously excavated graded areas, alignments, or trenches, and that do not include new disturbance of previously undisturbed ground, as determined by the City Planner.

Tribes interested in receiving notices of exemption are encouraged to visit the City's website at www.clearlakeca.us or CEQAnet hosted by the Governor's Office of Planning and Research.

8.0 CONDITIONS AND MITIGATION MEASURES

Any given project will have a different suite of conditions and mitigation measures that are specific to the project's unique dynamics. The City will, in consultation with tribes, select the most appropriate options. Additional tailoring for any option may be required. It is not the City's intention to require all or any of the conditions and mitigation measures discussed below for a project – the use of conditions and mitigation measures shall meet the significant nexus and rough proportionality tests of the California State Supreme Court. Each consulting tribe is entitled to request modifications to the conditions and mitigation measures, and to request any other measure that avoids or mitigates a potential significant impact to TCR.

8.1 Avoidance and Preservation

Avoidance is the preferred treatment method for TCR. This could include converting a lot that had been planned for residential development to open space designation or redesigning a road to curve around a TCR. However, not all TCR can be avoided. In cases where TCR are located in close proximity to a work area, the installation of temporary fencing (Option 1) would ensure that there is no inadvertent damage to TCR. This may or may not be coupled with construction monitoring. In cases where avoidance and preservation in place is feasible because, among other options, it will be included within dedicated open space, the recording of a deed restriction to ensure future activities do not unintentionally damage the resource is preferred (Option 2). In cases where avoided TCRs will be exposed to the public, the incorporation of Covenants, Conditions, and Restrictions (CC&Rs) will communicate the prohibition of artifact collection and site disturbance to new residents of housing developments (Option 3). Deed restrictions and CC&Rs should be designed to provide only the information necessary to protect the resource while preserving the confidentiality of TCR and preventing the public from knowing the exact location of the resource. Depending on the situation, the City may exercise its discretion to require one or more of these options, and tailored as appropriately determined by the City. The following are examples of how these measures may be worded:

> Option 1. Installation of Temporary Fencing. Prior to ground-disturbing activities commencing, the contractor shall install high-visibility temporary exclusionary fencing to prevent ground disturbance within 100 feet of site [number]. A photograph of the installed fencing and a map indicating the photo point shall be submitted to the City as proof of compliance. Fence installation shall be monitored by a qualified professional archaeologist and, for tribal cultural resources, a culturally affiliated tribal monitor, and inspected at least once per month during active construction to ensure integrity of the fence line. Once all construction equipment and personnel have vacated the project area, the exclusionary fencing may be removed. The contractor shall provide the City with documentation that the fence was installed, monitored, and removed in compliance with this measure.
>
> Option 2. Recording a Deed Restriction. Prior to [recording of the final map OR to issuance of building permits or improvement plans], the property owner shall record a deed restriction over site [name or number] to restrict development in the future. The area included in the deed restriction shall be delineated by a qualified professional archaeologist, in consultation with a culturally affiliated tribe(s), and described by a licensed surveyor prior to recording. Because archaeological site locations are restricted from public distribution, the deed restriction shall cite an "environmentally sensitive area." A copy of the recorded deed restriction that includes the site shall be provided to the City for retention in a confidential project file as proof of compliance. The qualified professional archaeologist shall submit a copy of the deed restriction to the Northwest

Information Center of the California Historical Resources Information System and shall copy the City and any culturally affiliated consulting tribe on this correspondence.

Option 3. Recording of CC&Rs. Notification of the restrictions on artifact collection and digging shall be included in a restrictive type of covenant recorded on each parcel, as follows: "The collecting, digging, disturbance, or removal of any artifact or other prehistoric or historic object located in an open space area, conservation easement, a lot subject to a deed restriction, or at any archaeological site that may become unearthed in the future, is prohibited." For TCR that are not physical resources, a CC&R shall establish appropriate limits on height, setback, or other installations. The form and language of the covenant shall be provided by the Project Proponent to the City for approval prior to execution or recordation. A copy of the recorded or executed covenant shall be provided by the Project Proponent to the City as proof of compliance within 30 days of the sale of each lot subject to this restriction.

8.2 Capping in Place

In cases where horizontal avoidance and preservation in place is not feasible, but a vertical separation between the TCR and future activities can be achieved, capping in place may be an appropriate means to reduce impacts to a resource. This may occur in the developments of City parks or areas that will be landscaped as part of a Project, but would likely not be appropriate when building foundations or excavation for utilities or other facilities will occur.

Capping in Place. Site [number or name] shall be capped to protect and preserve subsurface archaeological deposits identified within the project area, as described in this measure, and in consultation with a qualified professional archaeologist. Capping design may include a combination of geotextile fabric, culturally-sterile soil, where feasible, or other barriers or restrictions to prevent accidental or unauthorized disturbance in the future. The City shall provide the consulting tribe with a list of any proposed fill or capping material prior to any capping activity for input and recommendation from the tribe. The City retains discretion in the design and composition of the cap. All parties will work diligently to cap the site as quickly as possible. The capping specifications shall be demarcated on the project construction plans and approved by the City prior to issuance of improvement plans, grading permits, or building permits, and prior to commencement of ground-disturbing activities. The capping shall be monitored by a qualified professional archaeologist and culturally affiliated tribal monitor that represents a consulting tribe on the project, identified as such by the City. Within 30 days of the conclusion of the capping activity, the property owner shall record a deed restriction or other type of development restriction (approved by the City) over the capped site to restrict disturbance in the future. Prior to recording, the City shall review and approve the proposed boundaries of the restriction to ensure that the resource is protected. Because archaeological site and tribal resource locations are restricted from public distribution, the restriction shall cite an "environmentally sensitive area." A copy of the recorded restriction that includes the site shall be provided to the City for retention in a confidential project file as proof compliance. The qualified professional archaeologist shall submit a copy of the restriction and updated site record documenting the capping to the North Central Information Center of the California Historical Resources Information System and shall copy the City and any culturally affiliated consulting tribe on this correspondence.

8.3 Reburial

In the event of the discovery of TCRs or remains, or in the event that a known resource must be relocated to avoid impact, a reburial process may guide the placement and methods of repatriating the materials. In some cases, particularly in areas of high sensitivity or Projects that have known resources present, designating a reburial area free from future disturbance before the commencement of ground disturbing activities may be warranted (Option 1). At the City's discretion, if there is a lower likelihood of the potential to encounter buried resources, pre-designation may not be necessary, and in this case, the procedures in Option 2 may be appropriate.

Option 1. Predesignate Reburial Location. Prior to the commencement of ground-disturbing activities associated with the Project, the owner and a qualified professional archeologist shall consult with consulting tribal representatives regarding the designation of an appropriate onsite reburial location that is in an area not subject to future disturbance. If an appropriate onsite reburial location is not feasible, the owner shall identify, in consultation with consulting tribal representatives, an alternative reburial location that is in an area not subject to future disturbance. Such alternative location shall be accessible to the consulting tribe and protected from future disturbance by deed or other restriction. The reburial location will be used by the consulting tribe to rebury any Native American cultural items encountered which the tribe wishes to rebury, in accordance with its customs and traditions. The reburial location will be recommended to a designated MLD for reburial of Native American human remains and associated cultural items.. Following the completion of all ground disturbing activity, the reburial area will be backfilled and capped in accordance with the City guidelines, landscaped in consultation with the culturally affiliated tribe. Within 30 days of the conclusion of the capping activity, the property owner shall record a deed restriction or other type of development restriction (approved by the City) over the capped site to restrict disturbance in the future. Prior to recording, the City shall review and approve the proposed boundaries of the restriction to ensure that the resource is protected. Because archaeological site and tribal resource locations are restricted from public distribution, the restriction shall cite an "environmentally sensitive area." A copy of the recorded restriction that includes the site shall be provided to the City for retention in a confidential project file as proof compliance. The qualified professional archaeologist shall submit a copy of the restriction and updated site record documenting the capping to the North Central Information Center of the California Historical Resources Information System and shall copy the City and any culturally affiliated consulting tribe on this correspondence. If the City and the tribe agree that there is no need for a reburial area because no resources were encountered during construction, the location area will be available for unencumbered use after construction.

Option 2. Reburial without Predesignated Location. If tribal cultural resources are discovered during construction activities, and re-burial is warranted, ground-disturbing activities within 100 feet of the discovery shall temporarily cease and the property owner shall identify a location to accommodate reburial of any tribal cultural resources or human remains in consultation with the culturally affiliated tribe. The location selected shall be under the control of the property owner, in an area not planned for future disturbance, and can accommodate the recording of a deed restriction, should the reburial location be utilized for the project. A copy of a map showing the reburial location shall be filed with the City for proof of compliance prior to resuming construction and shall remain confidential. If the reburial location is not utilized for the project because there were no discoveries encountered during construction, then no further documentation or deed restrictions are required. In the event that human remains or tribal cultural resources are

encountered, the consultation and evaluation process in Mitigation Measure [XX] for the management of unanticipated discoveries shall be followed. Upon conclusion of that process, the Construction Manager shall facilitate the culturally affiliated consulting tribe's reburial of specified materials in the location selected for reburial, as directed by the City. The City shall reserve the right to dictate the nature, methods, and timing of the reburial, in consultation with the owner and the culturally affiliated consulting tribe. Within 30 days of the reburial, the property owner shall record a deed restriction or other type of development restriction (approved by the City) over the reburial site to restrict disturbance in the future. Prior to recording, the City shall review and approve the proposed boundaries of the restriction to ensure that the resource is protected. Because archaeological site and tribal resource locations are restricted from public distribution, the restriction shall cite an "environmentally sensitive area." A copy of the recorded restriction that includes the reburial site shall be provided to the City for retention in a confidential project file as proof compliance. The qualified professional archaeologist shall submit a copy of the restriction and updated site record documenting the reburial to the North Central Information Center of the California Historical Resources Information System and shall copy the City and any culturally affiliated consulting tribe on this correspondence.

8.4 Public Interpretation

In cases where TCRs will be impacted and such resources possess public education and interpretation potential regarding topics such as traditional ecological knowledge, lifeways, or subsistence, for example, it may be appropriate to require the development of interpretive panels. The panels would be developed in consultation with culturally affiliated tribes and placed in a public location.

Interpretive Panels. The Project Proponent shall ensure that the precontact and modern Indigenous context of the project area will be interpreted for the benefit of the general public through the development and installation of [X #] interpretive panel(s) with not less than [X #] of square feet each, developed in consultation with the [tribe(s)]. The panel(s) that shall be incorporated into publicly accessible areas of the project, or in a locale amenable to the City and consulting tribe(s). The proposed location of the panel, as well as conceptual layouts of the panel, shall be developed by a qualified professional and submitted to the City no later than 30 days prior to the commencement of ground disturbing activities. The City will submit the conceptual layout to the [tribe name] within 10 business days of receipt. The project construction may proceed during subsequent review and approval unless the City determines that the conceptual layout is not consistent with this mitigation measure. The [tribe name] shall have 60 days to provide recommendations on the conceptual layout to the City. Upon the close of the 60-day period, the City will forward any recommendations from the [tribe name] to the qualified professional for incorporation, as deemed appropriate by the City. The final design of the panel is subject to review and approval by the City. A PDF of the final panel(s), a photograph of the installed panel(s), and a map showing the location of the panel(s) shall be submitted by the contractor or qualified professional to the City within 60 days of installation, as proof of compliance. This information may be tied to a website, with provisions for long-term maintenance of the website. If requested by a [tribe(s)], the City may extend the timeframes in this measure, which shall be documented in writing (electronic communication may be used to satisfy this measure).

8.5 Construction Monitoring

In the event that the City determines that construction monitoring is preferred to reduce the potential impact to a TCR to less than significant, then a mitigation measure requiring paid tribal monitoring may be used and tailored to the specific project and circumstances (Option 1). In all other cases when a tribe has requested monitoring, the City may allow for voluntary (unpaid) observation (Option 2).

In the event that more than one culturally affiliated consulting tribe requests paid monitoring, the City shall consider either of the following circumstances to satisfy a tribal monitoring requirement, as applicable: 1) the tribes rotate monitoring shifts such that only one tribe is monitoring at a time; or 2) when the City determines that more than one tribal monitor is necessary at a single time, the tribes share the monitoring duties such that the number of paid monitors at a single time does not exceed what is required.

> Option 1. Tribal Monitoring. The [tribe name] shall be invited to provide a tribal monitor, under a paid tribal monitoring agreement, to observe all ground-disturbing activity associated with the project construction within the monitoring area depicted on the confidential Tribal Monitoring Map (dated xxxxx) and as described below.
>
> No later than seven calendar days prior to the start of ground disturbing activities, the construction supervisor or their designee shall notify the Tribe of the construction schedule for any work within the tribal monitoring area. Should the tribe choose not to provide a tribal monitor, or if the monitor is not present at the project location at the scheduled time, work may proceed without a monitor as long as the notification was made and documented.
>
> The tribal monitor shall observe all vegetation clearing and removal, all initial surface grading of the project area, placement of any geo-tech fabric or capping material, all excavation, and all ground disturbing activity of any kind within the tribal monitoring area from the surface to [x] feet below the surface of the tribal monitoring area.
>
> Tribal monitoring is not required outside of the tribal monitoring area, during above-surface construction activities that have no potential to protrude past a cap (if used), during shallow project disking when the archaeologist and tribe agree that there are no archaeological materials located within the depth of disking, or for flush-cutting or mowing of vegetation that does not disturb the underlying soil.
>
> The tribal monitor shall have the authority to temporarily pause ground disturbance within 100 feet of the discovery for a duration long enough to examine potential tribal cultural resources that may become unearthed during the activity. If no such resources are identified, then construction activities shall proceed, and no agency notifications are required. In the event that a potential tribal cultural resource is identified by the monitor, the monitor shall flag off the discovery location and notify the City immediately to consult with the tribe's designated cultural resources contact person on appropriate and respectful treatment of the tribal cultural resource pursuant to mitigation measure [cite unanticipated discovery measure here].
>
> Option 2. Voluntary Observation. In the event that the City provides for voluntary monitoring, the Construction Manager shall notify the City of the proposed ground disturbance a minimum of seven days prior to the start-date, in order to provide the City representative sufficient time to contact the [tribe name]. The construction supervisor shall invite a tribal representative to voluntarily inspect the project location, including any soil piles, trenches, or other disturbed areas, within the first five days of ground-breaking activity and at reasonable intervals based on the nature of the

ground disturbance and the environmental conditions. Construction activity may be ongoing during this time. Notification of the invitation shall be documented to the City.

The voluntary tribal observer shall have the authority to temporarily pause ground disturbance within 100 feet of the discovery for a duration long enough to examine potential tribal cultural resources that may become unearthed during the activity. If no such resources are identified, then construction activities shall proceed, and no agency notifications are required. In the event that a potential tribal cultural resource is identified by the monitor, the monitor shall flag off the discovery location and notify the City immediately to consult with the tribe's designated cultural resources contact person on appropriate and respectful treatment of the tribal cultural resource pursuant to mitigation measure [cite unanticipated discovery measure here].

8.6 Tribal Access Agreements

In cases where a TCR will be avoided and preserved in place, or where a reburial has occurred, providing access to requesting culturally affiliated tribes will allow for the legal visitation on private property or public property that is not normally accessible to the public. In such circumstances, the City may consider the following provision.

Legal Tribal Access. Prior to the recording of open space that contains tribal cultural resources, the [Tribe] shall be invited by the landowner, in coordination with the City, to execute a tribal access agreement to allow for permitted access to the tribal cultural resource referred to as [name or number] in perpetuity. The Project Proponent shall provide a copy of the executed agreement to the City for retention in a confidential project file as proof of compliance. Any restrictive document containing the site (e.g., deed restriction) and its associated management plan (if applicable) must allow for the implementation of the access agreement. Within 45 days of the invitation, should the tribe decline to negotiate the access agreement, or should the parties fail to come to agreement on the terms of access after a good faith and reasonable effort, management of the resource shall be dictated exclusively by the terms and conditions of the restrictive document and/or project conditions of approval. Such time may be extended by mutual written agreement.

8.7 Clean Fill Requirement

When fill material must be brought into a Project Area during project construction, it is important to the City that such material not be harvested from other archaeological sites, which will create new issues for the Project and disrupt the archaeological record. The City may require documentation that imported fill is not originating from another archaeological site before the import occurs (Option 1). In the event that a Project area contains a known archaeological TCR, the soil from that site may not be exported outside of the project unless determined by the City to not contain TCR (Option 2).

Option 1. Clean Fill. No Cultural Soil from other recorded archaeological sites in the City shall be used on the Project. Lake County is an area that is rich in tribal cultural resources, archaeological resources, and historic resources, any of which may be contained within soil taken from one location to another in the development process. To avoid spreading unanalyzed and unmitigated cultural soils from other development sites that may be culturally sensitive or contain tribal cultural resources, cultural resources, archaeological resources, or historic resources to this site, the contractor shall demonstrate to the satisfaction of the City that the fill material has not been obtained from a recorded archaeological site.

Option 2. Restriction on Export of Cultural Soil. No Cultural Soils from recorded archaeological sites in the Project area shall be removed from the Project area, unless as part of the treatment of a TCR. The recommendation to the City of what is, or is not, Cultural Soil shall be made jointly by the tribe and the Project Archaeologist. The City shall consider the recommendation based on substantial evidence and make the final determination of what constitutes Cultural Soil for the purpose of this measure. . Cultural Soils that have been previously disturbed may be used on site in locations that will be capped with soil or may be returned to excavation locations in the Project area. There is nothing preventing the removal of soil that has been determined to be non-Cultural Soil by the City from the Project area.

8.8 Contractor Awareness Training

Construction personnel do not always have the training or experience necessary to be able to identify TCRs during ground disturbing activities, and the failure to recognize unanticipated discoveries could lead to impacts to TCRs. All projects for which a consulting tribe has identified potential impacts to TCRs that include ground disturbing activities may use the following measure.

Tribal Cultural Awareness Training. The project owner shall retain a tribal representative from a culturally affiliated tribe to provide a one-time paid initial worker awareness and cultural awareness training program on or just prior to the first day of construction, and at any time five (5) or more untrained workers are employed in ground disturbing activities at the site. All supervisors of contractors, subcontractors, project personnel, and workers involved in ground disturbing activities shall be briefed on the requirements for avoidance, preservation in place, and minimization and mitigation measures by receiving cultural awareness training by the consulting tribe, as well as the procedures for addressing unanticipated discovery and respectful treatment of Native American human remains and tribal cultural resources.

8.9 Controlled Grading Procedures

One example of an alternative method is controlled grading to slowly and carefully remove overburden and allow for less destructive exposure of any cultural constituents. This may be implemented during the excavation of soil that is identified as part of a precontact site. When used specifically for precontact archaeological sites or TCRs, this technique would, by definition, require the use of both an archaeological monitor and a tribal monitor from a culturally affiliated tribe. Because a tribal monitor would be required in this scenario, payment for monitoring is appropriate (see Section 6.0 for policies on payment).

Controlled grading would not be required for soil that is identified as non-cultural formational soil or fill dirt imported to the site that is determined to lack cultural constituents. The determination of the transition from cultural soil to formational soil would be made by the City, after consideration of input from the project's archaeological consultant, culturally affiliated tribe(s), and geotechnical professionals.

Controlled Grading. The Construction Manager shall retain a qualified professional archaeologist, subject to the approval of the City, to monitor controlled grading activities. A minimum of seven days prior to beginning ground disturbing activities in the controlled grading of the area shown on confidential map [#], which is on file with the City, the Construction Manager shall notify the City and the [tribe name]of the proposed ground disturbing activities start-date. Under the observation of a tribal monitor and qualified archaeologist, the contractor shall use either a small piece of equipment or observe the removal of soil by a backhoe equipped with a flat-edge bucket to peel

away native soil using shallow cuts made in approximately two- to five-inch-deep layers. The grading equipment will push the shallow cuts of soil to the outside of the cultural deposit area and random samples may be screened to ensure adequate detection of any cultural materials that may be present. In the event that cultural materials or human remains are exposed, the procedures for unanticipated discoveries in Mitigation Measure [XX] shall apply. Controlled grading shall continue to a depth of 30 centimeters below the depth of any recorded artifacts, suggesting an end to the potential for cultural deposits, or when non-cultural formational soils are encountered that predate any human occupation of this location, as determined by the qualified professional archaeologist, in consultation with the tribal monitor. Once the identified depth has been reached, the controlled grading process will be terminated and mass grading may proceed, subject to the review and approval by the City. Controlled grading is not required for non-cultural soil or fill.

8.10 Alternative Treatment Measures

Based on the number and type of resources within a project, or based on the construction timing of the project, there may be a need to develop and negotiate certain types of mitigation that are not provided for above. There may also be requests from consulting tribes for methods of identification that may be considered to be non-traditional in mainstream cultural resources management (hereafter, "alternative"). The City, in consultation with appropriate professionals, experts, and tribes, shall be solely responsible for making the decision about whether or not an alternative method is appropriate for City projects. For private projects, where a project applicant objects to an alternative method, the City may opt to require a suitable substitute. In any case, the City shall not require mitigation when the effects are found under CEQA to be not significant, and any such mitigation must be commensurate with the impact.

However, there are specific types of alternative methods that the City has determined may not be appropriate at this time, including:

- Use of compensatory mitigation (payment of funds in exchange for impacts);
- Any mitigation or treatment that appears to benefit a specific entity, person, or tribe, rather than mitigating for a resource;
- Any method that would create an undue financial burden on the City or applicant (i.e., make a project infeasible); and
- Any other method or treatment that the City deems is not appropriate.

8.11 Unanticipated Discovery Procedures

Any project that includes ground disturbing activity has the potential to unearth archaeological materials, tribal cultural resources, or human remains that could not be seen on the surface and were not known prior to project approval. Both of the following measures will be used for TCRs when a project includes ground disturbance.

Unanticipated Discovery of Tribal Cultural Resources. In the event that a potential tribal cultural resource is identified during project construction, then the construction supervisor shall ensure that all ground disturbance is temporarily paused within 100 feet of the discovery for a duration long enough for a qualified archaeologist (and where appropriate a tribal monitor) to examine the discovery. If no such resources are identified (e.g., false alarm), then construction activities shall proceed, and no agency notifications are required. In the event that a tribal cultural resource is identified, then the supervisor or their designee shall notify the City immediately so that it can

consult with the tribe on appropriate and respectful treatment of the tribal cultural resource. The tribe's designated cultural resources contact person shall be provided 48 hours to make a recommendation for treatment. If avoidance and/or preservation in place is not possible, the City will direct the Contractor or project proponent to consider re-design or other measures to avoid impacting resources consistent with CEQA, subject to City Planning Commission approval and tribal consultation. In the event that City staff disagrees with the recommendations of the tribe, the City Council shall be the final arbiter.

Unanticipated Discovery of Human Remains. If human remains are encountered, no further disturbance shall occur within 150 feet of the vicinity of the find(s) until the Lake County Coroner has made the necessary findings as to origin (California Health and Safety Code Section 7050.5). Further, pursuant to California Public Resources Code Section 5097.98(b) remains and associated cultural items shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. Remains and associated cultural items shall be covered and protected from the elements, and no unauthorized individual may photograph remains or associated cultural items. If the Lake County Coroner determines the remains to be Native American, the Native American Heritage Commission must be contacted within 24 hours. The Native American Heritage Commission must then identify the "most likely descendant(s)" (MLD). The landowner shall engage in consultations with the MLD. The MLD will make recommendations concerning the treatment of the remains within 48 hours as provided in Public Resources Code 5097.98. If the landowner does not agree with the recommendations of the MLD, then the NAHC can mediate (§ 5097.94 of the PRC). If no agreement is reached, the landowner must rebury the remains where they will not be further disturbed (§ 5097.98 of the PRC). This will also include either recording the site with the NAHC or the appropriate Information Center; using an open space or conservation zoning designation or easement; or recording a reinternment document with the county in which the property is located (AB 2641). Work cannot resume within the no-work radius until the lead agencies, through consultation as appropriate, determine that the treatment measures have been completed to their satisfaction.

CITY OF CLEARLAKE

City Council

STAFF REPORT

SUBJECT: Amendment of Employment Services Agreement with Timothy Hobbs as Police Chief	**MEETING DATE:** Nov. 21, 2024
SUBMITTED BY: Alan D. Flora, City Manager	
PURPOSE OF REPORT: ☐ Information only ☐ Discussion ☒ Action Item	

WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The City Council is being asked to amend the contract with Timothy Hobbs as Police Chief to authorize longevity pay consistent with other employees and the Management Benefit Plan.

BACKGROUND/DISCUSSION:

Timothy Hobbs was appointed as Police Chief in January of 2023 by the City Manager with City Council approval as required by the Clearlake Municipal Code. The contract did not provide for a longevity incentive at the time. In order to make this contract and Chief Hobbs' compensation consistent with other management employees and the Management Benefit Plan, it is recommended this section be removed from his contract, allowing qualification for the longevity incentive. (Section 3.5.1 (E))

Pursuant to subsection (3) to Government Code § 54953(c), prior to the City Council taking final action, staff will provide an oral report summarizing the financial highlights of the proposed Agreement.

OPTIONS:

1. Approve amendment to employment contract with Chief Hobbs and authorize the City Manager to sign.
2. Other direction

FISCAL IMPACT:

☐ None ☒ $18,183 Budgeted Item? ☒ Yes ☐ No

Budget Adjustment Needed? ☐ Yes ☒ No If yes, amount of appropriation increase: $

Affected fund(s): ☒ General Fund ☐ Measure P Fund ☐ Measure V Fund ☐ Other:

Comments:

STRATEGIC PLAN IMPACT:

☒ Goal #1: Make Clearlake a Visibly Cleaner City

☒ Goal #2: Make Clearlake a Statistically Safer City

☐ Goal #3: Improve the Quality of Life in Clearlake with Improved Public Facilities

☐ Goal #4: Improve the Image of Clearlake

☒ Goal #5: Ensure Fiscal Sustainability of City

☒ Goal #6: Update Policies and Procedures to Current Government Standards

☐ Goal #7: Support Economic Development

SUGGESTED MOTIONS:

Move to adopt.

☒ **Attachments:** 1) Employment Agreement

CITY OF CLEARLAKE
EMPLOYMENT SERVICES AGREEMENT

POLICE CHIEF

1. PARTIES AND DATE.

This Employment Services Agreement (hereinafter referred to as the "Agreement") is made and entered into January 5, 2023 ("Effective Date") and further amended on November 21, 2024, by and between the City of Clearlake, a California municipal corporation (hereinafter referred to as "City") and Timothy Hobbs (hereinafter referred to as "Employee"). City and Employee are sometimes individually referred to herein as "Party" and collectively as "Parties".

2. RECITALS.

City desires to employ the services of Employee as Police Chief for the City of Clearlake and Employee desires to accept employment as Police Chief. It is the desire of the Parties through this Agreement to provide for certain benefits, establish conditions of employment and to set working conditions for Employee.

3. TERMS.

3.1 Term of Agreement. The initial term will be for three (3) years as of the Effective Date. City Manager shall provide three (3) months' notice prior to end of term City's desire whether to extend the term of the Agreement.

3.1.1 Term Extension(s). The Agreement will be extendable in two (2) year increments only upon mutual written agreement of both parties.

3.2 Termination of Agreement.

3.2.1 Notice. This Agreement may be terminated with or without cause at any time upon forty-five (45) days advance written notice given by Employee to City or immediately upon written notice by City to Employee. Notice of termination may be delivered personally or by mail. All notices permitted or required under this Agreement shall be given to the respective parties at the following address or at such other address as the respective parties may provide in writing for this purpose:

CITY: City of Clearlake
14050 Olympic Drive
Clearlake, CA 95422
ATTN: City Manager

EMPLOYEE: Timothy Hobbs
Address on File with City Clerk

3.2.2 Recourse. Employee will have no recourse or right to appeal City's decision to terminate Employee except as provided by applicable law.

3.2.3 Employee Resignation. Notwithstanding the above, Employee may voluntarily resign employment with the city by giving 45-days written notice in advance of the last day of employment. However, both parties may mutually agree to a shorter period. In the event of a voluntary resignation, Employee is not entitled to any other compensation except for normal compensation for the 45-day period, pro-rated, following the notice of resignation and the value of all accrued benefits unless otherwise agreed to by parties.

3.2.4 Definition of Cause. For purposes of this agreement, "cause" shall mean any of the following:

i. Conviction of a felony
ii. Conviction of a misdemeanor arising out of Employee's duties under this Agreement
iii. Conviction of any crime involving an "Abuse of office or position" as that term is defined in Government Code section 53243.4
iv. Willful abandonment of duties
v. Repeated failure to carry out a directive or directives of the City Council or City Manager
vi. Any grossly negligent action or inaction by Employee that materially and adversely:
    1. impedes or disrupts the operations of the City or its organizational units;
    2. is detrimental to employees or public safety;
    3. violates rules or procedures of City.

3.2.5 Suspension or Termination for Cause. In the event of suspension or termination with cause, Employee is not entitled to any other compensation except regular compensation, including any accrued vacation benefits, up to the suspension or termination date.

3.2.6 Suspension Without Cause. In the event of suspension without cause, Employee shall be entitled to receive normal compensation and benefits during the suspension period.

3.2.7 Severance-Termination Without Cause. If Employee is terminated without cause during such time as Employee is willing and able to perform the duties of the position, Employee shall be entitled to six months' severance which is to include base salary plus accrued vacation leave benefits and one month's health insurance. No other compensation or benefits shall be paid except as set forth in the Management Employees Classification and Benefit Plan (Management Benefit Plan).

In no event shall Employee ever receive more severance pay and benefits than the number of months then remaining on Employee's Agreement term.

In no event shall the above lump sum and health insurance payments exceed the amounts determined pursuant to Article 3.5 (commencing with Section 53260) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

3.2.8 Confidentiality and Non-Disparagement. Given the at-will nature of the position of Police Chief, an important element of the employment agreement pertains to termination. It is in both the City's interest and that of Employee that any separation of the Police Chief is done in a businesslike manner.

Except as otherwise required by law, in the event the City terminates Employee with or without Cause, the City and Employee agree that no member of the City Council, the city management staff, nor Employee shall make any written, oral, or electronic statement to any member of the public, the press, or any City employee concerning Employee's termination except in the form of a joint press release or statement, which is mutually agreeable to City and Employee. The joint press release or statement shall not contain any text or information that is disparaging to either Party. Either Party may verbally repeat the substance of the joint press release or statement in response to any inquiry.

3.3 Duties.

3.3.1 Designated Duties. City hereby agrees to employ Employee as Police Chief to perform the functions and duties pertaining to the Police Chief position, and to perform other legally permissible duties and such functions as the City Manager shall from time to time assign. The City Manager shall have the authority to determine the specific duties and functions that Employee shall perform under the Agreement and the means and manner by which Employee shall perform those duties and functions. Employee agrees to devote all business time, skill, attention and best efforts to the discharge of the duties and functions assigned by the City Manager.

3.3.2 Control and Supervision. Employee shall serve at the will and pleasure of the City Manager.

3.3.3 Meetings. Employee shall attend all meetings as directed by the City Manager that are determined necessary for the business of the City, including City Council meetings.

3.3.4 Education. Employee shall complete the course work needed to receive a bachelor's degree during the three (3) year term of this agreement.

A. Degree shall be relevant to the job duties of the Police Chief

B. Employee shall receive 5% incentive pay for completion of bachelor's degree program pursuant to this section.

C. Employee shall be eligible for the Safety Education Loan Forgiveness (SELF) Program:

The Safety Education Loan Forgiveness (SELF) Program would be established to provide a forgivable loan amount of up to a maximum $10,000 for a program leading to a bachelor's degree. The City would pay an amount up to $5,000 per fiscal year on behalf of the employee to the educational institution for tuition and related direct expenses as provided below:

A. In order to be eligible for the program, an employee must have been an employee of the City or a minimum of one year and completed field training. The course of study must be approved in advance, be relevant to the City, and be from a regionally accredited, degree-granting institution. The City Manager may approve a course of study from a nationally-accredited, degree-granting institution.

B. Employee will have up to a maximum of three years to successfully complete the program by obtaining their degree. The maximum loan amount is limited to $5,000 per year, with a total of $10,000 per employee within the four-year period.

C. If the employee (1) does not complete the program within the four years, (2) quits the program, or (3) leaves City service prior to completion of the program, repayment of all funds disbursed under the program would be due back to the City. The repayment would be required to be paid via a payroll deduction (presumably from paid leave cash-out). In the event of insufficient paid leave balances, employee would be permitted to spread the amount due back to the City in equal payments for up to one year, provided they are in City service during this time. If they leave City service during this repayment period, any balance remaining on the final date of employment would become immediately due.

D. Upon successful completion of the program, provided the employee remains in City service, the loan would be forgiven after the fifth year after the two-year program period. If an employee successfully completes the program, but leaves City service prior to this time, the loan would be required to be paid via a payroll deduction (presumably from paid leave cash-out) based on the following schedule:

- 100% repayment for leaving City service during the first two years after the initial two-year program period.
- 75% repayment for leaving City service during the third year after the initial two-year program period.
- 50% repayment for leaving City service during the fourth year after the initial two-year program period.
- 25% repayment for leaving City service during the fifth year after the initial two-year program period.
- 0% repayment for leaving City service after the fifth year after the initial two-year program period (loan forgiven).

3.4 Conditions of Employment.

3.4.1 Conflicts of Interest. During the term of the Agreement, Employee shall not engage in any business or transaction or maintain a financial interest which conflicts, or reasonably might be expected to conflict, with the proper discharge of Employee's duties under this agreement. The foregoing shall not preclude occasional teaching, writing, or consulting performed during Employee's time off.

3.4.2 Hours. The Police Chief is an exempt employee but is expected to engage in those hours of work that are necessary to fulfill the obligations of the position. Employee does not have set hours of work as Employee is expected to be available at all times.

It is recognized that Employee must devote a great deal of time to the business of the city outside of the city's customary office hours, and to that end Employee's schedule of work each day and week shall vary in accordance with the work required to be performed. Employee shall spend sufficient hours on site to perform Employee's duties; however, Employee has discretion over Employee's work schedule and work location.

3.5 Salary, Benefits, and Other Considerations. For services rendered pursuant to this Agreement, Employee shall receive the following compensation:

3.5.1 Salary. City shall compensate Employee at a rate $12,984.40 per month beginning the first full pay period after execution of this agreement. Compensation shall be paid bi-weekly at the same time as other employees of City are paid and shall be subject to all applicable taxes, insurance and other required deductions. Any compensation changes occurring as a result of this agreement shall take effect at the next regular payroll following execution of this agreement.

A. Each year on or about the anniversary of this Agreement, the City Manager shall perform an annual review of performance of Employee. Review of base salary will be based upon performance as part of Agreement extension discussion. Future range adjustments will be at the discretion of the City Council.

B. City agrees to adjust Employee's annual salary by a cost-of-living adjustment on the same percentage amount and at the same time as cost- of-living adjustments are made to City's management salary ranges.

C. Employee will be eligible for 5% POST Executive Certificate Incentive Pay after two (2) years as Police Chief and completion of POST Executive Development Course. Employee is not eligible for other POST incentive pay.

D. City shall not at any time during the term of this agreement reduce the base salary, compensation or other financial benefits of Employee, unless as part of a general City management salary reduction, and then in no greater percentage than the average reduction of all City department heads or unless otherwise renegotiated.

3.5.2 Benefits. Employee will be eligible for benefits as provided to management employees as set forth in the Management Benefit Plan and any other documents that designate management benefits, except as otherwise noted in this Agreement.

A. Employee will be entitled to a Uniform Allowance consistent with the amount in the Clearlake Middle Management Association MOU for a Police Sergeant.

B. Employee shall be entitled to vacation accrual in accordance with Management Benefit Plan and Employee's current years of service, increased annually in accordance with the Plan.

C. Employee shall accrue sick leave at a rate of eight hours per calendar month of service in accordance with the Management Benefit Plan.

D. The Police Chief position is classified as "exempt" under the Fair Labor Standards Act and Employee shall not be entitled to the payment of overtime. Employee shall be entitled to executive leave of 80 hours per employment year with full pay. Hours shall be credited on January 1 of each year. Executive leave does not accumulate and is not earned vacation time or benefit. Executive leave days not used at the end of the calendar year are lost. Sell back of executive leave is per the Management Benefit Plan.

3.5.3 Other Considerations.

A. Employee's duties require that the Police Chief have the exclusive use of a City vehicle during the term of employment. City shall provide all attendant operating and maintenance expenses and required insurance. At the City Manager's discretion, if Employee will be out of the office for a period of time exceeding two weeks, the vehicle shall be returned to the City until Employee returns to duty.

B. The City will provide $75 per month to offset use of Employee's personal cell phone for City business or City will provide a phone at Employee's option.

3.5.4 Dues, expenses, professional development.

A. The City Manager will budget sufficient funds to cover dues and subscriptions of the Police Chief necessary for continued and full participation in regional, state and local associations and organizations necessary and desirable for the full representation of the City's interests. The City shall also pay the Police Chief's dues for membership in the International Association of Chiefs of Police (IACP) and the CA Police Chiefs Association. The Police Chief may request to join other associations and organizations, and, if approved, the City shall pay such other dues and appropriate expenses.

B. City recognizes that certain expenses of a non-personal and generally job-related nature are incurred by the Employee in the performance of Employee's duties and responsibilities. City agrees to reimburse or to pay said general expenses on receipt of duly executed expense or petty cash vouchers, receipts or statements, attached to a monthly request for reimbursement form.

C. City agrees to budget a sufficient amount of money to pay for the

registration, travel and subsistence of Employee to adequately pursue necessary official functions for the City, short courses, institutions, seminars and other functions that are necessary for Employee's professional development and for the good of the city. These shall include, but not be limited to, the CA Police Chief's Association annual conference and the IACP Annual Conference (on a bi-annual basis pending City Manager approval and budget approval).

D. Any expenses of a purely personal nature while participating in any organization shall be borne by Employee. Employee agrees to obtain prior approval for expenses unless specifically provided in the annual budget.

3.6 Indemnification.

City shall defend, save harmless and indemnify Employee against any negligent tort, professional liability, claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged negligent act or omission occurring in the performance of Employee's services as Police Chief, except that this provision shall not apply with respect to any intentional tort or crime committed by Employee, or any actions outside the course and scope of employment.

3.7 Entire Agreement.

This Agreement constitutes the entire agreement between the parties. This Agreement may be amended if in writing and signed by both Parties. No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding, unless executed in writing by the party making the waiver. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

3.8 Governing Law; Venue.

This Agreement shall be construed under and governed by the laws of the State of California, and venue shall be in Lake County, California.

IN WITNESS WHEREOF, City and Employee have signed and executed this Agreement as of the Effective Date first above written.

CITY OF CLEARLAKE	EMPLOYEE
By: _____	By: _____
Alan Flora, City Manager	Timothy Hobbs

ATTEST:

By: _____

Melissa Swanson, City Clerk

CITY OF CLEARLAKE

City Council

STAFF REPORT

SUBJECT: Consideration of Updates to FY 24-25 Salary Schedule	**MEETING DATE:** Nov. 21, 2024
SUBMITTED BY: Alan Flora, City Manager	
PURPOSE OF REPORT: ☐ Information only ☒ Discussion ☒ Action Item	

WHAT IS BEING ASKED OF THE CITY COUNCIL:

The City Council is being asked to consider changes to the FY 2024-25 Salary Schedule.

BACKGROUND/ DISCUSSION:

Staff recommends changes to the salary schedule to address two positions, Administrative Services Director and Assistant City Manager. Currently the Administrative Services Director has a salary range of 64 ($99,737 to $121,231 annually). This salary compares to other department head positions such as Public Works Director and Finance Director with a salary range of 69 ($112,642 to $136,917 annually). The Administrative Services Director position is relatively new and the responsibilities have evolved over the past several years with the incumbent taking on increasing responsibilities. This position is comparable in responsibility and it is recommended that it have the same salary range as the Public Works Director and Finance Director.

Additionally, the City has not had an Assistant City Manager since 2019. The salary range for this position has not kept pace with the other positions in the leadership team. While management does not currently intend to fill the position in the near term it is appropriate to update the position range to a more appropriate level. The recommended range is 85 ($165,450 to $201,106 annually).

Pursuant to subsection (3) to Government Code § 54953(c), prior to the City Council taking final action, staff will provide an oral report summarizing the financial highlights of the proposed action.

OPTIONS:

1. Provide Direction to Staff.

FISCAL IMPACT:

☐ None ☒ $ Budgeted Item? ☐ Yes ☐ No

Budget Adjustment Needed? ☐ Yes ☒ No If yes, amount of appropriation increase: $

Affected fund(s): ☒ General Fund ☐ Measure P Fund ☐ Measure V Fund ☒ Other:

Comments:

STRATEGIC PLAN IMPACT

☒ Goal #1: Make Clearlake a Visibly Cleaner City

☒ Goal #2: Make Clearlake a Statistically Safer City

☒ Goal #3: Improve the Quality of Life in Clearlake with Improved Public Facilities

☒ Goal #4: Improve the Image of Clearlake

☒ Goal #5: Ensure Fiscal Sustainability of City

☒ Goal #6: Update Policies and Procedures to Current Government Standards

☒ Goal #7: Support Economic Development

SUGGESTED MOTIONS:

☒ **Attachments:**

1. FY 24-25 Salary Schedule

Approved FY 2024-25 Salary Schedule			MONTHLY (Payroll Base)					ANNUAL					HOURLY (Payroll Input)				
Position	UNIT	RANGE	A Step	B Step	C Step	D Step	E Step	A Step	B Step	C Step	D Step	E Step	A Step	B Step	C Step	D Step	E Step
Office Worker	CMEA	11	2,452.85	2,575.49	2,704.27	2,839.48	2,981.45	29,434.18	30,905.89	32,451.18	34,073.74	35,777.43	14.151048	14.858600	15.601530	16.381607	17.200687
Office Assistant I	CMEA	13	2,575.50	2,704.27	2,839.48	2,981.46	3,130.53	30,905.94	32,451.24	34,073.80	35,777.49	37,566.37	14.858626	15.601557	16.381635	17.200717	18.060753
Kennel Technician	CMEA	15	2,704.28	2,839.49	2,981.46	3,130.54	3,287.07	32,451.32	34,073.88	35,777.58	37,566.46	39,444.78	15.601595	16.381675	17.200759	18.060797	18.963837
Office Assistant II	CMEA	18	2,910.48	3,056.00	3,208.80	3,369.24	3,537.70	34,925.71	36,672.00	38,505.60	40,430.88	42,452.42	16.791207	17.630768	18.512306	19.437921	20.409817
Maintenance Worker I	CMEA	21	3,130.54	3,287.06	3,451.42	3,623.99	3,805.19	37,566.45	39,444.77	41,417.01	43,487.86	45,662.26	18.060794	18.963834	19.912025	20.907626	21.953008
Parks Maintenance Worker I	CMEA	21	3,130.54	3,287.06	3,451.42	3,623.99	3,805.19	37,566.45	39,444.77	41,417.01	43,487.86	45,662.26	18.060794	18.963834	19.912025	20.907626	21.953008
Facilities Maintenance Worker II	CMEA	21	3,130.54	3,287.06	3,451.42	3,623.99	3,805.19	37,566.45	39,444.77	41,417.01	43,487.86	45,662.26	18.060794	18.963834	19.912025	20.907626	21.953008
Office Assistant/Secretary	CMEA	24	3,369.23	3,537.70	3,714.58	3,900.31	4,095.33	40,430.81	42,452.35	44,574.97	46,803.72	49,143.90	19.437890	20.409784	21.430273	22.501787	23.626876
Account Clerk I	CMEA	26	3,537.69	3,714.58	3,900.31	4,095.32	4,300.09	42,452.33	44,574.95	46,803.69	49,143.88	51,601.07	20.409774	21.430263	22.501776	23.626865	24.808208
Code Enforcement Technician	CMEA	26	3,537.69	3,714.58	3,900.31	4,095.32	4,300.09	42,452.33	44,574.95	46,803.69	49,143.88	51,601.07	20.409774	21.430263	22.501776	23.626865	24.808208
Grants Technician	CMEA	26	3,537.69	3,714.58	3,900.31	4,095.32	4,300.09	42,452.33	44,574.95	46,803.69	49,143.88	51,601.07	20.409774	21.430263	22.501776	23.626865	24.808208
Planner, Technician	CMEA	26	3,537.69	3,714.58	3,900.31	4,095.32	4,300.09	42,452.33	44,574.95	46,803.69	49,143.88	51,601.07	20.409774	21.430263	22.501776	23.626865	24.808208
Secretary/Permit Technician	CMEA	26	3,537.69	3,714.58	3,900.31	4,095.32	4,300.09	42,452.33	44,574.95	46,803.69	49,143.88	51,601.07	20.409774	21.430263	22.501776	23.626865	24.808208
Dispatcher Aide	CMEA	26	3,537.69	3,714.58	3,900.31	4,095.32	4,300.09	42,452.33	44,574.95	46,803.69	49,143.88	51,601.07	20.409774	21.430263	22.501776	23.626865	24.808208
Maintenance Worker II	CMEA	29	3,805.18	3,995.44	4,195.21	4,404.97	4,625.22	45,662.17	47,945.28	50,342.54	52,859.67	55,502.65	21.952966	23.050614	24.203145	25.413302	26.683967
Parks Maintenance Worker II	CMEA	29	3,805.18	3,995.44	4,195.21	4,404.97	4,625.22	45,662.17	47,945.28	50,342.54	52,859.67	55,502.65	21.952966	23.050614	24.203145	25.413302	26.683967
Support Services Technician I	CMEA	29	3,805.18	3,995.44	4,195.21	4,404.97	4,625.22	45,662.17	47,945.28	50,342.54	52,859.67	55,502.65	21.952966	23.050614	24.203145	25.413302	26.683967
Community Development Specialist	CMEA	29	3,805.18	3,995.44	4,195.21	4,404.97	4,625.22	45,662.17	47,945.28	50,342.54	52,859.67	55,502.65	21.952966	23.050614	24.203145	25.413302	26.683967
Parks Foreman	CMEA	31	3,995.44	4,195.21	4,404.97	4,625.22	4,856.48	47,945.28	50,342.54	52,859.67	55,502.65	58,277.78	23.050614	24.203145	25.413302	26.683967	28.018166
Account Clerk II	CMEA	32	4,095.33	4,300.10	4,515.10	4,740.86	4,977.90	49,143.96	51,601.16	54,181.21	56,890.28	59,734.79	23.626903	24.808248	26.048661	27.351094	28.718649
Building Inspector I	CMEA	32	4,095.33	4,300.10	4,515.10	4,740.86	4,977.90	49,143.96	51,601.16	54,181.21	56,890.28	59,734.79	23.626903	24.808248	26.048661	27.351094	28.718649
Maintenance Worker, Senior	CMEA	32	4,095.33	4,300.10	4,515.10	4,740.86	4,977.90	49,143.96	51,601.16	54,181.21	56,890.28	59,734.79	23.626903	24.808248	26.048661	27.351094	28.718649
Dep City Clerk/ HR Tech	CMEA	34	4,300.10	4,515.10	4,740.86	4,977.90	5,226.79	51,601.15	54,181.21	56,890.27	59,734.78	62,721.52	24.808245	26.048657	27.351090	28.718645	30.154577
Maintenance Worker, Lead	CMEA	34	4,300.10	4,515.10	4,740.86	4,977.90	5,226.79	51,601.15	54,181.21	56,890.27	59,734.78	62,721.52	24.808245	26.048657	27.351090	28.718645	30.154577
Management Analyst I	CMEA	34	4,300.10	4,515.10	4,740.86	4,977.90	5,226.79	51,601.15	54,181.21	56,890.27	59,734.78	62,721.52	24.808245	26.048657	27.351090	28.718645	30.154577
Planner I, Assistant	CMEA	34	4,300.10	4,515.10	4,740.86	4,977.90	5,226.79	51,601.15	54,181.21	56,890.27	59,734.78	62,721.52	24.808245	26.048657	27.351090	28.718645	30.154577
Building Inspector II	CMEA	36	4,515.10	4,740.85	4,977.89	5,226.79	5,488.13	54,181.17	56,890.22	59,734.74	62,721.47	65,857.55	26.048638	27.351069	28.718623	30.154554	31.662282
Senior Account Clerk	CMEA	37	4,627.98	4,859.37	5,102.34	5,357.46	5,625.33	55,535.71	58,312.50	61,228.12	64,289.53	67,504.00	26.699861	28.034854	29.436597	30.908427	32.453848
Recreation/Event Coordinator I	CMEA	37	4,627.98	4,859.37	5,102.34	5,357.46	5,625.33	55,535.71	58,312.50	61,228.12	64,289.53	67,504.00	26.699861	28.034854	29.436597	30.908427	32.453848
Associate Planner	CMEA	39	4,856.48	5,099.30	5,354.27	5,621.98	5,903.08	58,277.77	61,191.66	64,251.24	67,463.80	70,836.99	28.018159	29.419066	30.890020	32.434521	34.056247
Engineering Technician	CMEA	45	5,621.99	5,903.09	6,198.25	6,508.16	6,833.57	67,463.91	70,837.10	74,378.96	78,097.90	82,002.80	32.434570	34.056298	35.759113	37.547069	39.424422
Recreation/Event Coordinator II	CMEA	45	5,621.99	5,903.09	6,198.25	6,508.16	6,833.57	67,463.91	70,837.10	74,378.96	78,097.90	82,002.80	32.434570	34.056298	35.759113	37.547069	39.424422
Code Enforcement Officer I	CPA	28	3,893.17	4,087.83	4,292.22	4,506.84	4,732.18	46,718.09	49,053.99	51,506.69	54,082.03	56,786.13	22.460619	23.583650	24.762833	26.000975	27.301023
Animal Control Officer	CPA	30	4,087.83	4,292.22	4,506.84	4,732.18	4,968.79	49,053.99	51,506.69	54,082.03	56,786.13	59,625.43	23.583650	24.762833	26.000975	27.301023	28.666074
Support Services Tech	CPA	30	4,087.83	4,292.22	4,506.84	4,732.18	4,968.79	49,053.99	51,506.69	54,082.03	56,786.13	59,625.43	23.583650	24.762833	26.000975	27.301023	28.666074
Community Service Officer	CPA	30	4,087.83	4,292.22	4,506.84	4,732.18	4,968.79	49,053.99	51,506.69	54,082.03	56,786.13	59,625.43	23.583650	24.762833	26.000975	27.301023	28.666074
Police Trainee (P/T)		30	4,087.83	4,292.22	4,506.84	4,732.18	4,968.79	49,053.99	51,506.69	54,082.03	56,786.13	59,625.43	23.583650	24.762833	26.000975	27.301023	28.666074
Police Dispatcher	CPA	31	4,187.53	4,396.91	4,616.75	4,847.59	5,089.97	50,250.38	52,762.89	55,401.04	58,171.09	61,079.65	24.158834	25.366776	26.635115	27.966871	29.365214
Code Enforcement Officer, Senior	CPA	32	4,292.22	4,506.83	4,732.17	4,968.78	5,217.22	51,506.65	54,081.98	56,786.08	59,625.38	62,606.65	24.762812	26.000953	27.301000	28.666050	30.099353
Police Officer	CPA	42	5,615.04	5,895.79	6,190.58	6,500.11	6,825.11	67,380.43	70,749.45	74,286.93	78,001.27	81,901.34	32.394475	34.014199	35.714909	37.500655	39.375687
Construction/Project Manager	MGT	60	7,538.72	7,915.66	8,311.44	8,727.02	9,163.37	90,464.69	94,987.93	99,737.33	104,724.19	109,960.40	43.492657	45.667290	47.950655	50.348188	52.865597
Public Works Superintendent	MGT	60	7,538.72	7,915.66	8,311.44	8,727.02	9,163.37	90,464.69	94,987.93	99,737.33	104,724.19	109,960.40	43.492657	45.667290	47.950655	50.348188	52.865597
Senior Planner	MGT	60	7,538.72	7,915.66	8,311.44	8,727.02	9,163.37	90,464.69	94,987.93	99,737.33	104,724.19	109,960.40	43.492657	45.667290	47.950655	50.348188	52.865597
Admin. Services Dir./City Clerk	MGT	69	9,386.85	9,856.20	10,349.01	10,866.46	11,409.78	112,642.24	118,274.35	124,188.07	130,397.48	136,917.35	47.950646	50.348178	52.865587	55.508866	58.284310
City Engineer	MGT	65	8,514.18	8,939.88	9,386.88	9,856.22	10,349.03	102,170.11	107,278.61	112,642.54	118,274.67	124,188.41	49.120221	51.576232	54.155044	56.862796	59.705936
Community Development Director	MGT	66	8,437.72	8,859.60	9,302.58	9,767.71	10,256.10	101,252.63	106,315.26	111,631.02	117,212.57	123,073.20	48.679145	51.113102	53.668758	56.352195	59.169805
Police Captain	MGT	68	9,163.36	9,621.53	10,102.61	10,607.74	11,138.13	109,960.37	115,458.39	121,231.31	127,292.87	133,657.52	52.865573	55.508852	58.284294	61.198509	64.258434
Director of Finance	MGT	69	9,386.85	9,856.20	10,349.01	10,866.46	11,409.78	112,642.24	118,274.35	124,188.07	130,397.48	136,917.35	54.154914	56.862659	59.705792	62.691082	65.825636
Public Works Director	MGT	69	9,386.85	9,856.20	10,349.01	10,866.46	11,409.78	112,642.24	118,274.35	124,188.07	130,397.48	136,917.35	54.154914	56.862659	59.705792	62.691082	65.825636
Police Lieutenant	MGT	71	9,621.53	10,102.61	10,607.74	11,138.12	11,695.03	115,458.36	121,231.28	127,292.84	133,657.48	140,340.36	55.510000	58.285500	61.199775	64.259764	67.472752
Assistant City Manager	MGT	85	13,787.55	14,476.93	15,200.77	15,960.81	16,758.85	165,450.59	173,723.12	182,409.27	191,529.74	201,106.23	58.284325	61.198541	64.258468	67.471391	70.844961
Police Chief	MGT	CONTRACT	13,775.15	-	-	-	13,775.15	165,301.77	-	-	-	165,301.80	79.472019	0.000000	0.000000	0.000000	79.472019
City Manager	MGT	CONTRACT	17,322.57	-	-	-	17,322.57	207,870.88	-	-	-	207,870.84	99.937932	0.000000	0.000000	0.000000	99.937932
Code Enforcement Supervisor	MMA	44	5,963.26	6,261.42	6,574.49	6,903.22	7,248.38	71,559.10	75,137.06	78,893.91	82,838.61	86,980.54	34.403415	36.123585	37.929765	39.826253	41.817566
Chief Building Inspector/Plans Examiner	MMA	44	5,963.26	6,261.42	6,574.49	6,903.22	7,248.38	71,559.10	75,137.06	78,893.91	82,838.61	86,980.54	34.403415	36.123585	37.929765	39.826253	41.817566
Records & Communication Officer	MMA	45	6,116.16	6,421.97	6,743.07	7,080.22	7,434.23	73,393.95	77,063.65	80,916.83	84,962.67	89,210.81	35.285554	37.049831	38.902323	40.847439	42.889811
Public Works Supervisor	MMA	47	6,421.97	6,743.07	7,080.22	7,434.23	7,805.94	77,063.60	80,916.79	84,962.62	89,210.76	93,671.29	37.049810	38.902301	40.847416	42.889786	45.034276
Police Sergeant	MMA	52	7,460.43	7,833.45	8,225.12	8,636.37	9,068.19	89,525.10	94,001.36	98,701.43	103,636.50	108,818.32	43.040916	45.192961	47.452609	49.825240	52.316502