



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT
August 9, 2007

Honorable Members of the
Law and Legislation Committee

Title: Legislative Position: Support HR 2640 Relating to the Improvement of the National Instant Criminal Background Check System

Location/Council District: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee adopt a support position, on behalf of the City of Sacramento, of HR 2640, which would improve the accuracy and effectiveness of the National Instant Criminal Background Check System and thereby make it more difficult for criminals and other potentially dangerous individuals to purchase firearms nationwide.

Contact: Sara Kashing, Graduate Student Trainee, 808-0985

Presenters: Sara Kashing, Graduate Student Trainee, 808-0985

Department: Police

Division: Office of the Chief

Organization No: 2111

Description/Analysis

Issue: Staff is recommending that the Committee adopt a support position on HR 2640. Since the enactment of the Brady Bill in 1994, background checks have prohibited more than 1.3 million people from purchasing firearms illegally. The National Instant Background Check System database is not as effective as it could be, however, because the federal database is incomplete. According to the Brady Campaign, more than 90 percent of disqualifying mental health records and one-fourth of felony convictions are absent from the system. Greater disclosure will help prevent such tragedies as the Virginia Tech shootings from occurring in the future.

Policy Considerations: This bill will support local and national efforts to protect the public and enhance safety.

Environmental Considerations: None

Rationale for Recommendation: The bill is intended to strengthen efforts to stop gun violence and calls through the following:

- Effective enforcement of the 1968 Gun Control Act
- Improvements to the national records system
- Authorization of \$375 million a year, for three years, in grants to states and state courts
- Privacy protection of all records transmitted to NICS, including mental health records, by prohibiting their use for any purpose outside of NICS.

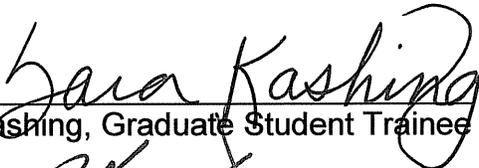
The bill's chief sponsors are Rep. Carolyn McCarthy (D-NY), John Dingell (D-MI), Rick Boucher (D-VA), and Lamar Smith (R-TX). Both the NRA and the Brady Campaign consider the legislation to be an important step toward reinforcing the background check system and keeping firearms out of the hands of dangerous or potentially dangerous persons.

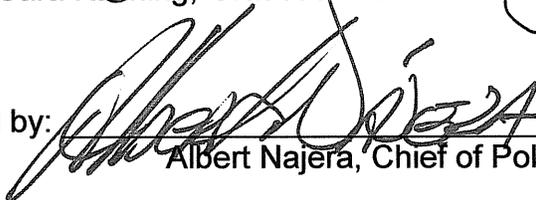
Financial Considerations: Before becoming eligible for grant funding, a state must file with the U.S. Attorney General an initial estimate of the records of disqualified persons that have not been filed with NICS. The federal government would then pick up 90 percent of the cost for the states to clear the backlog.

Once the Attorney General determines that a state has automated and shared at least 90 percent of all disqualifying records, the federal government would begin waiving the 10 percent state matching requirement and finance all of the state's costs for keeping the system current. The waiver period can last up to five years.

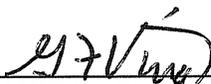
The bill also provides for withholding of federal funding under the Omnibus Crime Control and Safe Streets Act of 1968 in the amount of 3 percent for states that, after three years following the date of the bill's enactment, fail to provide more than 60 percent of the data. After five years, there would be a five percent reduction in funding for failure to provide 90 percent of information to NICS.

Emerging Small Business Development (ESBD): None

Respectfully Submitted by: 
Sara Kashing, Graduate Student Trainee

Approved by: 
Albert Najera, Chief of Police

Recommendation Approved:


GUSTAVO F. VINA
Assistant City Manager

Ref: COP 7-13

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Attachment 1

Background

The Sacramento Police Department is committed to keeping firearms out of the hands of dangerous or potentially dangerous people. In light of the recent tragedy at Virginia Tech, federal lawmakers are working to strengthen the National Instant Criminal Background Check System.

HR 2640 would not alter the provisions of the 1968 Gun Control Act, rather it would serve as a means of more effectively enforcing the Act. The 1968 Gun Control Act prohibits individuals from possessing a firearm for several reasons including the following:

- If the individual is under indictment or has been convicted of a crime punishable by more than a year
- If the individual is an unlawful user or an addict of a controlled substance
- If the individual has been adjudicated to be mentally ill or has been committed involuntarily to a mental institution
- If the individual is subject to a court order restraining him or her from domestic violence
- If the individual has been convicted of a domestic violence misdemeanor

Attachment 2

August 9, 2007

Representative Carolyn McCarthy
108 Cannon House Office Building
Washington, D.C., 20515

Support: HR 2640 – National Criminal Instant Background Check System Improvement Act

Dear Representative McCarthy:

I am writing on behalf of the City of Sacramento to express our support of HR 2640. This bill would require the transmittal of state and federal records on all persons who are disqualified from purchasing firearms to the National Criminal Instant Background Check System.

In light of the recent tragedy at Virginia Tech, it is particularly important for communities nationwide to support efforts to keep illegal firearms out of the hands of dangerous or potentially dangerous persons. HR 2640 will improve the accuracy and effectiveness of the current national background check system by encouraging states to transmit disqualifying mental health records and felony conviction records which are currently absent from the system.

Thank you for your attention to the City of Sacramento's support of HR 2640.

Sincerely,

Sandy Sheedy, Chair
Law and Legislation Committee

cc: Senator Dianne Feinstein
Senator Barbara Boxer
Congresswoman Doris Matsui
Mayor Heather Fargo and Council
John Freshman

110th CONGRESS
1st Session
H. R. 2640
IN THE SENATE OF THE UNITED STATES

June 14, 2007

Received; read twice and referred to the Committee on the Judiciary

AN ACT

To improve the National Instant Criminal Background Check System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

- (a) Short Title- This Act may be cited as the 'NICS Improvement Amendments Act of 2007'.
- (b) Table of Contents- The table of contents for this Act is as follows:
 - Sec. 1. Short title; table of contents.
 - Sec. 2. Findings.
 - Sec. 3. Definitions.

TITLE I--TRANSMITTAL OF RECORDS

- Sec. 101. Enhancement of requirement that Federal departments and agencies provide relevant information to the National Instant Criminal Background Check System.
- Sec. 102. Requirements to obtain waiver.
- Sec. 103. Implementation assistance to States.
- Sec. 104. Penalties for noncompliance.
- Sec. 105. Relief from disabilities program required as condition for participation in grant programs.

TITLE II--FOCUSING FEDERAL ASSISTANCE ON THE IMPROVEMENT OF RELEVANT RECORDS

- Sec. 201. Continuing evaluations.

TITLE III--GRANTS TO STATE COURT SYSTEMS FOR THE IMPROVEMENT IN AUTOMATION AND TRANSMITTAL OF DISPOSITION RECORDS

Sec. 301. Disposition records automation and transmittal improvement grants.

TITLE IV--GAO AUDIT

Sec. 401. GAO audit.

SEC. 2. FINDINGS.

Congress finds the following:

- (1) Approximately 916,000 individuals were prohibited from purchasing a firearm for failing a background check between November 30, 1998, (the date the National Instant Criminal Background Check System (NICS) began operating) and December 31, 2004.
- (2) From November 30, 1998, through December 31, 2004, nearly 49,000,000 Brady background checks were processed through NICS.
- (3) Although most Brady background checks are processed through NICS in seconds, many background checks are delayed if the Federal Bureau of Investigation (FBI) does not have automated access to complete information from the States concerning persons prohibited from possessing or receiving a firearm under Federal or State law.
- (4) Nearly 21,000,000 criminal records are not accessible by NICS and millions of criminal records are missing critical data, such as arrest dispositions, due to data backlogs.
- (5) The primary cause of delay in NICS background checks is the lack of--
 - (A) updates and available State criminal disposition records; and
 - (B) automated access to information concerning persons prohibited from possessing or receiving a firearm because of mental illness, restraining orders, or misdemeanor convictions for domestic violence.
- (6) Automated access to this information can be improved by--
 - (A) computerizing information relating to criminal history, criminal dispositions, mental illness, restraining orders, and misdemeanor convictions for domestic violence; or
 - (B) making such information available to NICS in a usable format.
- (7) Helping States to automate these records will reduce delays for law-abiding gun purchasers.
- (8) On March 12, 2002, the senseless shooting, which took the lives of a priest and a parishioner at the Our Lady of Peace Church in Lynbrook, New York, brought attention to the need to improve information-sharing that would enable Federal and State law enforcement agencies to conduct a complete background check on a potential firearm purchaser. The man who committed this double murder had a prior disqualifying mental health commitment and a restraining order against him, but passed a Brady background check because NICS did not have the necessary information to determine that he was ineligible to purchase a firearm under Federal or State law.

SEC. 3. DEFINITIONS.

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

- (1) COURT ORDER- The term `court order' includes a court order (as described in section 922(g)(8) of title 18, United States Code).
- (2) MENTAL HEALTH TERMS- The terms `adjudicated as a mental defective', `committed to a mental institution', and related terms have the meanings given those terms in regulations implementing section 922(g)(4) of title 18, United States Code, as in effect on the date of the enactment of this Act.
- (3) MISDEMEANOR CRIME OF DOMESTIC VIOLENCE- The term `misdemeanor crime of domestic violence' has the meaning given the term in section 921(a)(33) of title 18, United States Code.

TITLE I--TRANSMITTAL OF RECORDS**SEC. 101. ENHANCEMENT OF REQUIREMENT THAT FEDERAL DEPARTMENTS AND AGENCIES PROVIDE RELEVANT INFORMATION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.**

(a) In General- Section 103(e)(1) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) is amended--

- (1) by striking `Notwithstanding' and inserting the following:
 - `(A) IN GENERAL- Notwithstanding';
- (2) by striking `On request' and inserting the following:
 - `(B) REQUEST OF ATTORNEY GENERAL- On request';
- (3) by striking `furnish such information' and inserting `furnish electronic versions of the information described under subparagraph (A)'; and
- (4) by adding at the end the following:
 - `(C) QUARTERLY SUBMISSION TO ATTORNEY GENERAL- If a department or agency under subparagraph (A) has any record of any person demonstrating that the person falls within one of the categories described in subsection (g) or (n) of section 922 of title 18, United States Code, the head of such department or agency shall, not less frequently than quarterly, provide the pertinent information contained in such record to the Attorney General.
 - `(D) INFORMATION UPDATES- The agency, on being made aware that the basis under which a record was made available under subparagraph (A) does not apply, or no longer applies, shall--
 -
 - `(i) update, correct, modify, or remove the record from any database that the agency maintains and makes available to the Attorney General, in accordance with the rules pertaining to that database; or
 - `(ii) notify the Attorney General that such basis no longer applies so that the National Instant Criminal Background Check System is kept up to date.

(E) ANNUAL REPORT- The Attorney General shall submit an annual report to Congress that describes the compliance of each department or agency with the provisions of this paragraph.'

(b) Provision and Maintenance of NICS Records-

(1) DEPARTMENT OF HOMELAND SECURITY- The Secretary of Homeland Security shall make available to the Attorney General--

(A) records, updated not less than quarterly, which are relevant to a determination of whether a person is disqualified from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code, for use in background checks performed by the National Instant Criminal Background Check System; and

(B) information regarding all the persons described in subparagraph (A) of this paragraph who have changed their status to a category not identified under section 922(g)(5) of title 18, United States Code, for removal, when applicable, from the National Instant Criminal Background Check System.

(2) DEPARTMENT OF JUSTICE- The Attorney General shall--

(A) ensure that any information submitted to, or maintained by, the Attorney General under this section is kept accurate and confidential, as required by the laws, regulations, policies, or procedures governing the applicable record system;

(B) provide for the timely removal and destruction of obsolete and erroneous names and information from the National Instant Criminal Background Check System; and

(C) work with States to encourage the development of computer systems, which would permit electronic notification to the Attorney General when--

(i) a court order has been issued, lifted, or otherwise removed by order of the court; or

(ii) a person has been adjudicated as mentally defective or committed to a mental institution.

(c) Standard for Adjudications, Commitments, and Determinations Related to Mental Health-

(1) IN GENERAL- No department or agency of the Federal Government may provide to the Attorney General any record of an adjudication or determination related to the mental health of a person, or any commitment of a person to a mental institution if--

(A) the adjudication, determination, or commitment, respectively, has been set aside or expunged, or the person has otherwise been fully released or discharged from all mandatory treatment, supervision, or monitoring;

(B) the person has been found by a court, board, commission, or other lawful authority to no longer suffer from the mental health condition that was the basis of the adjudication, determination, or commitment, respectively, or has otherwise been found to be rehabilitated through any procedure available under law; or

(C) the adjudication, determination, or commitment, respectively, is based solely on a medical finding of disability, without a finding that the person is a danger to himself or to others or that the person lacks the mental capacity to manage his own affairs.

(2) TREATMENT OF CERTAIN ADJUDICATIONS, DETERMINATIONS, AND COMMITMENTS-

(A) PROGRAM FOR RELIEF FROM DISABILITIES- Each department or agency of the United States that makes any adjudication or determination related to the mental health of a person or imposes any commitment to a mental institution, as described in subsection (d)(4) and (g)(4) of section 922 of title 18, United States Code, shall establish a program that permits such a person to apply for relief from the disabilities imposed by such subsections. Relief and judicial review shall be available according to the standards prescribed in section 925(c) of title 18, United States Code.

(B) RELIEF FROM DISABILITIES- In the case of an adjudication or determination related to the mental health of a person or a commitment of a person to a mental institution, a record of which may not be provided to the Attorney General under paragraph (1), including because of the absence of a finding described in subparagraph (C) of such paragraph, or from which a person has been granted relief under a program established under subparagraph (A), the adjudication, determination, or commitment, respectively, shall be deemed not to have occurred for purposes of subsections (d)(4) and (g)(4) of section 922 of title 18, United States Code.

(d) Information Excluded From NICS Records-

(1) IN GENERAL- No department or agency of the Federal Government may make available to the Attorney General, for use by the National Instant Criminal Background Check System (nor may the Attorney General make available to such system), the name or any other relevant identifying information of any person adjudicated or determined to be mentally defective or any person committed to a mental institution for purposes of assisting the Attorney General in enforcing subsections (d)(4) and (g)(4) of section 922 of title 18, United States Code, unless such adjudication, determination, or commitment, respectively, included a finding that the person is a danger to himself or to others or that the person lacks the mental capacity to manage his own affairs.

(2) EFFECTIVE DATE- Paragraph (1) shall apply to names and other information provided before, on, or after the date of the enactment of this Act. Any name or information provided in violation of paragraph (1) before such date shall be removed from the National Instant Criminal Background Check System.

SEC. 102. REQUIREMENTS TO OBTAIN WAIVER.

(a) In General- Beginning 3 years after the date of the enactment of this Act, a State shall be eligible to receive a waiver of the 10 percent matching requirement for National Criminal History Improvement Grants under the Crime Identification Technology Act of 1988 (42 U.S.C. 14601) if the State provides at least 90 percent of the information described in subsection (c). The length of such a waiver shall not exceed 2 years.

(b) State Estimates-

(1) INITIAL STATE ESTIMATE-

(A) IN GENERAL- To assist the Attorney General in making a determination under subsection (a) of this section, and under section 104, concerning the compliance of the States in providing information to the Attorney General for the purpose of receiving a waiver under subsection (a) of this section, or facing a loss of funds under section 104, by a date not later than 180 days after the date of the enactment of this Act, each State shall provide the Attorney General with a reasonable estimate, as calculated by a method determined by the Attorney General, of the number of the records described in subparagraph (C) applicable to such State that concern persons who are prohibited from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code.

(B) FAILURE TO PROVIDE INITIAL ESTIMATE- A State that fails to provide an estimate described in subparagraph (A) by the date required under such subparagraph shall be ineligible to receive any funds under section 103, until such date as it provides such estimate to the Attorney General.

(C) RECORD DEFINED- For purposes of subparagraph (A), a record is the following:

(i) A record that identifies a person arrested for a crime that is punishable by imprisonment for a term exceeding one year, and for which a record of final disposition is available electronically or otherwise.

(ii) A record that identifies a person for whose arrest a warrant or process has been issued that is valid under the laws of the State involved, as of the date of the estimate.

(iii) A record that identifies a person who is an unlawful user of or addicted to a controlled substance (as such terms `unlawful user' and `addicted' are respectively defined in regulations implementing section 922(g)(3) of title 18, United States Code, as in effect on the date of the enactment of this Act) and whose record is not protected from disclosure to the Attorney General under any provision of State or Federal law.

(iv) A record that identifies a person who has been adjudicated mentally defective or committed to a mental institution (as determined in regulations implementing section 922(g)(4) of title 18, United States Code, as in effect

on the date of the enactment of this Act) and whose record is not protected from disclosure to the Attorney General under any provision of State or Federal law.

(v) A record that is electronically available and that identifies a person who, as of the date of such estimate, is subject to a court order described in section 922(g)(8) of title 18, United States Code.

(vi) A record that is electronically available and that identifies a person convicted in any court of a misdemeanor crime of domestic violence, as defined in section 921(a)(33) of title 18, United States Code.

(2) SCOPE- The Attorney General, in determining the compliance of a State under this section or section 104 of this Act for the purpose of granting a waiver or imposing a loss of Federal funds, shall assess the total percentage of records provided by the State concerning any event occurring within the prior 30 years, which would disqualify a person from possessing a firearm under subsection (g) or (n) of section 922 of title 18, United States Code.

(3) CLARIFICATION- Notwithstanding paragraph (2), States shall endeavor to provide the National Instant Criminal Background Check System with all records concerning persons who are prohibited from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code, regardless of the elapsed time since the disqualifying event.

(c) Eligibility of State Records for Submission to the National Instant Criminal Background Check System-

(1) REQUIREMENTS FOR ELIGIBILITY-

(A) IN GENERAL- From information collected by a State, the State shall make electronically available to the Attorney General records relevant to a determination of whether a person is disqualified from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code, or applicable State law.

(B) NICS UPDATES- The State, on being made aware that the basis under which a record was made available under subparagraph (A) does not apply, or no longer applies, shall, as soon as practicable--

(i) update, correct, modify, or remove the record from any database that the Federal or State government maintains and makes available to the National Instant Criminal Background Check System, consistent with the rules pertaining to that database; or

(ii) notify the Attorney General that such basis no longer applies so that the record system in which the record is maintained is kept up to date.

(C) CERTIFICATION- To remain eligible for a waiver under subsection (a), a State shall certify to the Attorney General, not less than once during each 2-year period, that at least 90 percent of all

information described in subparagraph (A) has been made electronically available to the Attorney General in accordance with subparagraph (A).

(D) INCLUSION OF ALL RECORDS- For purposes of this paragraph, a State shall identify and include all of the records described under subparagraph (A) without regard to the age of the record.

(2) APPLICATION TO PERSONS CONVICTED OF MISDEMEANOR CRIMES OF DOMESTIC VIOLENCE- The State shall make available to the Attorney General, for use by the National Instant Criminal Background Check System, records relevant to a determination of whether a person has been convicted in any court of a misdemeanor crime of domestic violence. With respect to records relating to such crimes, the State shall provide information specifically describing the offense and the specific section or subsection of the offense for which the defendant has been convicted and the relationship of the defendant to the victim in each case.

(3) APPLICATION TO PERSONS WHO HAVE BEEN ADJUDICATED AS A MENTAL DEFECTIVE OR COMMITTED TO A MENTAL INSTITUTION- The State shall make available to the Attorney General, for use by the National Instant Criminal Background Check System, the name and other relevant identifying information of persons adjudicated as mentally defective or those committed to mental institutions to assist the Attorney General in enforcing section 922(g)(4) of title 18, United States Code.

(d) Privacy Protections- For any information provided to the Attorney General for use by the National Instant Criminal Background Check System, relating to persons prohibited from possessing or receiving a firearm under section 922(g)(4) of title 18, United States Code, the Attorney General shall work with States and local law enforcement and the mental health community to establish regulations and protocols for protecting the privacy of information provided to the system. The Attorney General shall make every effort to meet with any mental health group seeking to express its views concerning these regulations and protocols and shall seek to develop regulations as expeditiously as practicable.

(e) Attorney General Report- Not later than January 31 of each year, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the progress of States in automating the databases containing the information described in subsection (b) and in making that information electronically available to the Attorney General pursuant to the requirements of subsection (c).

SEC. 103. IMPLEMENTATION ASSISTANCE TO STATES.

(a) Authorization-

(1) IN GENERAL- From amounts made available to carry out this section and subject to section 102(b)(1)(B), the Attorney General shall make grants to States and Indian tribal governments, in a manner consistent with the National Criminal History Improvement Program, which shall be used by the States and Indian tribal governments, in conjunction with units

of local government and State and local courts, to establish or upgrade information and identification technologies for firearms eligibility determinations.

(2) GRANTS TO INDIAN TRIBES- Up to 5 percent of the grant funding available under this section may be reserved for Indian tribal governments, including tribal judicial systems.

(b) Use of Grant Amounts- Grants awarded to States or Indian tribes under this section may only be used to--

(1) create electronic systems, which provide accurate and up-to-date information which is directly related to checks under the National Instant Criminal Background Check System (referred to in this section as 'NICS'), including court disposition and corrections records;

(2) assist States in establishing or enhancing their own capacities to perform NICS background checks;

(3) supply accurate and timely information to the Attorney General concerning final dispositions of criminal records to databases accessed by NICS;

(4) supply accurate and timely information to the Attorney General concerning the identity of persons who are prohibited from obtaining a firearm under section 922(g)(4) of title 18, United States Code, to be used by the Federal Bureau of Investigation solely to conduct NICS background checks;

(5) supply accurate and timely court orders and records of misdemeanor crimes of domestic violence for inclusion in Federal and State law enforcement databases used to conduct NICS background checks; and

(6) collect and analyze data needed to demonstrate levels of State compliance with this Act.

(c) Eligibility- To be eligible for a grant under this section, a State shall certify, to the satisfaction of the Attorney General, that the State has implemented a relief from disabilities program in accordance with section 105.

(d) Condition- As a condition of receiving a grant under this section, a State shall specify the projects for which grant amounts will be used, and shall use such amounts only as specified. A State that violates this subsection shall be liable to the Attorney General for the full amount of the grant received under this section.

(e) Authorization of Appropriations- There are authorized to be appropriated to carry out this section \$250,000,000 for each of the fiscal years 2008 through 2010.

(f) User Fee- The Federal Bureau of Investigation shall not charge a user fee for background checks pursuant to section 922(t) of title 18, United States Code.

SEC. 104. PENALTIES FOR NONCOMPLIANCE.

(a) Attorney General Report-

(1) IN GENERAL- Not later than January 31 of each year, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the progress of the States in automating the databases containing

information described under sections 102 and 103, and in providing that information pursuant to the requirements of sections 102 and 103.

(2) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to the Department of Justice, such funds as may be necessary to carry out paragraph (1).

(b) Penalties-

(1) DISCRETIONARY REDUCTION- During the 2-year period beginning 3 years after the date of enactment of this Act, the Attorney General may withhold not more than 3 percent of the amount that would otherwise be allocated to a State under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) if the State provides less than 60 percent of the information required to be provided under sections 102 and 103.

(2) MANDATORY REDUCTION- After the expiration of the period referred to in paragraph (1), the Attorney General shall withhold 5 percent of the amount that would otherwise be allocated to a State under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756), if the State provides less than 90 percent of the information required to be provided under sections 102 and 103.

(3) WAIVER BY ATTORNEY GENERAL- The Attorney General may waive the applicability of paragraph (2) to a State if the State provides substantial evidence, as determined by the Attorney General, that the State is making a reasonable effort to comply with the requirements of sections 102 and 103.

(c) Reallocation- Any funds that are not allocated to a State because of the failure of the State to comply with the requirements of this title shall be reallocated to States that meet such requirements.

SEC. 105. RELIEF FROM DISABILITIES PROGRAM REQUIRED AS CONDITION FOR PARTICIPATION IN GRANT PROGRAMS.

(a) Program Described- A relief from disabilities program is implemented by a State in accordance with this section if the program--

(1) permits a person who, pursuant to State law, has been adjudicated as described in subsection (g)(4) of section 922 of title 18, United States Code, or has been committed to a mental institution, to apply to the State for relief from the disabilities imposed by subsections (d)(4) and (g)(4) of such section by reason of the adjudication or commitment;

(2) provides that a State court, board, commission, or other lawful authority shall grant the relief, pursuant to State law and in accordance with the principles of due process, if the circumstances regarding the disabilities referred to in paragraph (1), and the person's record and reputation, are such that the person will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest; and

(3) permits a person whose application for the relief is denied to file a petition with the State court of appropriate jurisdiction for a de novo judicial review of the denial.

(b) Authority To Provide Relief From Certain Disabilities With Respect to Firearms- If, under a State relief from disabilities program implemented in accordance with this section, an application for relief referred to in subsection (a)(1) of this section is granted with respect to an adjudication or a commitment to a mental institution, the adjudication or commitment, as the case may be, is deemed not to have occurred for purposes of subsections (d)(4) and (g)(4) of section 922 of title 18, United States Code.

TITLE II--FOCUSING FEDERAL ASSISTANCE ON THE IMPROVEMENT OF RELEVANT RECORDS

SEC. 201. CONTINUING EVALUATIONS.

(a) Evaluation Required- The Director of the Bureau of Justice Statistics (referred to in this section as the 'Director') shall study and evaluate the operations of the National Instant Criminal Background Check System. Such study and evaluation shall include compilations and analyses of the operations and record systems of the agencies and organizations necessary to support such System.

(b) Report on Grants- Not later than January 31 of each year, the Director shall submit to Congress a report containing the estimates submitted by the States under section 102(b).

(c) Report on Best Practices- Not later than January 31 of each year, the Director shall submit to Congress, and to each State participating in the National Criminal History Improvement Program, a report of the practices of the States regarding the collection, maintenance, automation, and transmittal of information relevant to determining whether a person is prohibited from possessing or receiving a firearm by Federal or State law, by the State or any other agency, or any other records relevant to the National Instant Criminal Background Check System, that the Director considers to be best practices.

(d) Authorization of Appropriations- There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2008 through 2010 to complete the studies, evaluations, and reports required under this section.

TITLE III--GRANTS TO STATE COURT SYSTEMS FOR THE IMPROVEMENT IN AUTOMATION AND TRANSMITTAL OF DISPOSITION RECORDS

SEC. 301. DISPOSITION RECORDS AUTOMATION AND TRANSMITTAL IMPROVEMENT GRANTS.

(a) Grants Authorized- From amounts made available to carry out this section, the Attorney General shall make grants to each State, consistent with State plans for the integration, automation, and accessibility of criminal history records, for use by the State court system to improve the automation and transmittal of criminal history dispositions, records relevant to determining whether a person

has been convicted of a misdemeanor crime of domestic violence, court orders, and mental health adjudications or commitments, to Federal and State record repositories in accordance with sections 102 and 103 and the National Criminal History Improvement Program.

(b) Grants to Indian Tribes- Up to 5 percent of the grant funding available under this section may be reserved for Indian tribal governments for use by Indian tribal judicial systems.

(c) Use of Funds- Amounts granted under this section shall be used by the State court system only--

(1) to carry out, as necessary, assessments of the capabilities of the courts of the State for the automation and transmission of arrest and conviction records, court orders, and mental health adjudications or commitments to Federal and State record repositories; and

(2) to implement policies, systems, and procedures for the automation and transmission of arrest and conviction records, court orders, and mental health adjudications or commitments to Federal and State record repositories.

(d) Eligibility- To be eligible to receive a grant under this section, a State shall certify, to the satisfaction of the Attorney General, that the State has implemented a relief from disabilities program in accordance with section 105.

(e) Authorization of Appropriations- There are authorized to be appropriated to the Attorney General to carry out this section \$125,000,000 for each of the fiscal years 2008 through 2010.

TITLE IV--GAO AUDIT

SEC. 401. GAO AUDIT.

(a) In General- The Comptroller General of the United States shall conduct an audit of the expenditure of all funds appropriated for criminal records improvement pursuant to section 106(b) of the Brady Handgun Violence Prevention Act (Public Law 103-159) to determine if the funds were expended for the purposes authorized by the Act and how those funds were expended for those purposes or were otherwise expended.

(b) Report- Not later than 6 months after the date of enactment of this Act, the Comptroller General shall submit a report to Congress describing the findings of the audit conducted pursuant to subsection (a).

Passed the House of Representatives June 13, 2007.

Attest:

LORRAINE C. MILLER,

Clerk.

END



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT
August 9, 2007

Honorable Members of the
Law and Legislation Committee

Title: Disaster Reconstruction of Nonconforming Single-Family and Two-Family Properties (M06-060)

Location/Council District: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee review and recommend approval of an ordinance amending sections 17.24.050, and 17.88.030 of Title 17 (Zoning Code) of the Sacramento City Code to be forwarded to the City Council.

Contact: Robert W. Williams, Associate Planner, (916) 808-7686; Sandra Yope, Senior Planner, (916) 808-7158

Presenters: Robert W. Williams, Associate Planner

Department: Development Services

Division: Current Planning

Organization No: 4885

Description/Analysis

Issue: Staff has prepared an ordinance to amend the Zoning Code which will allow, in the event of a disaster, for the reconstruction of the destroyed structure(s) without requiring an entitlement, as is required by existing regulations. The proposed changes to the Zoning Code will be for properties which contain a single-family or a two-family use.

Currently, any legally constructed nonconforming (not in conformance with the development standards of current city codes) building, structure or use that is damaged by a disaster of less than 50% of the replacement cost can be repaired by right, regardless of the type of nonconformance. If a disaster destroys the structure or use at a cost of greater than 50% of the replacement cost, nonconforming residential structures and uses are required to apply for a Zoning Administrator Special Permit in order to reconstruct.

The proposed ordinance changes will remove the existing 50% replacement cost limitation on any legally constructed structure (including accessory structures) on any property that contains a legal single-family or a two-family use. The reconstruction will be limited to the existing building envelope of the destroyed structures. A special permit from the Zoning Administrator would still be required to reconstruct any structure on a property that contains a multi-family use (three or more units).

Policy Considerations: The proposed ordinance is consistent with the City's Strategic Plan Focus Area to achieve sustainability and livability and foster economic development within the City of Sacramento.

Committee / Commission Action: The proposed ordinance was reviewed by the Planning Commission On June 28, 2007. The Planning Commission voted eight ayes, zero noes, and one absent to recommend approval of the proposed Zoning Code amendments. The Planning Commission had concerns about the balance of the public good to phase out nonconforming structures and uses versus an individual property owners right to reconstruct. The Planning Commission also had concerns about whether or not reconstruction would always be appropriate in a major disaster that could affect a larger area than just an individual property. Staff intends to provide the Planning Commission with an overview of the nonconforming code and policies at a future meeting.

Environmental Considerations: The proposed ordinance is exempt from the provisions of the California Environmental Quality Act (Section 15061(b)(3)).

Rationale for Recommendation: The proposed code amendments will create a more appropriate regulatory environment by allowing property owners who have been the victims of a fire or similar disaster to be able to promptly reconstruct their nonconforming single-family and two-family residences and accessory structures, rather than subjecting them to the additional time and fees that are required to process entitlements.

Financial Considerations: None

Emerging Small Business Development (ESBD): No goods or services are being purchased under this report.

Respectfully Submitted by:



David Kwong
Planning Manager

Approved by: 
William Thomas
Director of Development Services

Recommendation Approved:

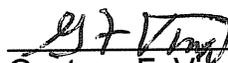

Gustavo F. Viña
Assistant City Manager

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Attachment 1

Background Information: In 1990, the nonconforming chapter of the Zoning Code was revised to require entitlements to reconstruct nonconforming residential structures and uses that were damaged greater than 50% of the replacement cost. Prior to 1990, all residential uses were exempt from the nonconforming regulations; therefore all legally constructed residential structures that were damaged or destroyed by any means could be reconstructed without any entitlements.

The staff at Housing and Dangerous Buildings (a division of the Code Enforcement Department) recently developed new policies and procedural improvements for "Major Catastrophic Repair for Residential and Small Commercial Usage", which were presented to the Development Oversight Commission on February 5, 2007. These policies provide for a streamlined process in the event of a disaster, which includes the issuance of building permits by a building inspector in the field to reconstruct structures damaged or destroyed by a disaster. Some of these cases involve nonconformance issues which are reviewed by a Zoning Investigator.

As an outgrowth of the new policies developed by Housing staff, and to promote a more appropriate regulatory environment, staff has proposed changes to the nonconforming regulations in relation to the reconstruction of single-family and two-family uses. Also, since under current regulations staff cannot currently always guarantee a property owner's right to rebuild a nonconforming single-family or two-family home, the proposed code amendments may help homeowners with property financing issues.

Attachment 2**Proposed Amendments to Title 17 (Zoning Code):**

The ordinance amendment includes changes to Footnote 3 of Section 17.88.030 (Nonconforming Structures and Uses) which is the Footnote for reconstruction when a property is damaged or destroyed by a disaster. The existing code to reconstruct a residential property that has been damaged greater than 50% of the replacement cost of the structure(s) will be split up into separate regulations in the proposed code. The nonconforming multi-family uses will still require a Zoning Administrator Special Permit to reconstruct, but the single-family and two-family uses will now be allowed to reconstruct by right.

Other changes to Footnote 3 of Section 17.88.030 are to provide for consistency of deadlines to submit for special permits or reconstruct. Current code requires that a by right reconstruction of a nonconforming structure or use (damage of less than 50% of the replacement cost) file for a building permit within one year following the disaster, however if the damage requires a Zoning Administrator Special Permit to reconstruct, that application must be filed within six months from the date of the disaster. To provide consistency for timelines the code is proposed to be amended to require either a building permit application or a Zoning Administrator Special Permit application to be filed within six months. The Zoning Administrator can still grant a one year extension for all residential projects. (This action does not require an entitlement).

Changes that are proposed to Footnote 4 and 7 of Section 17.88.030 are made to provide for consistency with the wording of the proposed changes to Footnote 3. No policy changes are proposed by the changes to Footnote 4 and 7. All nonconforming residential uses or structures, whether damaged at a replacement cost of less than 50% or greater than 50%, will still require a Special Permit to reconstruct, if they are removed or demolished other than by a disaster. All nonconforming commercial uses continue to be able to apply for a Zoning Administrator Special Permit to reconstruct only if the cost of damage is less than 50%, regardless of whether the site was destroyed by disaster or other than a disaster.

Finally, staff is proposing some minor changes to Footnote 13 of Section 17.24.050 (Land Use Regulations). This footnote deals with Residential Uses in the Heavy Commercial and Industrial Zones. The existing wording has caused some confusion about when a residential use is allowed in these zones. The proposed wording revisions should help clarify the residential use requirements in these zones.

Redlined
ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AMENDING SECTIONS 17.24.050 AND 17.88.030 OF TITLE 17 OF THE
SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO
NONCONFORMING USES (M06-060)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Section 17.24.050 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Footnote (13) of section 17.24.050 is amended to read as follows:

13. Residential Uses in the C-4, M-1, M-1 (S), M-2, and M-2(S) Zones.

Residential uses are not allowed in this zone except as provided below:

a. Property zoned C-4, M-1, M-1(S), M-2, or M-2(S) on which a building or structure had been previously used for lawful residential purposes may be restored to a residential use pursuant to a special permit issued by the zoning administrator in accordance with the requirements of Chapter 17.212.

b. Property located within the central city and zoned C-4, M-1, M-1 (S), M-2, or M-2(S) may be used for residential purposes pursuant to a special permit issued by the zoning administrator in accordance with the requirements of Chapter 17.212.

c. Property located within a quarter-mile radius of a light rail station (measured from the center of the platform, as determined by the planning director, to the edge of the parcel closest to the station) and zoned C-4, M-1, M-1 (S), M-2, or M-2(S) may be used for apartments, duplexes, or halfplexes pursuant to a special permit issued by the planning commission in accordance with the requirements of Chapter 17.212.

~~d.~~ Notwithstanding the provisions of Chapter 17.64, projects that incorporate both residential uses authorized by this ~~section~~ subsection (13)(c) and commercial retail or commercial service uses may have the required off-street parking for the ground floor commercial retail or service use waived by fifty (50) percent or less

by a zoning administrator's special permit or by more than fifty (50) percent by a planning commission special permit, in accordance with the requirements of Chapter 17.212.

B. Except as specifically amended by the amendments to footnote 13, all other provisions of section 17.24.050 remain unchanged and in full force and effect.

SECTION 2. Section 17.88.030 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. The Nonconforming Regulations Chart set out in Section 17.88.030 is amended to read as follows:

	Nonconforming Building or Structure	Nonconforming Use
Maintenance of a	1	1
Additions, enlargements or relocations of a	2	2
Restoration <u>Repair or replacement reconstruction</u> of a damaged or destroyed by disaster	3	3
Restoration <u>Repair or replacement reconstruction</u> of a damaged <u>removed or demolished</u> not by disaster	4	4
Change in ordinance or policy that results in a	5	5
Change in zone that results in a	6	6
Reconstruction, enlargement or alteration of building, structure or use that required a special permit or plan review	7	7
Change from to a conforming use	N/A	8
Change from to another nonconforming use	N/A	9
Discontinuance of a	N/A	10
Nonconforming adult entertainment use	N/A	11
.... converted to an artist's live/work space	N/A	12
Nonconforming hazardous waste facility	N/A	13
.... located in the Alhambra Corridor SPD	14	14
Listed historic structure that is a or is proposed to be a	15	15

B. Footnote (3) of section 17.88.030 is amended to read as follows:

3. ~~Restoration~~Repair or Replacement~~Reconstruction~~ of a Nonconforming Building, Structure or Use Damaged or Destroyed by Disaster.

a. ~~Disaster~~Definition~~Definitions~~.

i. For purposes of this section, "disaster" means a fire, flood, wind, earthquake, or other calamity or destruction by the public enemy.

b. ~~Replacement Cost~~Definition and Procedure to Determine.

ii. For purposes of this subsection, "replacement cost" means the cost at the time of the application to replace the building or structure as it existed immediately prior to the damage or partial or complete destruction with a building or structure of like kind and quality. The determination(s) as to the cost of repair or reconstruction and the replacement cost shall be made by the zoning administrator or his or her authorized representative. Any person dissatisfied with the determination of the zoning administrator may appeal that decision to the city planning commission within the time period and pursuant to the procedures set forth in Section 17.200.030(A) of this title.

eb. Cost of Damage~~Repair or Reconstruction~~ Is Less Than Fifty Percent of the Replacement Cost.

i. Repair or Reconstruction Permitted.

A nonconforming building or structure, or any building or structure devoted to a nonconforming use, ~~which that~~ is damaged or partially destroyed by a disaster may be ~~restored~~repaired or reconstructed and the occupation or use of that building, structure, or part thereof, ~~which that~~ lawfully existed at the time of its damage or partial destruction, may be continued, provided that: ~~(i) the cost of repair or restoration reconstruction is less than fifty (50) percent of the replacement cost of the building or structure; and (ii) the restoration is started within a period of one year following the date of the damage or destruction and is diligently prosecuted to completion. Except as provided in subsection (3)(c)(i) of this section, if the restoration is not started within one year following the date of the damage or destruction, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all regulations of this ordinance for the zone in which it is located. This subsection applies without limitation to accessory buildings, structures, or uses including garages, storage sheds, or pools. Any restoration, repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the regulations of the Sacramento building code existing at the time of repair or reconstruction.~~

~~i. Exception Residential Uses Time for Restoration Extension of Time Appeal~~ ii. Time for Application for Building Permit-Prosecution of Work.

Restoration An application for a building permit for the repair or reconstruction authorized by this subsection shall be ~~started~~filed not later than ~~one year~~six months

following the date of the damage or partial destruction, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of the damage or partial destruction, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

iii. Time for Repair or Reconstruction Work—Residential Buildings or Structures, Residential Uses--Extension of Time—Appeal.

The zoning administrator or his or her authorized representative may approve a single, one year extension of the period for restoration commencement and prosecution of the repair or reconstruction specified above work authorized by this subsection for nonconforming residential buildings or structures or a building or structure devoted to a nonconforming residential use if substantial and diligent progress towards commencement and completion of the work has been made or, if not, the delay in or inability to begin or complete the restoration work is attributable to factors not reasonably within the applicant's control including, but not limited to, the without limitation weather, a change in ownership, or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator thereof concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

d

c. Cost of Damage Repair or Reconstruction is Fifty Percent or Greater Than Replacement Cost.

Except as provided in subsection (3)(d)(i) of this section, if the Non-residential Buildings or Structures, Nonresidential Uses.

If a nonconforming nonresidential building or structure, or any building or structure devoted to a nonconforming nonresidential use, is damaged or destroyed by a disaster and the cost of repair or reconstruction of a building or structure damaged by a disaster is fifty (50) percent (50%) or more of the reconstruction replacement cost of the building or structure, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all regulations requirements of this title for the zone in which it is located.

i. Exception—i. Multiple Family Residential Uses.

Notwithstanding any other provisions of this ordinance, the zoning administrator may issue a zoning administrator's special permit pursuant to Chapter 17.212 of this title authorizing the construction or restoration of a (A) Repair or Reconstruction with Zoning Administrator's Special Permit.

~~_____ A nonconforming multiple family residential building or structure lawfully, or any building or structure devoted to a nonconforming multiple family residential use, that is damaged or destroyed by a disaster may be repaired or reconstructed and the occupation or use of that building or structure that lawfully existed at the time of its destruction may be continued, even though the cost of restoration repair or reconstruction is fifty (50) percent (50%) or more of the reconstruction replacement cost for the building or structure, upon issuance of a zoning administrator's special permit pursuant to and subject to the findings required by Chapter 17.212. This exceptionsubsection applies to accessory residential buildings, structures, or uses including, but not limited to, without limitation garages, storage sheds, or pools. Such a zoning administrator's special permit may be approved if the zoning administrator finds that issuance of the special permit will not be detrimental to the public health, safety or welfare and will not result in the creation of a nuisance. In granting a zoning administrator's special permit, the zoning administrator may impose such conditions as may be necessary to carry out the intent and purpose of this title or to protect the public health, safety or welfare. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.~~

- ~~_____ (A)~~
- ~~_____ (B) Time for Application for Special Permit.~~

An application for a zoning administrator's special permit pursuant to this subsection shall be filed not later than six months following the date of the damage or destruction. If an application is not filed within six months following the date of the damage or destruction, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all ~~regulations~~requirements of this title for the zone in which it is located.

~~(BC)~~ Time for Restoration Application for Building Permit-Prosecution of Work.

Notwithstanding the provisions of section 17.212.100 to the contrary, an application for a building permit for the repair or reconstruction work authorized by this subsection shall be filed not later than six months following the date of issuance of the special permit, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of issuance of the building permit, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

~~_____ (D) Time for Repair or Reconstruction—Extension of Time—Appeal.~~

~~_____ Restoration shall be completed not later than one year following issuance~~
Notwithstanding the provisions of the special permit. This section 17.212.100 to the contrary, the zoning administrator or his or her authorized representative may approve a

single, one year extension of the period for restoration commencement and prosecution of the repair or reconstruction specified above work authorized by this subsection if substantial and diligent progress towards commencement and completion of the work has been made or, if not, the delay in or inability to complete the restoration work is attributable to factors not reasonably within the applicant's control including, but not limited to, the without limitation weather and/or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator thereof concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

iii. Single Family and Two Family Residential Uses.

(A) Repair or Reconstruction Permitted.

A nonconforming single family or two family residential dwelling, or any building or structure devoted to a nonconforming single family or two family residential use, that is damaged or destroyed by a disaster may be repaired or reconstructed and the occupation or use of that building or structure that lawfully existed at the time of its destruction may be continued, even though the cost of repair or reconstruction is fifty percent (50%) or more of the replacement cost for the building or structure, as long as the repair or reconstruction does not project beyond the three dimensional form of the building or structure as it existed at the time of its damage or destruction. This subsection applies to accessory residential buildings, structures, or uses including without limitation garages, storage sheds, or pools. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

(B) Design Review.

Repair or reconstruction under this subsection of a non-conforming single family or two family residential dwelling, or any building or structure devoted to a nonconforming single family or two family residential use that is not otherwise subject to design review shall be subject to design review for ministerial projects under section 17.132.180.

(C) Time for Application for Building Permit-Prosecution of Work.

An application for a building permit for the repair or reconstruction work authorized by this subsection shall be filed not later than six months following the date of the damage or destruction, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of the damage or destruction, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(D) Time for Repair or Reconstruction Work—Extension of Time—Appeal.

The zoning administrator may approve a single, one year extension of the period for commencement and prosecution of the repair or reconstruction work authorized by this subsection if substantial and diligent progress towards commencement and completion of the work has been made or if the delay in or inability to begin or complete the work is attributable to factors not reasonably within the applicant’s control including without limitation weather or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

C. Footnote (4) of section 17.88.030 is amended to read as follows:

4. ~~Restoration~~Repair or Replacement Reconstruction of a Nonconforming Building, Structure or Use ~~Damaged~~Removed or Demolished Other than by Disaster.

~~Except as provided in subsection 3 of this section or in the exceptions set forth below, aa.~~ Definitions.

i. For purposes of this section, “disaster” means a fire, flood, wind, earthquake, or other calamity or destruction by the public enemy.

ii. For purposes of this subsection, “replacement cost” means the cost at the time of the application to replace the building or structure as it existed immediately prior to the damage or partial or complete destruction with a building or structure of like kind and quality. The determination(s) as to the cost of repair or reconstruction and the replacement cost shall be made by the zoning administrator or his or her authorized representative. Any person dissatisfied with the determination of the zoning administrator may appeal that decision to the city planning commission within the time period and pursuant to the procedures set forth in Section 17.200.030(A) of this title.

b. Cost of Repair or Reconstruction Is Less Than Fifty Percent of the Replacement Cost.

i. Repair or Reconstruction with Zoning Administrator’s Special Permit.

~~A nonconforming building or structure, or any portion thereof, or a building or structure lawfully used for a nonconforming use, which that is removed or otherwise destroyed or demolished, shall not be restored or replaced unless every portion of the building or structure and its use are made to conform to all regulations of this title for the zone in which the building or structure is located.~~

~~a. Exception Partial Removal or Destruction.~~

~~Notwithstanding any other provisions of this title, the zoning administrator may issue a zoning administrator’s special permit pursuant to Chapter 17.212 of this title~~

~~authorizing the reconstruction or restoration of a nonconforming other than by disaster may be repaired or reconstructed and the occupation or use of that building or structure, or a building or structure that lawfully devoted to a nonconforming use, provided that (i) the cost of restoration or reconstruction is less than fifty (50) percent of the replacement cost of the building or structure as defined in subsection (3)(b) of this section; and (ii) the restoration or replacement is started within a period of one year following the date of the removal, destruction or demolition and is diligently prosecuted to completion. If the cost of the restoration or reconstruction is fifty (50) percent or more of the replacement cost of the building or structure as defined in subsection (3)(b) of this section or the restoration or replacement is not started within a period of one year following the date of removal, destruction, or demolition, no restoration or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all regulations of this title for the zone in which it is located. Any reconstruction or restoration shall be in accordance with the regulations of the Sacramento building code existing at the time of the restoration or reconstruction. Such a zoning administrator's special permit may be approved if the zoning administrator finds that issuance of the special permit will not be detrimental to the public health, safety or welfare and will not result in the creation of a nuisance. In granting a zoning administrator's special permit, the zoning administrator may impose such conditions as may be necessary to carry out the intent and purpose of this title or to protect the public health, safety or welfare.~~

~~b. Exception Residential Uses.~~

~~Notwithstanding any other provisions of this title, the zoning administrator may issue a zoning administrator's special permit pursuant to Chapter 17.212 of this title authorizing the reconstruction or restoration of a nonconforming building or structure lawfully devoted to a residential use existed at the time of its damage or partial destruction, even though the damage or destruction is such removal or demolition may be continued, provided, that the cost of repair or reconstruction is less than fifty (50) percent or more (50%) of the replacement cost for of the building or structure, upon issuance of a zoning administrator's special permit pursuant to and subject to the findings required by Chapter 17.212. This exception subsection applies without limitation to accessory residential buildings, structures, or uses including, but not limited to, garages, storage sheds and, or pools. Such a zoning administrator's special permit may be approved if the zoning administrator finds that issuance of the special permit will not be detrimental to the public health, safety or welfare and will not result in the creation of a nuisance. In granting a zoning administrator's special permit, the zoning administrator may impose such conditions as may be necessary to carry out the intent and purpose of this title or to protect the public health, safety or welfare. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.~~

~~ii. Time for Application for Special Permit.~~

~~An application for a zoning administrator's special permit pursuant to this subsection shall be filed not later than six months following the date demolition~~

~~commenced on the building or structure of the removal or demolition.~~ If an application is not filed within six months following the date of the removal or demolition, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all ~~regulations~~ requirements of this ~~ordinance~~ title for the zone in which it is located.

~~Exception. Within the central city, for projects of up to four residential units, located within a residential zone, an application for a special permit pursuant to this subsection shall be filed not later than two years following the date demolition commenced on the building or structure.~~ iii. Time for Application for Building Permit-Prosecution of Work.

~~ii. Time for Restoration Extension of Time Appeal.~~

~~Restoration~~ Notwithstanding the provisions of section 17.212.100 to the contrary, an application for a building permit for the repair or reconstruction authorized by this subsection shall be completed filed not later than one year six months following the date of issuance of the special permit-, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of issuance of the building permit, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

iv. Time for Repair or Reconstruction Work—Residential Buildings or Structures, Residential Uses--Extension of Time—Appeal.

~~The zoning administrator or his or her authorized representative may approve a single, one year extension of the period for restoration commencement and prosecution of the repair or reconstruction specified above work authorized by this subsection for nonconforming residential buildings or structures or a building or structure devoted to a nonconforming residential use if substantial and diligent progress towards completion commencement and completion of the work has been made or, if not, the delay in or inability to begin or complete the restoration or reconstruction work is attributable to factors not reasonably within the applicant's control including, but not limited to, the without limitation weather and or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.~~

c. Cost of Repair or Reconstruction Is Fifty Percent or Greater of the Replacement Cost.

i. Non-residential Buildings or Structures, Non-residential Uses.

If a nonconforming nonresidential building or structure, or any building or structure devoted to a nonconforming nonresidential use, is removed or demolished other than by disaster, and the cost of repair or reconstruction is fifty percent (50%) or more of the replacement cost of the building or structure, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

ii. Residential Buildings or Structures, Residential Uses.

(A) Repair or Reconstruction with Zoning Administrator's Special Permit.

A nonconforming residential building or structure, or any portion thereof, or a building or structure lawfully used for a nonconforming residential use that is removed or demolished other than by disaster, and the cost of repair or reconstruction is fifty percent (50%) or greater of the replacement cost of the building or structure may be repaired or reconstructed and the occupation or use of that building or structure that lawfully existed at the time of its removal or demolition may be continued, upon issuance of a zoning administrator's special permit pursuant to and subject to the findings required by Chapter 17.212. This subsection applies without limitation to accessory residential buildings, structures, or uses including garages, storage sheds, or pools. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

(B) Time for Application for Special Permit.

(i) Except as provided in subsection (ii) immediately following, an application for a zoning administrator's special permit pursuant to this subsection shall be filed not later than six months following the date of the removal or demolition. If an application is not filed within six months following the date of the removal or demolition, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(ii) Within the central city, for projects of up to four residential units, located within a residential zone, an application for a special permit pursuant to this subsection shall be filed not later than two years following the date demolition commenced on the building or structure.

(C) Time for Application for Building Permit-Prosecution of Work.

Notwithstanding the provisions of section 17.212.100 to the contrary, an application for a building permit for the repair or reconstruction work authorized by this subsection shall be filed not later than six months following the date of issuance of the special permit, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of issuance

of the building permit, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(D) Time for Repair or Reconstruction—Extension of Time—Appeal.

Notwithstanding the provisions of section 17.212.100 to the contrary, the zoning administrator may approve a single, one year extension of the period for commencement and prosecution of the repair or reconstruction work authorized by this subsection if substantial and diligent progress towards commencement and completion of the work has been made or if the delay in or inability to complete the work is attributable to factors not reasonably within the applicant's control including without limitation weather or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

D. Footnote (7) of section 17.88.030 is amended to read as follows:

7. Reconstruction, Enlargement or Alteration, of Buildings, Structures or Uses that Required a Special Permit or Plan Review.

Notwithstanding a. Except as provided in subsection (b) of this footnote 7, and notwithstanding any other provisions of this title, a building, structure, or use which currently requires a special permit or plan review, but which was lawfully established at a time when no such special permit or plan review requirement existed, shall be considered to have a special permit or plan review. Such a building, structure, or use may be reconstructed, enlarged, or altered pursuant to the special permit modification or plan review modification procedures established in Section 17.212.070 of this title and Section 17.220.050 of this title respectively. This provision shall only apply to uses that are consistent with the use regulations requirements established by this title at the time the modification is sought. This provision may apply to uses on property which were lawfully established at the time of the annexation or consolidation of that property with the city.

b. If a nonconforming residential building or structure, or any building or structure devoted to a nonconforming residential use, is considered to have a special permit or plan review under this footnote 7 and is damaged or destroyed in whole or in part by a disaster, the building or structure may be repaired or reconstructed and the occupation or use of that building, structure, or part thereof that lawfully existed at the time of its destruction, may be continued as provided in subsections (3)(b) and (3)(c) of this section. No special permit modification or plan review modification shall be required under this footnote 7.

E. Except as specifically amended by the amendments to the Nonconforming Regulations Chart and footnotes 3, 4, and 7, Section 17.88.030 shall remain unchanged and in full force and effect.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

**AMENDING SECTIONS 17.24.050 AND 17.88.030 OF TITLE 17 OF THE
SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO
NONCONFORMING USES (M06-060)**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Section 17.24.050 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Footnote (13) of section 17.24.050 is amended to read as follows:

13. Residential Uses in the C-4, M-1, M-1 (S), M-2, and M-2(S) Zones.

Residential uses are not allowed in this zone except as provided below:

a. Property zoned C-4, M-1, M-1(S), M-2, or M-2(S) on which a building or structure had been previously used for lawful residential purposes may be restored to a residential use pursuant to a special permit issued by the zoning administrator in accordance with the requirements of Chapter 17.212.

b. Property located within the central city and zoned C-4, M-1, M-1 (S), M-2, or M-2(S) may be used for residential purposes pursuant to a special permit issued by the zoning administrator in accordance with the requirements of Chapter 17.212.

c. Property located within a quarter-mile radius of a light rail station (measured from the center of the platform, as determined by the planning director, to the edge of the parcel closest to the station) and zoned C-4, M-1, M-1 (S), M-2, or M-2(S) may be used for apartments, duplexes, or halfplexes pursuant to a special permit issued by the planning commission in accordance with the requirements of Chapter 17.212. Notwithstanding the provisions of Chapter 17.64, projects that incorporate both residential uses authorized by this subsection (13)(c) and commercial retail or commercial service uses may have the required off-street parking for the ground floor commercial retail or service use waived by fifty (50) percent or less by a zoning administrator's special permit or by more than fifty (50) percent by a planning commission special permit, in accordance with the requirements of Chapter 17.212.

B. Except as specifically amended by the amendments to footnote 13, Section 17.24.050 shall remain unchanged and in full force and effect.

SECTION 2. Section 17.88.030 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. The Nonconforming Regulations Chart set out in Section 17.88.030 is amended to read as follows:

	Nonconforming Building or Structure	Nonconforming Use
Maintenance of a	1	1
Additions, enlargements or relocations of a	2	2
Repair or reconstruction of a damaged or destroyed by disaster	3	3
Repair or reconstruction of a removed or demolished not by disaster	4	4
Change in ordinance or policy that results in a	5	5
Change in zone that results in a	6	6
Reconstruction, enlargement or alteration of building, structure or use that required a special permit or plan review	7	7
Change from to a conforming use	N/A	8
Change from to another nonconforming use	N/A	9
Discontinuance of a	N/A	10
Nonconforming adult entertainment use	N/A	11
.... converted to an artist's live/work space	N/A	12
Nonconforming hazardous waste facility	N/A	13
.... located in the Alhambra Corridor SPD	14	14
Listed historic structure that is a or is proposed to be a	15	15

B. Footnote (3) of section 17.88.030 is amended to read as follows:

3. Repair or Reconstruction of a Nonconforming Building, Structure or Use Damaged or Destroyed by Disaster.

a. Definitions.

i. For purposes of this section, "disaster" means a fire, flood, wind, earthquake, or other calamity or destruction by the public enemy.

ii. For purposes of this subsection, "replacement cost" means the cost at the time of the application to replace the building or structure as it existed immediately prior to the damage or partial or complete destruction with a building or structure of like kind and quality. The determination(s) as to the cost of repair or reconstruction and the replacement cost shall be made by the zoning administrator or his or her authorized representative. Any person dissatisfied with the determination of the zoning administrator may appeal that decision to the city planning commission within the time period and pursuant to the procedures set forth in Section 17.200.030(A) of this title.

b. Cost of Repair or Reconstruction Is Less Than Fifty Percent of the Replacement Cost.

i. Repair or Reconstruction Permitted.

A nonconforming building or structure, or any building or structure devoted to a nonconforming use, that is damaged or partially destroyed by a disaster may be repaired or reconstructed and the occupation or use of that building, structure, or part thereof, that lawfully existed at the time of its damage or partial destruction, may be continued, provided that the cost of repair or reconstruction is less than fifty (50) percent of the replacement cost of the building or structure. This subsection applies without limitation to accessory buildings, structures, or uses including garages, storage sheds, or pools. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

ii. Time for Application for Building Permit-Prosecution of Work.

An application for a building permit for the repair or reconstruction authorized by this subsection shall be filed not later than six months following the date of the damage or partial destruction, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of the damage or partial destruction, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

iii. Time for Repair or Reconstruction Work—Residential Buildings or Structures, Residential Uses--Extension of Time—Appeal.

The zoning administrator may approve a single, one year extension of the period for commencement and prosecution of the repair or reconstruction work authorized by this subsection for nonconforming residential buildings or structures or a building or

structure devoted to a nonconforming residential use if substantial and diligent progress towards commencement and completion of the work has been made or if the delay in or inability to begin or complete the work is attributable to factors not reasonably within the applicant's control including without limitation weather or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

c. Cost of Repair or Reconstruction is Fifty Percent or Greater Than Replacement Cost.

i. Non-residential Buildings or Structures, Nonresidential Uses.

If a nonconforming nonresidential building or structure, or any building or structure devoted to a nonconforming nonresidential use, is damaged or destroyed by a disaster and the cost of repair or reconstruction is fifty percent (50%) or more of the replacement cost of the building or structure, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

ii. Multiple Family Residential Uses.

(A) Repair or Reconstruction with Zoning Administrator's Special Permit.

A nonconforming multiple family residential building or structure, or any building or structure devoted to a nonconforming multiple family residential use, that is damaged or destroyed by a disaster may be repaired or reconstructed and the occupation or use of that building or structure that lawfully existed at the time of its destruction may be continued, even though the cost of repair or reconstruction is fifty percent (50%) or more of the replacement cost for the building or structure, upon issuance of a zoning administrator's special permit pursuant to and subject to the findings required by Chapter 17.212. This subsection applies to accessory residential buildings, structures, or uses including without limitation garages, storage sheds, or pools. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

(B) Time for Application for Special Permit.

An application for a zoning administrator's special permit pursuant to this subsection shall be filed not later than six months following the date of the damage or destruction. If an application is not filed within six months following the date of the damage or destruction, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(C) Time for Application for Building Permit-Prosecution of Work.

Notwithstanding the provisions of section 17.212.100 to the contrary, an application for a building permit for the repair or reconstruction work authorized by this subsection shall be filed not later than six months following the date of issuance of the special permit, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of issuance of the building permit, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(D) Time for Repair or Reconstruction—Extension of Time—Appeal.

Notwithstanding the provisions of section 17.212.100 to the contrary, the zoning administrator may approve a single, one year extension of the period for commencement and prosecution of the repair or reconstruction work authorized by this subsection if substantial and diligent progress towards commencement and completion of the work has been made or if the delay in or inability to complete the work is attributable to factors not reasonably within the applicant's control including without limitation weather or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

iii. Single Family and Two Family Residential Uses.

(A) Repair or Reconstruction Permitted.

A nonconforming single family or two family residential dwelling, or any building or structure devoted to a nonconforming single family or two family residential use, that is damaged or destroyed by a disaster may be repaired or reconstructed and the occupation or use of that building or structure that lawfully existed at the time of its destruction may be continued, even though the cost of repair or reconstruction is fifty percent (50%) or more of the replacement cost for the building or structure, as long as the repair or reconstruction does not project beyond the three dimensional form of the building or structure as it existed at the time of its damage or destruction. This subsection applies to accessory residential buildings, structures, or uses including without limitation garages, storage sheds, or pools. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

(B) Design Review.

Repair or reconstruction under this subsection of a non-conforming single family or two family residential dwelling, or any building or structure devoted to a

nonconforming single family or two family residential use that is not otherwise subject to design review shall be subject to design review for ministerial projects under section 17.132.180.

(C) Time for Application for Building Permit-Prosecution of Work.

An application for a building permit for the repair or reconstruction work authorized by this subsection shall be filed not later than six months following the date of the damage or destruction, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of the damage or destruction, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(D) Time for Repair or Reconstruction Work—Extension of Time—Appeal.

The zoning administrator may approve a single, one year extension of the period for commencement and prosecution of the repair or reconstruction work authorized by this subsection if substantial and diligent progress towards commencement and completion of the work has been made or if the delay in or inability to begin or complete the work is attributable to factors not reasonably within the applicant's control including without limitation weather or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

C. Footnote (4) of section 17.88.030 is amended to read as follows:

4. Repair or Reconstruction of a Nonconforming Building, Structure or Use Removed or Demolished Other than by Disaster.

a. Definitions.

i. For purposes of this section, "disaster" means a fire, flood, wind, earthquake, or other calamity or destruction by the public enemy.

ii. For purposes of this subsection, "replacement cost" means the cost at the time of the application to replace the building or structure as it existed immediately prior to the damage or partial or complete destruction with a building or structure of like kind and quality. The determination(s) as to the cost of repair or reconstruction and the replacement cost shall be made by the zoning administrator or his or her authorized representative. Any person dissatisfied with the determination of the zoning administrator may appeal that decision to the city planning commission within the time period and pursuant to the procedures set forth in Section 17.200.030(A) of this title.

b. Cost of Repair or Reconstruction Is Less Than Fifty Percent of the Replacement Cost.

i. Repair or Reconstruction with Zoning Administrator's Special Permit.

A nonconforming building or structure, or any portion thereof, or a building or structure lawfully used for a nonconforming use that is removed or demolished other than by disaster may be repaired or reconstructed and the occupation or use of that building or structure that lawfully existed at the time of its removal or demolition may be continued, provided, that the cost of repair or reconstruction is less than fifty percent (50%) of the replacement cost of the building or structure, upon issuance of a zoning administrator's special permit pursuant to and subject to the findings required by Chapter 17.212. This subsection applies without limitation to accessory buildings, structures, or uses including garages, storage sheds, or pools. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

ii. Time for Application for Special Permit.

An application for a zoning administrator's special permit pursuant to this subsection shall be filed not later than six months following the date of the removal or demolition. If an application is not filed within six months following the date of the removal or demolition, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

iii. Time for Application for Building Permit-Prosecution of Work.

Notwithstanding the provisions of section 17.212.100 to the contrary, an application for a building permit for the repair or reconstruction authorized by this subsection shall be filed not later than six months following the date of issuance of the special permit, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of issuance of the building permit, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

iv. Time for Repair or Reconstruction Work—Residential Buildings or Structures, Residential Uses--Extension of Time—Appeal.

The zoning administrator may approve a single, one year extension of the period for commencement and prosecution of the repair or reconstruction work authorized by this subsection for nonconforming residential buildings or structures or a building or structure devoted to a nonconforming residential use if substantial and diligent progress

towards commencement and completion of the work has been made or if the delay in or inability to begin or complete the work is attributable to factors not reasonably within the applicant's control including without limitation weather or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

c. Cost of Repair or Reconstruction Is Fifty Percent or Greater of the Replacement Cost.

i. Non-residential Buildings or Structures, Non-residential Uses.

If a nonconforming nonresidential building or structure, or any building or structure devoted to a nonconforming nonresidential use, is removed or demolished other than by disaster, and the cost of repair or reconstruction is fifty percent (50%) or more of the replacement cost of the building or structure, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

ii. Residential Buildings or Structures, Residential Uses.

(A) Repair or Reconstruction with Zoning Administrator's Special Permit.

A nonconforming residential building or structure, or any portion thereof, or a building or structure lawfully used for a nonconforming residential use that is removed or demolished other than by disaster, and the cost of repair or reconstruction is fifty percent (50%) or greater of the replacement cost of the building or structure may be repaired or reconstructed and the occupation or use of that building or structure that lawfully existed at the time of its removal or demolition may be continued, upon issuance of a zoning administrator's special permit pursuant to and subject to the findings required by Chapter 17.212. This subsection applies without limitation to accessory residential buildings, structures, or uses including garages, storage sheds, or pools. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

(B) Time for Application for Special Permit.

(i) Except as provided in subsection (ii) immediately following, an application for a zoning administrator's special permit pursuant to this subsection shall be filed not later than six months following the date of the removal or demolition. If an application is not filed within six months following the date of the removal or demolition, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(ii) Within the central city, for projects of up to four residential units, located within a residential zone, an application for a special permit pursuant to this subsection shall be filed not later than two years following the date demolition commenced on the building or structure.

(C) Time for Application for Building Permit-Prosecution of Work.

Notwithstanding the provisions of section 17.212.100 to the contrary, an application for a building permit for the repair or reconstruction work authorized by this subsection shall be filed not later than six months following the date of issuance of the special permit, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of issuance of the building permit, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(D) Time for Repair or Reconstruction—Extension of Time—Appeal.

Notwithstanding the provisions of section 17.212.100 to the contrary, the zoning administrator may approve a single, one year extension of the period for commencement and prosecution of the repair or reconstruction work authorized by this subsection if substantial and diligent progress towards commencement and completion of the work has been made or if the delay in or inability to complete the work is attributable to factors not reasonably within the applicant's control including without limitation weather or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

D. Footnote (7) of section 17.88.030 is amended to read as follows:

7. Reconstruction, Enlargement or Alteration, of Buildings, Structures or Uses that Required a Special Permit or Plan Review.

a. Except as provided in subsection (b) of this footnote 7, and notwithstanding any other provisions of this title, a building, structure, or use which currently requires a special permit or plan review, but which was lawfully established at a time when no such special permit or plan review requirement existed, shall be considered to have a special permit or plan review. Such a building, structure, or use may be reconstructed, enlarged, or altered pursuant to the special permit modification or plan review modification procedures established in Section 17.212.070 of this title and Section 17.220.050 of this title respectively. This provision shall only apply to uses that are consistent with the use requirements established by this title at the time the

modification is sought. This provision may apply to uses on property which were lawfully established at the time of the annexation or consolidation of that property with the city.

b. If a nonconforming residential building or structure, or any building or structure devoted to a nonconforming residential use, is considered to have a special permit or plan review under this footnote 7 and is damaged or destroyed in whole or in part by a disaster, the building or structure may be repaired or reconstructed and the occupation or use of that building, structure, or part thereof that lawfully existed at the time of its destruction, may be continued as provided in subsections (3)(b) and (3)(c) of this section. No special permit modification or plan review modification shall be required under this footnote 7.

E. Except as specifically amended by the amendments to the Nonconforming Regulations Chart and footnotes 3, 4, and 7, Section 17.88.030 shall remain unchanged and in full force and effect.



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

7

STAFF

August 9, 2007

Honorable Members of the
Law and Legislation Committee

Title: Ordinance: Restrict Use of Playgrounds to Children and those Engaged in the Care, Custody, and Supervision of Children

Location/Council District: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee approve and forward to the full City Council the attached amendments to sections 12.72.010 and 12.72.060(I) of Title 12 of the Sacramento City Code relating to the use of playgrounds.

Contact: Alan Tomiyama, Division Manager, Community Recreation Services, 808-8958.

Presenters: Alan Tomiyama

Department: Parks and Recreation

Division: Community Recreation Services

Organization No: 4734

Description/Analysis

Issue: Council Member Sandy Sheedy has requested that staff prepare an ordinance to amend the City Code to restrict use of playgrounds to children within the age groups for whom the playgrounds were designed and their caretakers. Currently, there is nothing in the Sacramento City Code to prevent older children from playing on equipment designed for children between the ages of two and twelve.

Improper use of public recreational facilities designed for specific intended uses, such as playgrounds, causes excessive damage to these facilities and hinders those who wish to use the facilities for their intended use. Restricting use of playgrounds to children within the age groups for whom the playgrounds were designed and their caretakers will result in safer play experience.

Policy Considerations: Currently there are no mechanisms in place to ensure that only children of appropriate age use the City's Tot Lots, which are designed for children two to five years old and/or the City's Adventure Play areas, which are designed for children five to twelve years old. The City of Sacramento has exclusive jurisdiction over the management and control of its parks and may enact and enforce such regulations and rules that are necessary or appropriate to promote park purposes and to ensure the public's health, safety and welfare in the usage of its parks.

Environmental Considerations: This report concerns administrative activities that will not have any significant effect on the environment and that do not constitute a "project", as defined by the California Environmental Quality Act (CEQA) [CEQA Guidelines Sections 15061(b)(3); 15378(b)(2).]

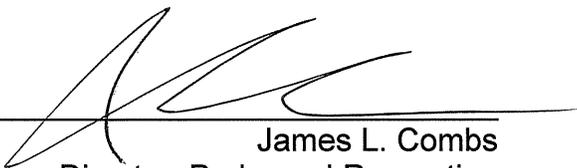
Committee/Commission Action: Not applicable.

Rationale for Recommendation: The purpose of this ordinance is to restrict the use of City of Sacramento playgrounds to children within the age groups for whom the playgrounds were designed and their caretakers. Preschool and school-age children differ dramatically, not only in physical size and ability, but also in their cognitive and social skills. Therefore, age-appropriate playground design should accommodate these differences with regard to the type, scale, and the layout of equipment. Tot Lots are designed to meet the physical and developmental needs of children between the ages of two to five. Adventure Play areas are designed to meet the physical and developmental needs of children between the ages of five to twelve.

The proposed amendment of the City Code is consistent with the playground usage guidelines recommended by the Handbook for Public Playground Safety produced by the United States Consumer Products Safety Commission. (Health and Safety Code, § 115725), and the City of Sacramento, Parks and Recreation Park Design Guidelines to ensure the safety and well being of children using the playground equipment.

Financial Considerations: The recommended amendment of the City Code may result in one-time costs depending on the number of parks requiring new signage. There are 58 Tot Lots and 97 Adventure Play areas in City of Sacramento parks. Some playground equipment comes with pre-existing signage that indicates the age range that the equipment was designed for. If new signage is required, the cost to fabricate and install the signs will come from the Park Operations Division budget. Staff has estimated signage may be up to \$31,000. In addition to the initial installation costs there will be ongoing costs associated with repair and replacement of signs, these costs will also be covered by existing resources in the Park Operations Division budget.

Emerging Small Business Development (ESBD): Not applicable.

Respectfully Submitted by: 
James L. Combs
Director, Parks and Recreation

Recommendation Approved:

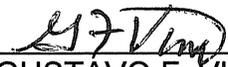

GUSTAVO F. VINA
Assistant City Manager

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Attachment 1

Background

State Law requires that playground operators, including state, city, and county agencies, impose guidelines for the use of playgrounds that are “at least as protective as the guidelines in the Handbook for Public Playground Safety produced by the United States Consumer Products Safety Commission.” (Health & Safety Code, §115725.) The federal publication also states: “It is recommended that for younger children, playgrounds have separate areas with appropriately sized equipment and materials to serve their developmental levels.” (U. S. Consumer Product Safety Com., Handbook for Public Playground Safety, Pub. No 325 (1997), § 6.3, p. 8.)

The City of Sacramento Department of Parks and Recreation Landscape Architecture section Park Playground Guideline booklet states that “playground equipment and design shall meet current U.S. Consumer Product Safety Commission (CPSC) guidelines and standards as set forth in the Handbook for Public Playground Safety.”

There are 58 Tot Lots and 97 Adventure Play areas in City parks. Currently, there is nothing in the Sacramento City Code to prevent older children from playing on equipment designed for children between the ages of two and twelve. Improper use of playground equipment causes damage to the equipment and hinders use of the equipment by those for whom it was designed.

Improper use of public recreational facilities designed for specific intended uses, such as playgrounds, causes excessive damage to these facilities and hinders those who wish to use the facilities for their intended use. Restricting use of playgrounds to children within the age groups for whom the playgrounds were designed and their caretakers will result in safer play experience.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING SECTIONS 12.72.010 and 12.72.060(I) OF TITLE 12 OF THE SACRAMENTO CITY CODE RELATING TO USE OF PLAYGROUNDS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

The City Council finds and determines that:

A. The City of Sacramento has exclusive jurisdiction over the management and control of its parks and may enact and enforce such regulations and rules that are necessary or appropriate to promote park purposes and to ensure the public's health, safety and welfare in the usage of its parks.

B. Improper use of public recreational facilities designed for specific intended uses, such as playgrounds, causes excessive damage to these facilities and hinders those who wish to use the facilities for their intended use. Restricting access to playgrounds to children and those engaged in the care, custody, or supervision of children will result in safer play equipment for the children for whom the equipment was designed.

C. State law requires that playground operators, including state, city, and county agencies, impose guidelines for the use of playgrounds that are "at least as protective as the guidelines in the Handbook for Public Playground Safety produced by the United States Consumer Products Safety Commission." (Health & Safety Code, § 115725.) Among other things, that federal publication states: "It is recommended that for younger children, playgrounds have separate areas with appropriately sized equipment and materials to serve their developmental levels." (U. S. Consumer Product Safety Com., Handbook for Public Playground Safety, Pub. No. 325 (1997), § 6.3, p. 8.)

D. Playgrounds are typically located in relatively small, confined spaces, therefore, restricting access to playgrounds to children and those engaged in the care, custody, or supervision of children will reduce crowding in playgrounds by eliminating the presence of those people who do not have a legitimate interest in being present in the playground

thereby resulting in safer play equipment and a safer play experience for the children for whom the equipment was designed.

SECTION 2.

Section 12.72.010 of Title 12 of the Sacramento City Code is amended to read as follows:

12.72.010 Definitions.

For purposes of this chapter, the following words and phrases shall have the meaning set forth in this section, unless the context otherwise clearly requires.

“Alcoholic beverages” means alcohol, spirits, liquor, beer, wine or any other liquid which contains one-half of one percent or more of alcohol by volume.

“Amplified sound” means speech, music or other sound projected or transmitted by electronic equipment including amplifiers, loud speakers, microphones, or similar devices or combinations of devices which are powered by electricity, battery or combustible fuel and which are intended to increase the volume, range, distance or intensity of speech, music or other sound.

“Building” means and includes those buildings or structures, or any portion thereof, under the supervision of the city.

“Business activity” means any activity other than “commercial activity” (as defined in this section) engaged in or carried on by a business entity primarily to aid or facilitate the earning of a profit.

“Business entity” means any organization or enterprise operated for profit, including, but not limited to, a proprietorship, partnership, firm, corporation or association.

“Camping” includes:

1. Occupying for living or sleeping purposes a camper trailer, motor home or other vehicle equipped for human habitation; or
2. The erection of any tent or other shelter; or
3. The arrangement of sleeping bags or other bedding for the purpose of, or which will permit, remaining overnight.

“Child” and “children” means an individual or individuals who are under thirteen years of age.

“City manager” means the city manager of Sacramento, the acting city manager, or the city manager’s designee.

“Commercial activity” means the selling, offering for sale, or solicitation for future delivery or performance of any goods, wares, merchandise or services in any park or building, but shall not include magazines, books, newspapers, periodicals or pamphlets.

“Co-sponsored” means activities that provide specific organized recreation/community services for participants and for which the department of parks and recreation shares the responsibility for the activity with other community agencies and/or organizations or individuals.

“Decibel” or “dB” means a unit which denotes the ratio between two quantities which are proportional to power, the number of decibels corresponding to the ratio of two amounts of power is ten (10) times the logarithm to the base of ten (10) of this ratio.

“Designated area” or “designated building” means an area or building specifically designed or equipped for special uses, and set aside for such uses.

“Director” means the department head of the department of parks and recreation or his or her designee.

“Fund raising” means and includes the act of making a request, directly or indirectly, for money, credit, property, financial assistance or other things of value on the plea or representation that such money, credit, property, financial assistance or other thing of value will be used for charitable purposes (as the term “charitable purposes” is defined in Section 5.40.020 of this code) or for any purpose other than that of pecuniary profit.

“Noise level” means the “A” weighed sound pressure level in decibels obtained by using a sound level meter at slow response with a reference pressure of twenty (20) micropascals. The unit of measurement shall be designated as dBA.

“Nonprofit organization” means any group or persons associated for religious, scientific, literary, educational, recreational, benevolent or other purpose not of pecuniary profit.

“Parks” means and includes all parks, parkways, malls, plazas, greenbelts, gardens, lakes, and any other property owned by the city, including structures thereon, and used, operated, or maintained for recreational purposes whether passive or active. The term “park” also includes all off street parking areas which are used or intended to be used in connection therewith. The term “owned” includes any property interest under which the city department of parks and recreation operates, maintains, or controls said property. The term also includes any property owned or kept by the city as open space, including undeveloped sites for future parks.

“Person” means and includes persons, associations, partnerships, firms and corporations.

“Picnicking” means the consumption of food and/or beverage outdoors.

“Playground” means an improved outdoor area designed, equipped, and set aside for children’s play that is not intended for use as an athletic playing field or athletic court, and shall include all playground equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation, and related structures. Where the playground is not contained by a fence, the boundary of the playground shall be defined by the edge of the resilient surface of safety material, such as concrete or wood, or any other material surrounding the playground.

“Playground equipment” means a fabricated structure intended primarily for play by children located at a playground, which structure has at least one surface designated and intended for play by children and that is anchored to or built into the ground.

“Residential property” means a parcel of real property which is developed and used either in part or in whole for residential purposes other than transient uses such as hotels and motels, and other than nonconforming residential uses within C-4, M-1, M-2, M-1-S, and M-2-S zones.

“Sponsored” means activities organized by the department of parks and recreation and over which the department retains total responsibility.

“Toddler” and “Toddlers” means an individual or individuals who are under six years of age.

“Tot Lot” means a playground designed, equipped, and set aside for toddlers.

“Trash” means garbage, refuse, litter, paper, vegetable matter and rubbish.

“Vehicle” means and includes gasoline, electric, or other fuel-powered devices by which any person or object may be propelled, moved, or drawn, including go-carts, minibikes, model boats and model airplanes.

SECTION 3.

Section 12.72.060 of Title 12 of the Sacramento City Code is amended to read as follows:

12.72.060 Park Use Regulations.

No person shall:

- A. Conduct or carry on an assembly of more than fifty (50) people in a park, which assembly is intended or can reasonably be expected to last more than thirty (30) minutes or which does in fact last more than thirty (30) minutes, unless a park use permit has been first issued therefore;
- B. Conduct or carry on any organized activity in the park facilities designated as McKinley Park Rose Garden, William Carroll Memorial Amphitheater, Callahan Memorial Bank Shell, or Land Park Village Green, unless a park use permit has first been issued therefore;
- C. Use any amplified sound without first obtaining an amplified sound permit. This prohibition shall not apply to the use of any radio, tape player, tape recorder, record player or television in compliance with Section 10.12.090 or Section 8.68.200(M) of this code or to broadcasts from any vehicle to which the provisions of Sections 10.60.010 through 10.60.090 of this code are applicable.
- D. Engage in any commercial activity in any park, except a nonprofit organization pursuant to a fund raising permit therefore or pursuant to a lease or concession contract issued under Chapters 3.68 or 3.72 of this code, or pursuant to any exemption to Chapters 3.68 or 3.72.
- E. Engage in any fund raising activity in any park, except pursuant to a permit issued therefore; provided, however, that funds may be raised without first securing a permit for organizational dues or to defray the cost of the activity by a nonprofit organization or in connection with a city sponsored or co-sponsored activity;
- F. Engage in any business activity in any park;
- G. Interfere with the use of any park or portion thereof which at the time is reserved by permit for the use of any other person or group;
- H. Ride bicycles, smoke, drink alcoholic beverages or picnic in a children’s playground;
- I. 1. Enter or remain in a children’s playground unless such person is either (i)

a child or (ii) engaged in the care, custody or supervision of a child who is using the playground;

2. Enter or remain in a tot lot unless such person is either (i) a toddler or (ii) engaged in the care, custody or supervision of a toddler who is using the tot lot;

J. Bring any wild or domesticated animal or pet into or upon grounds of the zoo, Fairytale Town, any swimming pool, any golf course, commercial amusement area or children's playground;

K. In park areas other than those designated in subsection J of this section, no person shall bring any domesticated animal or pets unless they are leashed except as provided in Section 9.44.020(D)(1) of this code.

L. Possess, discharge or shoot any firearm or bow and arrow in any park, except in areas designated for such use. Slingshots, airguns, fireworks, and other devices potentially harmful to park visitors are prohibited in all parks;

M. Play or practice golf in any area not designated for such use;

N. Swim or wade except in supervised swimming or wading pools;

O. Engage in horseback riding, except on designated bridle paths;

P. Kill, chase, wound, or capture any wild or domestic bird, or animal in a park. This subsection shall not apply to the chasing or capturing of one's own animal;

Q. Intentionally remove, break, injure, deface, or disturb any plant material, structure, or improvement;

R. Contaminate in any way any water, fountains, pools, lakes, rivers, other water supply, or wash any clothing or cooking utensils in any such waters;

S. Dispose of trash or garbage not accumulated within park areas; no person shall dispose of trash or garbage accumulated within park areas other than in receptacles provided for this purpose;

T. Start or maintain fires in parks other than in "on-site" barbecue pits or personal portable barbecues within designated picnic areas. No person shall fail to extinguish live coals or fires before leaving the picnic area;

U. Open, expose, or interfere with any water system or utility, provided that this prohibition shall not apply to the use of any drinking fountain for its intended purpose;

V. Use or operate any vehicle or other motorized objects in the following ways:

1. Operating gasoline or other fuel-powered vehicles (except golf carts where authorized) in any park, except upon streets, parking lots or other areas designated for such use, unless expressly permitted in writing by the director. This subsection shall not apply to city employees on official business,

2. Operating or parking any vehicle as defined in the California Vehicle Code within a park, except upon areas designated for such use, unless expressly permitted in writing by the director. This subsection shall not apply to city employees on official business;

W. Camp in any park without a park use permit;

X. The playing of softball or baseball by any person fifteen (15) years of age or older on any softball or baseball field where signs are posted which prohibit such play by such person;

Y. Do the following acts in Garcia Bend Park, Miller Park, or the Sacramento Boat Harbor:

1. Park outside the areas designated for parking or double-park at any time,
2. Park any vehicle or trailer in a boat launch area other than while putting a boat in or taking a boat out of the water,
3. Park any trailer in any section posted "NO TRAILER PARKING";

Z. Dock a vessel at any city-owned or city-managed recreation dock for more than thirty-six (36) consecutive hours or for the purpose of living on board the vessel for more than one night while docked at the recreation dock. One or more persons on board the vessel at any time between the hours of one a.m. and six a.m. shall be conclusively presumed to be living aboard for the night. A vessel which departs a courtesy dock after being docked for twenty-four (24) hours or more, or which departs a courtesy dock after having docked for the purpose of living on board for one night, shall not return to the same courtesy dock until at least twenty-four (24) hours have elapsed. The term "recreation dock" shall include the courtesy docks in Miller Park, Garcia Bend, and Old Sacramento, and any other dock operated primarily for temporary docking purposes. Notwithstanding the foregoing, the city council, by resolution, may establish special rules relating to use of the courtesy docks in Old Sacramento, which rules may permit longer periods of docking, impose fees for overnight docking privileges, and permit other special uses.

Adopted by the City of Sacramento City Council on _____ by the following vote:

Ayes:

Noes:

Abstain:

Absent:

MAYOR

Attest:

City Clerk

Passed for Publication:

Published:

Effective:

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING SECTIONS 12.72.0010 and 12.72.060(I) OF TITLE 12 OF THE SACRAMENTO CITY CODE RELATING TO USE OF PLAYGROUNDS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

The City Council finds and determines that:

A. The City of Sacramento has exclusive jurisdiction over the management and control of its parks and may enact and enforce such regulations and rules that are necessary or appropriate to promote park purposes and to ensure the public's health, safety and welfare in the usage of its parks.

B. Improper use of public recreational facilities designed for specific intended uses, such as playgrounds, causes excessive damage to these facilities and hinders those who wish to use the facilities for their intended use. Restricting access to playgrounds to children and those engaged in the care, custody, or supervision of children will result in safer play equipment for the children for whom the equipment was designed.

C. State law requires that playground operators, including state, city, and county agencies, impose guidelines for the use of playgrounds that are "at least as protective as the guidelines in the Handbook for Public Playground Safety produced by the United States Consumer Products Safety Commission." (Health & Safety Code, § 115725.) Among other things, that federal publication states: "It is recommended that for younger children, playgrounds have separate areas with appropriately sized equipment and materials to serve their developmental levels." (U. S. Consumer Product Safety Com., Handbook for Public Playground Safety, Pub. No. 325 (1997), § 6.3, p. 8.)

D. Playgrounds are typically located in relatively small, confined spaces, therefore, restricting access to playgrounds to children and those engaged in the care, custody, or supervision of children will reduce crowding in playgrounds by eliminating the presence of those people who do not have a legitimate interest in being present in the playground

thereby resulting in safer play equipment and a safer play experience for the children for whom the equipment was designed.

SECTION 2.

Section 12.72.010 of Title 12 of the Sacramento City Code is amended to read as follows:

For purposes of this chapter, the following words and phrases shall have the meaning set forth in this section, unless the context otherwise clearly requires.

“Alcoholic beverages” means alcohol, spirits, liquor, beer, wine or any other liquid which contains one-half of one percent or more of alcohol by volume.

“Amplified sound” means speech, music or other sound projected or transmitted by electronic equipment including amplifiers, loud speakers, microphones, or similar devices or combinations of devices which are powered by electricity, battery or combustible fuel and which are intended to increase the volume, range, distance or intensity of speech, music or other sound.

“Building” means and includes those buildings or structures, or any portion thereof, under the supervision of the ~~department of community services~~ city.

“Business activity” means any activity other than “commercial activity” (as defined in this section) engaged in or carried on by a business entity primarily to aid or facilitate the earning of a profit.

“Business entity” means any organization or enterprise operated for profit, including, but not limited to, a proprietorship, partnership, firm, corporation or association.

“Camping” includes:

1. Occupying for living or sleeping purposes a camper trailer, motor home or other vehicle equipped for human habitation; or
2. The erection of any tent or other shelter; or
3. The arrangement of sleeping bags or other bedding for the purpose of, or which will permit, remaining overnight.

“Child” and “children” means an individual or individuals who are under thirteen years of age.

“City manager” means the city manager of Sacramento, the acting city manager, or the city manager’s designee.

“Commercial activity” means the selling, offering for sale, or solicitation for future delivery or performance of any goods, wares, merchandise or services in any park or building, but shall not include magazines, books, newspapers, periodicals or pamphlets.

“Co-sponsored” means activities that provide specific organized recreation/community services for participants and for which the department of ~~community services~~ parks and recreation shares the responsibility for the activity with other community agencies and/or organizations or individuals.

“Decibel” or “dB” means a unit which denotes the ratio between two quantities which are proportional to power, the number of decibels corresponding to the ratio of two amounts of power is ten (10) times the logarithm to the base of ten (10) of this ratio.

“Designated area” or “designated building” means an area or building specifically designed or equipped for special uses, and set aside for such uses.

“Director” means the department head of the department of ~~community services~~ parks and recreation or his or her designee.

“Fund raising” means and includes the act of making a request, directly or indirectly, for money, credit, property, financial assistance or other things of value on the plea or representation that such money, credit, property, financial assistance or other thing of value will be used for charitable purposes (as the term “charitable purposes” is defined in Section 5.40.020 of this code) or for any purpose other than that of pecuniary profit.

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“Person” means and includes persons, associations, partnerships, firms and corporations.

“Picnicking” means the consumption of food and/or beverage outdoors.

“Playground” means an improved outdoor area designed, equipped, and set aside for children’s play that is not intended for use as an athletic playing field or athletic court, and shall include all playground equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation, and related structures. Where the playground is not contained by a fence, the boundary of the playground shall be defined by the edge of the resilient surface of safety material, such as concrete or wood, or any other material surrounding the playground.

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“Sponsored” means activities organized by the department of ~~community services~~ parks and recreation and over which the department retains total responsibility.

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“Tot Lot” means a playground designed, equipped, and set aside for toddlers.

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A. Conduct or carry on an assembly of more than fifty (50) people in a park, which assembly is intended or can reasonably be expected to last more than thirty (30) minutes or which does in fact last more than thirty (30) minutes, unless a park use permit has been first issued therefore;

B. Conduct or carry on any organized activity in the park facilities designated as McKinley Park Rose Garden, William Carroll Memorial Amphitheater, Callahan Memorial Bank Shell, or Land Park Village Green, unless a park use permit has first been issued therefore;

C. Use any amplified sound without first obtaining an amplified sound permit. This prohibition shall not apply to the use of any radio, tape player, tape recorder, record player or television in compliance with Section 10.12.090 or Section 8.68.200(M) of this code or to broadcasts from any vehicle to which the provisions of Sections 10.60.010 through 10.60.090 of this code are applicable.

D. Engage in any commercial activity in any park, except a nonprofit organization pursuant to a fund raising permit therefore or pursuant to a lease or concession contract issued under Chapters 3.68 or 3.72 of this code, or pursuant to any exemption to Chapters 3.68 or 3.72.

E. Engage in any fund raising activity in any park, except pursuant to a permit issued therefore; provided, however, that funds may be raised without first securing a permit for organizational dues or to defray the cost of the activity by a nonprofit organization or in connection with a city sponsored or co-sponsored activity;

F. Engage in any business activity in any park;

G. Interfere with the use of any park or portion thereof which at the time is reserved by permit for the use of any other person or group;

H. Ride bicycles, smoke, drink alcoholic beverages or picnic in a children’s playground area;

I.

1. Enter or remain in a children’s playground unless such person is either (i) a child or (ii) engaged in the care, custody or supervision of a child who is using the playground;

2. Enter or remain in a tot lot unless such person is either (i) a toddler or (ii) engaged in the care, custody or supervision of a toddler who is using the tot lot;

J. Bring any wild or domesticated animal or pet into or upon grounds of the zoo, Fairytale Town, any swimming pool, any golf course, commercial amusement area or children's playground;

K. In park areas other than those designated in subsection J of this section, no person shall bring any domesticated animal or pets unless they are leashed except as provided in Section 9.44.020(D)(1) of this code.

L. Possess, discharge or shoot any firearm or bow and arrow in any park, except in areas designated for such use. Slingshots, airguns, fireworks, and other devices potentially harmful to park visitors are prohibited in all parks;

M. Play or practice golf in any area not designated for such use;

N. Swim or wade except in supervised swimming or wading pools;

O. Engage in horseback riding, except on designated bridle paths;

P. Kill, chase, wound, or capture any wild or domestic bird, or animal in a park. This subsection shall not apply to the chasing or capturing of one's own animal;

Q. Intentionally remove, break, injure, deface, or disturb any plant material, structure, or improvement;

R. Contaminate in any way any water, fountains, pools, lakes, rivers, other water supply, or wash any clothing or cooking utensils in any such waters;

S. Dispose of trash or garbage not accumulated within park areas; no person shall dispose of trash or garbage accumulated within park areas other than in receptacles provided for this purpose;

T. Start or maintain fires in parks other than in "on-site" barbecue pits or personal portable barbecues within designated picnic areas. No person shall fail to extinguish live coals or fires before leaving the picnic area;

U. Open, expose, or interfere with any water system or utility, provided that this prohibition shall not apply to the use of any drinking fountain for its intended purpose;

V. Use or operate any vehicle or other motorized objects in the following ways:

1. Operating gasoline or other fuel-powered vehicles (except golf carts where authorized) in any park, except upon streets, parking lots or other areas designated for such use, unless expressly permitted in writing by the director. This subsection shall not apply to city employees on official business,

2. Operating or parking any vehicle as defined in the California Vehicle Code within a park, except upon areas designated for such use, unless expressly permitted in writing by the director. This subsection shall not apply to city employees on official business;

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X. The playing of softball or baseball by any person fifteen (15) years of age or older on any softball or baseball field where signs are posted which prohibit such play by such person;

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- 3. Park any trailer in any section posted "NO TRAILER PARKING";
- Z. Dock a vessel at any city-owned or city-managed recreation dock for more than thirty-six (36) consecutive hours or for the purpose of living on board the vessel for more than one night while docked at the recreation dock. One or more persons on board the vessel at any time between the hours of one a.m. and six a.m. shall be conclusively presumed to be living aboard for the night. A vessel which departs a courtesy dock after being docked for twenty-four (24) hours or more, or which departs a courtesy dock after having docked for the purpose of living on board for one night, shall not return to the same courtesy dock until at least twenty-four (24) hours have elapsed. The term "recreation dock" shall include the courtesy docks in Miller Park, Garcia Bend, and Old Sacramento, and any other dock operated primarily for temporary docking purposes. Notwithstanding the foregoing, the city council, by resolution, may establish special rules relating to use of the courtesy docks in Old Sacramento, which rules may permit longer periods of docking, impose fees for overnight docking privileges, and permit other special uses.

Adopted by the City of Sacramento City Council on _____ by the following vote:

Ayes:

Noes:

Abstain:

Absent:

MAYOR

Attest:

City Clerk

Passed for Publication:

Published:

Effective:



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

Consent
August 9, 2007

Honorable Members of the
Law and Legislation Committee

**Title: Position on Federal Legislation: Oppose 1) S. 156/H.R. 743 and H.R. 1077
Relating to a Permanent Moratorium on Internet Access Taxes; and
Support 2) S. 1453 Relating to a Four-Year Extension of the Moratorium on
Internet Access Taxes**

Location/Council District: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee adopt an oppose position on federal bills S. 156/H.R. 743 and H.R. 1077, which propose to make the current moratorium on Internet access taxes permanent, and support federal bill S. 1453, which would extend the Internet moratorium for four more years.

Contact: Susan West, Management Analyst, (916) 808-1246

Presenters: None

Department: Finance

Division: Administration

Organization No: 1111

Description/Analysis

Issue: The current Internet Tax Freedom Moratorium expires on November 1, 2007. The moratorium is a preemptive federal statute that prohibits any state or local tax: a) on Internet access; or b) that is a discriminatory tax on electronic commerce. The statute has been in place since 2003.

While the taxing jurisdictions in California have never taxed Internet access, they have always taxed charges for the use of communication networks. The current moratorium affects two different services: Internet access and broadband network service. It is the latter that has been causing a loss of UUT tax revenues for California cities for several years, and is expected to lead to more revenue loss in the future as traditional telephone customers switch from regular telephone service (which is taxable) to broadband and Voice Over Internet Protocol (VOIP) phone services (not taxable under the moratorium).

As the expiration date of the current moratorium approaches, Congress is considering whether to make the current moratorium permanent, or to extend the moratorium for four more years. Both have implications for cities with a local tax on telecommunications, where UUT/telephone service tax represents a significant portion of their tax base.

The following bills have been introduced in Congress relating to the Internet Tax Moratorium:

S. 156 (Wyden-OR) and H.R. 743 (Eshoo-CA): Permanent Internet Tax Freedom Act of 2007

These identical bills amend the Internet Tax Freedom Act to make permanent the ban on State taxation of Internet access and on multiple or discriminatory taxes on electronic commerce.

H.R. 1077 (Campbell-CA): Internet Consumer Protection Act of 2007

Amends the Internet Tax Freedom Act to make permanent the ban on state taxation of Internet access, and on multiple or discriminatory taxes on electronic commerce. Repeals provisions permitting states with Internet tax laws enacted prior to the ban on Internet taxes to continue enforcing such laws.

S. 1453 (Carper-DE): Internet Tax Freedom Extension Act of 2007

Amends the Internet Tax Freedom Act to extend until November 1, 2011: 1) the ban on state taxation of Internet access and on multiple or discriminatory taxes on electronic commerce; and 2) provisions allowing states with Internet tax laws enacted prior to the ban to continue enforcing such laws.

Policy Considerations: Federal legislation proposing to make the current Internet Tax Moratorium permanent will have a significant adverse impact on the City's UUT, as there will continue to be a major shift to Internet-provided communications and video programming services in the coming years. It is in the best interest of the City to ensure that any Internet tax proposal not be made permanent and further erode or eliminate the City's UUT.

The League of California Cities opposes any legislation that would make permanent an Internet Tax Moratorium, and supports legislation that would create an extension of the current Internet moratorium.

Environmental Considerations: None

Rationale for Recommendation: Given the potential of the current Internet Tax Moratorium to continue to erode the City's telecommunications tax base, a temporary extension of the current moratorium is preferable to making the moratorium permanent. Therefore, Staff recommends that the City oppose any legislation (current or future) that would make permanent an Internet Tax Moratorium, and support legislation that would create an extension of the current Internet moratorium.

Financial Considerations: As current telephone customers switch to VOIP, the City loses the tax revenues we had been receiving (or would have received) because our UUT Ordinance does not currently allow taxing VOIP.

The UUT is the third largest source of discretionary tax revenue in the General Fund. UUT applies to charges on electrical, natural gas, telephone (land line and cellular), and cable television services. For FY 2006-2007, revenue from the telephone user tax portion of the City's UUT is an estimated \$22.4 million. Revenues from all UUT sources are deposited into the General Fund and support critical City services.

Emerging Small Business Development (ESBD): None.

Respectfully Submitted by: 
Susan West, Management Analyst

Approved by: 
Russell Fehr, Director of Finance

Recommendation Approved:

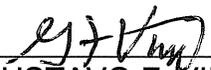

GUSTAVO F. VINA
Assistant City Manager

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Background

The Internet Tax Freedom Moratorium is a preemptive federal statute that prohibits any state or local tax: a) on Internet access; or, b) that is a discriminatory tax on electronic commerce. The current Moratorium expires on November 1, 2007.

The moratorium negatively impacts the City of Sacramento as follows:

- (1) As current telephone customers (or new customers) switch to VOIP, we lose the tax revenues we had been receiving (or would have received) because our UUT Ordinance does not currently allow taxing VOIP; and
- (2) It precludes the City from amending its UUT Ordinance in the future (with a Proposition 218 vote) to be able to capture such tax revenues in the future.

Proponents of the moratorium suggest that it has no financial impact on states and cities because these taxing jurisdictions have never imposed a tax on Internet Service Provider (ISP) services. This is not entirely accurate. While it is true that California jurisdictions have never taxed Internet access, it is also true that they have always taxed charges for the use of communication networks. The challenge is that the current moratorium affects two different services: Internet access and broadband network service. It is the latter that is causing a major loss of tax revenues for California cities for the past several years, and even more so in the future.

Consumers have more choices in telecommunications services today. As companies compete to offer services, customers migrate from traditional service providers to satellite, broadband, and others-- to which our UUT does not currently apply. This is why AT&T and Verizon experience significant losses in revenues each year, and why UUT cities are also experiencing a corresponding loss in tax revenues. This trend will likely accelerate until the broadband networks largely replace the old public-switched network. Those who point to the fact that cities do not tax Internet access are not acknowledging the loss of revenues when local tax cannot be applied to communication networks. Congress should be encouraged to understand why the current moratorium is rapidly eroding the existing tax base of California cities collecting a local tax on telecommunications. A permanent ban, or a continuation of the current moratorium, will cause the City of Sacramento to continue to lose UUT telecom revenues each year.

Given the potential of the moratorium to continue to erode the City's telecommunications tax base, a temporary extension of the current moratorium is preferable to making the moratorium permanent.

DATE

The Honorable _____
U.S. House of Representatives/U.S. Senate
_____ House Office Building/Senate Office Building
Washington, DC 20515

Subject: Impact of Permanent Extension of the Internet Tax Moratorium on California City Basic Services

Dear Congressman/woman/Senator _____:

On behalf of the City of Sacramento, I am writing to urge you to oppose federal legislation currently before Congress to permanently extend and expand the Internet Tax Moratorium (**S. 156/H.R. 743** and **H.R. 1077**); and to support alternate legislation providing for a short-term extension (**S. 1453**) of the current Internet Tax Freedom Act (PL 108-435).

The City of Sacramento would like to work with you to ensure that any Internet tax proposal not be made permanent and further erode or eliminate our City's Utility User Tax (UUT). In the City of Sacramento, revenue for the FY 2006-2007 telephone user tax portion (only) of the City's UUT is estimated at \$22.4 million. Revenues from all UUT sources are deposited into the General Fund and provide critical City services, including police, fire and emergency response.

Senator Dianne Feinstein is co-sponsoring **S. 1453**, the Internet Tax Freedom Extension Act of 2007. This bill would extend the current moratorium on Internet taxes to November 1, 2011. The current moratorium expires on November 1, 2007. This legislation will help preserve vital city services financed by UUT on telecommunications.

Thank you for your consideration of this important request.

Sincerely,

Sandy Sheedy, Chair
Law and Legislation Committee

cc: Senator Dianne Feinstein
Senator Barbara Boxer
Congresswoman Doris Matsui
Mayor Heather Fargo and Council
John Freshman
Genevieve Morelos – League of California Cities

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Permanent Internet Tax Freedom Act of 2007 (Introduced in Senate)

S 156 IS

110th CONGRESS

1st Session

S. 156

To make the moratorium on Internet access taxes and multiple and discriminatory taxes on electronic commerce permanent.

IN THE SENATE OF THE UNITED STATES

January 4, 2007

Mr. REID (for Mr. WYDEN (for himself, Mr. MCCAIN, and Mr. SUNUNU)) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To make the moratorium on Internet access taxes and multiple and discriminatory taxes on electronic commerce permanent.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Permanent Internet Tax Freedom Act of 2007'.

SEC. 2. PERMANENT MORATORIUM ON INTERNET ACCESS

TAXES AND MULTIPLE AND DISCRIMINATORY TAXES ON ELECTRONIC COMMERCE.

Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking `taxes during the period beginning November 1, 2003, and ending November 1, 2007:' and inserting `taxes:'.

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Permanent Internet Tax Freedom Act of 2007 (Introduced in House)

HR 743 IH

110th CONGRESS

1st Session

H. R. 743

To make the moratorium on Internet access taxes and multiple and discriminatory taxes on electronic commerce permanent.

IN THE HOUSE OF REPRESENTATIVES

January 31, 2007

Ms. ESHOO (for herself, Mr. GOODLATTE, Mr. CROWLEY, Mr. MACK, Mr. WESTMORELAND, Mr. NORWOOD, Mrs. MCMORRIS RODGERS, Mr. FARR, Ms. ZOE LOFGREN of California, Mr. MILLER of Florida, Mr. COHEN, Mr. SENSENBRENNER, Mr. KUHL of New York, Mr. FORTENBERRY, Mr. CHABOT, Mrs. JO ANN DAVIS of Virginia, Ms. JACKSON-LEE of Texas; Mr. CALVERT, Ms. HARMAN, Mrs. BLACKBURN, Mr. CAMPBELL of California, Mr. JORDAN of Ohio, Mr. MCHUGH, Mr. WILSON of South Carolina, Mr. WALBERG, Mr. UPTON, Mr. HERGER, Mr. HONDA, Mr. BOUCHER, Mr. JEFFERSON, Ms. LORETTA SANCHEZ of California, Mr. GRIJALVA, Mrs. TAUSCHER, Ms. HOOLEY, and Ms. HERSETH) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To make the moratorium on Internet access taxes and multiple and discriminatory taxes on electronic commerce permanent.

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Permanent Internet Tax Freedom Act of 2007'.

SEC. 2. PERMANENT MORATORIUM ON INTERNET ACCESS TAXES AND MULTIPLE AND DISCRIMINATORY TAXES ON ELECTRONIC COMMERCE.

Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking `taxes during the period beginning November 1, 2003, and ending November 1, 2007:' and inserting `taxes:'.

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Internet Consumer Protection Act of 2007 (Introduced in House)

HR 1077 IH

110th CONGRESS

1st Session

H. R. 1077

To amend the Internet Tax Freedom Act to make permanent the moratorium on certain taxes relating to the Internet and to electronic commerce.

IN THE HOUSE OF REPRESENTATIVES

February 15, 2007

Mr. CAMPBELL of California (for himself, Mr. DANIEL E. LUNGREN of California, Mr. CANTOR, Mr. FEENEY, Mr. GOODE, Mr. GOHMERT, Mr. PRICE of Georgia, Mr. DOOLITTLE, Mr. LAMBORN, Mr. SALI, Mr. GOODLATTE, Ms. ZOE LOFGREN of California, Mr. MILLER of Florida, Mr. MACK, Mr. GARRETT of New Jersey, Mr. GARY G. MILLER of California, Mr. SESSIONS, Mr. MCCARTHY of California, Mr. ROHRABACHER, Mrs. BLACKBURN, Mr. FOSSELLA, Mr. DREIER, Mr. PENCE, Mr. KLINE of Minnesota, Mr. WILSON of South Carolina, and Mr. BARRETT of South Carolina) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Internet Tax Freedom Act to make permanent the moratorium on certain taxes relating to the Internet and to electronic commerce.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Internet Consumer Protection Act of 2007'.

SEC. 2. AMENDMENTS TO THE INTERNET TAX FREEDOM ACT.

The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended--

(1) in section 1101(a) by striking `during the period beginning November 1, 2003, and ending November 1, 2007', and

(2) by striking section 1104.

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ITFA Extension Act of 2007 (Introduced in Senate)

S 1453 IS

110th CONGRESS

1st Session

S. 1453

To extend the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

May 23, 2007

Mr. CARPER (for himself, Mr. ALEXANDER, Mrs. FEINSTEIN, Mr. VOINOVICH, and Mr. ENZI) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To extend the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'ITFA Extension Act of 2007'.

SEC. 2. FOUR-YEAR EXTENSION OF INTERNET TAX MORATORIUM.

(a) IN GENERAL- Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking `2007:' and inserting `2011:'.

(b) GRANDFATHERING OF STATES THAT TAX INTERNET ACCESS- Section 1104(a) (2)(A) of such Act is amended by striking `2007.' and inserting `2011.'.

SEC. 3. DEFINITION OF INTERNET ACCESS.

(a) IN GENERAL- Section 1105(5) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended to read as follows:

`(5) INTERNET ACCESS- The term `Internet access'--

`(A) means a service that enables users to connect to the Internet to access content, information, or other services offered over the Internet;

`(B) may include incidental services directly related to the provision of the service described in subparagraph (A), such as electronic mail or instant messaging; and

`(C) does not include--

`(i) telecommunications services (as defined in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46))), except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access described in subparagraph (A) or (B); or

`(ii) voice service or any other good or service utilizing Internet protocol or any successor protocol, except services described in subparagraph (A) or (B).'

(b) CONFORMING AMENDMENT- The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking section 1108 and redesignating section 1109 as section 1108.

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REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

CONSENT
August 9, 2007

Honorable Members of the
Law and Legislation Committee

**Title: Legislative Position: Support Assembly Bill 930 Sacramento Area Flood
Control Agency**

Location/Council District: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee adopt a support position on AB 930.

Contact: Dave Brent, Engineering Manager, (916) 808 -1420.

Presenters: N/A

Department: Utilities

Division: Administration

Organization No: 3311

Description/Analysis

Issue: The Sacramento Area Flood Control Agency Act grants to the Sacramento Area Flood Control Agency, which is an agency created pursuant to a joint exercise of powers agreement, the authority to impose assessments or special taxes, and issue bonds, to finance projects in accordance with specified laws. "Project" is defined for the purposes of the act to mean the acquisition, construction, or operation of any flood control facility authorized under the agreement, and not inconsistent with the act, including the acquisition of rights-of-way.

AB 930, sponsored by SAFCA, would expand that definition to include the acquisition of easements. The bill would require that the acquisition of rights-of-way and easements outside of the agency's boundaries be consistent with applicable county plans and the State Plan of Flood Control. The bill would provide that nothing in the act authorizes the agency to exercise the power of eminent domain outside its boundaries, alters the existing powers granted to

members of the agreement, or precludes the acquisition of time-limited easements.

Policy Considerations: AB 930 is consistent with the flood principles the Mayor and City Council adopted last year. When used in conjunction with capital improvement projects, up stream flood easements and other nonstructural flood control projects provide an important and cost-effective tool for the Sacramento Area Flood Control Agency to use to augment the Sacramento region’s system of flood protection.

Environmental Considerations: None

Rationale for Recommendation: This bill will provide SAFCA with a cost-effective tool to augment the Sacramento region’s system of dams, levees, and existing bypasses. Taken together, structural and nonstructural flood control improvements will facilitate the development of a system-wide flood control network, one that is sustainable in terms of its longevity, flexibility and resiliency.

There is no registered opposition to AB 930.

Financial Considerations: None.

Emerging Small Business Development (ESBD): None.

Respectfully Submitted by: 
for Dave Brent, Engineering Manager

Approved by: 
Gary Reents, Director of Utilities

Recommendation Approved:

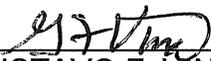

GUSTAVO F. VINA
Assistant City Manager

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Attachment 1

August 9, 2007

The Honorable Dave Jones
California State Assembly
State Capitol, Room 3146
Sacramento, CA 94249-0009
ATTN: Legislative Director

Subject: Support AB 930 – Sacramento Flood Control Agency: projects

Dear Assembly Member Jones,

On behalf of the City of Sacramento, I am please to write in support of AB 930. This bill will provide SAFCA with a cost-effective tool to augment the Sacramento region's system of dams, levees, and existing bypasses. Taken together, structural and nonstructural flood control improvements will facilitate the development of a system-wide flood control network, one that is sustainable in terms of its longevity, flexibility and resiliency.

Thank you for introducing this important piece of legislation.

Sincerely,

SANDY SHEEDY, Chair
Law and Legislation Committee

cc: Senator Darrell Steinberg
Senator Dave Cox
Assembly Member Alan Nakanishi
Assembly Member Roger Niello
Mayor Fargo and Members of the City Council
David Jones, Emanuels and Jones and Associates

AMENDED IN SENATE JULY 2, 2007

AMENDED IN ASSEMBLY JUNE 4, 2007

AMENDED IN ASSEMBLY APRIL 17, 2007

AMENDED IN ASSEMBLY MARCH 26, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 930

Introduced by Assembly Member Jones

February 22, 2007

An act to amend ~~Section 34~~ *Sections 34 and 155* of the Sacramento Area Flood Control Agency Act (Chapter 510 of the Statutes of 1990), relating to flood management.

LEGISLATIVE COUNSEL'S DIGEST

AB 930, as amended, Jones. Sacramento Area Flood Control Agency: projects.

The Sacramento Area Flood Control Agency Act grants to the Sacramento Area Flood Control Agency, which is an agency created pursuant to a joint exercise of powers agreement, the authority to impose assessments or special taxes, and issue bonds, to finance projects in accordance with specified laws. "Project" is defined for the purposes of the act to mean the acquisition, construction, or operation of any flood control facility authorized under the agreement, and not inconsistent with the act, including the acquisition of rights-of-way.

This bill would expand that definition to include the acquisition of easements. The bill would require that the acquisition of rights-of-way and easements outside of the agency's boundaries be consistent with applicable county plans and the State Plan of Flood Control. The bill

would provide that nothing in the act authorizes the agency to exercise the power of eminent domain outside its boundaries, alters the existing powers granted to members of the agreement, or precludes the acquisition of time-limited easements.

The existing act requires revenues derived from fees prescribed pursuant to its provisions for any area to only be used for flood control projects within that area.

This bill would instead require revenues derived from those fees for any are to only be used for flood control projects that protect that area.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

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

3 (a) The top priority of the Sacramento Area Flood Control
4 Agency should be to undertake and complete the capital
5 improvement projects that serve as the backbone of the Sacramento
6 area flood control network.

7 (b) When used in conjunction with these capital improvement
8 projects, easements and other nonstructural flood control projects
9 provide ~~an~~ important and cost-effective ~~tool~~ *tools* for the
10 Sacramento Area Flood Control Agency to use to augment the
11 Sacramento region's system of flood protection.

12 SEC. 2. Section 34 of the Sacramento Area Flood Control
13 Agency Act (Chapter 510 of the Statutes of 1990) is amended to
14 read:

15 Sec. 34. (a) "Project" means the acquisition, construction,
16 maintenance, or operation of any flood control facility authorized
17 under the agreement and not inconsistent with this act, including,
18 but not limited to, acquisition of rights-of-way and easements and
19 payment of incidental expenses.

20 (b) Nothing in this section, or any other provision of this act,
21 authorizes the agency to exercise the power of eminent domain
22 outside its boundaries.

23 (c) Participation in a project includes making payments or other
24 contributions pursuant to any contract entered into with another
25 governmental agency that requires the other governmental agency
26 to perform work on a project.

1 (d) The acquisition of rights-of-way and easements outside of
2 the agency's boundaries shall be consistent with applicable county
3 plans and the State Plan of Flood Control.

4 (e) This section does not alter the existing powers granted to
5 members of the agreement.

6 (f) This section does not preclude the acquisition of time-limited
7 easements.

8 *SEC. 3. Section 155 of the Sacramento Area Flood Control*
9 *Agency Act (Chapter 510 of the Statutes of 1990) is amended to*
10 *read:*

11 Sec. 155. Revenues derived from fees prescribed pursuant to
12 this chapter for any area may be used only for the acquisition,
13 engineering, design, construction, reconstruction, maintenance, or
14 operation of flood control projects ~~within~~ *that protect* that area, or
15 used to pay the debt service on, or reduce the principal of, any
16 bonded indebtedness of that area.

O

ATTACHMENT 3

SENATE RULES COMMITTEE	AB 930
Office of Senate Floor Analyses	
1020 N Street, Suite 524	
(916) 651-1520	Fax: (916)
327-4478	

THIRD READING

Bill No: AB 930
 Author: Jones (D)
 Amended: 7/2/07 in Senate
 Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE : 8-0, 7/10/07
 AYES: Steinberg, Margett, Cogdill, Hollingsworth, Kehoe,
 Kuehl, Machado, Migden

ASSEMBLY FLOOR : 65-8, 6/6/07 - See last page for vote

SUBJECT : Sacramento Area Flood Control Agency: projects

SOURCE : Sacramento Area Flood Control Agency

DIGEST : This bill expands the definition of projects to include the acquisition of easements, as it relates to the Sacramento Area Flood Control Agency.

ANALYSIS : Existing law expands the definition of projects to include the acquisition of easements, as it relates to the Sacramento Area Flood Control Agency among other things, is authorized to levy assessments, reassessments, or special taxes and issue bonds to finance projects. "Projects" are defined as the acquisition, construction, maintenance, or operation of flood control facilities including, but not limited to, acquisition of right-of-way and payment of incidental expenses.

This bill expands the definition of "projects" to include
CONTINUED

□

AB 930

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the acquisition of easements, as it relates to the SAFCA. Additionally this bill:

1. Clarifies SAFCA power of eminent domain as limited to the agency's boundaries, and requiring consistency with applicable county plans and the State Plan of Flood Control.
2. Clarifies that SAFCA members retain their existing powers and that SAFCA may acquire time-limited easements.
3. Makes legislative findings regarding SAFCA's priorities and the value of flood easements and other nonstructural flood control projects.

Comments

According to the Assembly Floor analysis, SAFCA stands at the center of the debate over how to improve flood protection for Sacramento and neighboring communities, although its boundaries extend only to the southern section of Sutter County and all of Sacramento County (i.e., not Yolo County). One key flood protection tool may be acquisition of upstream flood easements, in order to create flood bypasses that shunt flood water off the stream and reduce stress on Sacramento levees.

This bill clarifies the limits of SAFCA's eminent domain powers as limited to the agency's jurisdiction. Although this provision may not be technically necessary, it is intended to reassure neighboring communities that SAFCA has no intention of forcibly acquiring flood easements outside SAFCA, which could shift the burden of Sacramento's flood protection to other communities.

This bill's authorization for acquisition of flood easements will support SAFCA pursuing non-structural flood protection alternatives (e.g., flood bypasses) but with some limitations. By allowing SAFCA projects to include easements, the agency may acquire less than full title to lands that could provide flood protection to Sacramento.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No

□

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Local: No

SUPPORT : (Verified 7/11/07)

Sacramento Area Flood Control Agency (source)

ARGUMENTS IN SUPPORT : According to the sponsor, "SAFCA's top priority is its aggressive program of capital improvements. However, nonstructural flood control projects (e.g., flowage easements and rights of way) provide cost-effective tools for SAFCA to use to augment the Sacramento region's system of dams, levees, and existing bypasses. Taken together, structural and nonstructural flood control improvements facilitate the development of a system-wide flood control network, one that is sustainable in terms of its longevity, flexibility and resiliency."

"SAFCA has been in dialogue with its neighboring local governments regarding the possibility of seeking a unified and cost-effective range of non-structural flood control improvements that could be pursued along with the authorized flood control projects that are the backbone of the capital's flood control network. In order to avoid litigation over whether SAFCA does indeed possess the appropriate extra-territorial authority, SAFCA would like to clearly state so in its Act."

ASSEMBLY FLOOR :

AYES: Adams, Aghazarian, Arambula, Bass, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, De La Torre, De Leon, DeSaulnier, Dymally, Emmerson, Eng, Evans, Feuer, Fuentes, Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton, Houston, Huff, Huffman, Jones, Karnette, Krekorian, Laird, Leno, Levine, Lieber, Lieu, Ma, Mendoza, Mullin, Nakanishi, Nava, Niello, Parra, Plescia, Portantino, Price, Richardson, Ruskin, Salas, Saldana, Silva, Smyth, Solorio, Strickland, Swanson, Torrico, Tran, Wolk, Nunez

NOES: Anderson, DeVore, Fuller, Gaines, La Malfa, Maze, Spitzer, Villines

NO VOTE RECORDED: Davis, Duvall, Jeffries, Keene, Sharon

□

AB 930
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Runner, Soto, Walters

CTW:do 7/12/07 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

4

CONSENT
August 9, 2007

Honorable Members of the
Law and Legislation Committee

**Title: Legislative Position: Support AB 163 Green and Healthy Workplace Bicycle
Facilities Act of 2007**

Location/Council District: All Districts

Recommendation: Support AB 163 which is the adoption of regulations for the construction and renovation of State buildings that require the inclusion of bicycle facilities, showers, and clothing lockers.

Contact: Fedolia "Sparky" Harris, Senior Planner, Transportation Department, (916)
808-2996

Presenters: None

Department: Transportation

Division: Office of the Director

Organization No: 3416

Description/Analysis

Issue: If approved, this bill will require the State of California's Department of General Services to adopt regulations for the construction and renovation of state buildings that require the inclusion of bicycle facilities, showers, and clothing lockers.

Policy Considerations: Support of AB 163 is consistent with the goal of the City's Strategic Plan which is to achieve sustainability and livability.

Environmental Considerations: Support of AB 163 has no adverse environmental impacts.

Committee/Commission Action: None

Rationale for Recommendation: The support of AB 163 is consistent with the City's existing transportation and planning policies. In 2001, the City of Sacramento adopted Smart Growth principles that encourage the provision of a variety of transportation choices (Resolution 2001-805). The City is also in the process of updating the 1988 General Plan using guiding principles adopted by Council (Resolution 2006-851) to develop a balanced, integrated, multi-modal transportation system that is efficient and safe with frequent service connecting every neighborhood to the rest of the city and the region, and to provide a variety of transportation choices that promote accessible alternatives to the automobile including walking, bicycling, and taking transit. Finally, in 2001 the City adopted an update to the 2010 City/County Bicycle Master Plan that included sections encouraging bicycle parking and support facilities (Resolution 2001-326).

Financial Considerations: None as result of this action.

Emerging Small Business Development (ESBD): There are no ESBD considerations as no goods or services are being purchased.

Respectfully Submitted by: Francesca L. Halbakken
Francesca L. Halbakken
Operations Manager

Approved by: Jerry Way
Jerry Way
Director of Transportation

Approved by: Carol Shearly
Carol Shearly
Director of Planning

Recommendation Approved:

Gustavo F. Vina
GUSTAVO F. VINA
Assistant City Manager

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Attachment 1

June 5, 2007

The Honorable Tony Mendoza
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0009

Subject: Support for Assembly Bill 163: Green and Healthy Workplace Bicycle Facilities Act of 2007

Dear Assembly Member Mendoza:

On behalf of the City of Sacramento, I am pleased to express the City's strong support of Assembly Bill 163, an act to adopt regulations for the construction and renovation of State buildings that require the inclusion of bicycle facilities, showers, and clothing lockers. The State of California leases over 7 million square feet of office space in the Sacramento area and many state employees either live in the City or commute to downtown state offices on a daily basis. In order to alleviate increased traffic congestion and improve air quality, the City of Sacramento encourages the use of bicycles and the efforts to provide better bicycle parking and support facilities for cyclists.

Endorsement of AB 163 is consistent with the City's existing transportation and planning policies including:

- Smart Growth principles that encourage the provision of a variety of transportation choices (Resolution 2001-805);
- The General Plan Update Vision and Guiding Principles to develop a balanced, integrated, multi-modal transportation system that is efficient and safe with frequent service connecting every neighborhood to the rest of the city and the region, and to provide a variety of transportation choices that promote accessible alternatives to the automobile including walking, bicycling, and taking transit (Resolution 2006-851);
- 2010 City/County Bicycle Master Plan that included sections encouraging bicycle parking and support facilities (Resolution 2001-326).

Sincerely,

Sandy Sheedy, Chair
Law and Legislation Committee

cc: Senator Darrell Steinberg
Senator Dave Cox

Assembly Member Roger Niello
Assembly Member Alan Nakanishi
Mayor Fargo and City Councilmembers
David Jones, Emanuels and Jones and Associates

Attachment 2

BILL NUMBER: AB 163 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY JUNE 1, 2007
AMENDED IN ASSEMBLY MARCH 28, 2007

INTRODUCED BY Assembly Member Mendoza

JANUARY 22, 2007

An act to add Article 3.5 (commencing with Section 14691) to Chapter 2 of Part 5.5 of Division 3 of Title 2 of the Government Code, relating to state buildings.

LEGISLATIVE COUNSEL'S DIGEST

AB 163, as amended, Mendoza. State buildings: bicycle facilities.

Existing law generally sets forth the centralized services to be provided by the Department of General Services with respect to state buildings and property, among other duties.

This bill would enact the Green and Healthy Workplace Bicycle Facilities Act of 2007, which would require the department, in consultation with the State Architect and other state agencies, to adopt regulations establishing standards for bicycle facilities, including parking areas, showers, and lockers in state-owned and state-leased buildings. The bill would require each state agency to develop programs to promote and encourage bicycle commuting and use of bicycles for work-related trips, as well as to manage its bicycle facilities. ~~It would also require, on and after July 1, 2010, a capital plan for, or renovation of, state buildings to comply with the adopted regulations.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

(a) The State of California endeavors to meet certain goals regarding more transportation choices, reducing traffic congestion, improving air quality, conserving energy, reducing greenhouse gas emissions, improving social equity, and increasing physical activity to promote public health. Increased levels of bicycling rate by state employees and by visitors to state offices would help reach these goals.

(b) The state invests approximately \$2 billion annually for design, construction, and renovation, and more than six hundred million dollars (\$600,000,000) annually for energy, water, and waste disposal at state-funded facilities.

(c) The state invests an unspecified amount in funding for automobile parking for state employees and visitors.

(d) An opportunity exists for the state to foster continued economic growth and provide environmental leadership by incorporating

bicycle facilities into the state capital outlay and building management processes.

(e) The widespread adoption of bicycle facilities principles would result in significant long-term benefits to the state's environment, including reductions in smog generation and greenhouse gas emissions, increased employee and public health, and reduced congestion.

(f) It is critical that the state provide leadership to both private and public sectors to provide bicycle facilities for employees and visitors.

(g) It is the policy of the state to site, design, deconstruct, construct, renovate, operate, and maintain state buildings that are models of energy efficiency, while encouraging energy-efficient travel to and from buildings, and providing healthy, productive, and comfortable indoor environments and long-term benefits to Californians.

(h) It is the intent of the Legislature in enacting this act to increase the availability and usefulness of bicycle facilities in state-owned and state-leased buildings by providing safe and secure bicycle parking and storage and comfortable changing and showering areas, and to promote alternative transportation to the workplace.

SEC. 2. Article 3.5 (commencing with Section 14691) is added to Chapter 2 of Part 5.5 of Division 3 of Title 2 of the Government Code, to read:

Article 3.5. Green and Healthy Workplace Bicycle Facilities Act of 2007

14691. This act shall be known, and may be cited, as the Green and Healthy Workplace Bicycle Facilities Act of 2007.

~~14691.5. For the purposes of this article, "state building" means a building owned or leased by the state.~~

14692. (a) On or before July 1, 2009, the department shall adopt regulations for the construction and renovation of ~~state buildings~~ *state-owned buildings used primarily for office functions and other state-owned buildings as deemed appropriate by the department* that establish standards regarding bicycle facilities, including short-term visitor bicycle parking, long-term employee bicycle parking, showers, and clothing lockers.

(b) When adopting regulations pursuant to subdivision (a), the department shall consider those aspects of existing relevant information and guidelines that maximize the utility of bicycle facilities, and shall allow for flexibility to meet the state's building standards. The existing relevant guidelines and information shall include, but are not limited to, both of the following:

(1) The Sacramento Area Bicycle Advocates State Bicycle Facilities--Statewide Policies and Recommendations.

(2) The Association of Pedestrian and Bicycle Professionals--Bicycle Parking Guidelines.

(c) In adopting the regulations pursuant to subdivision (a), the department shall consult with the State Architect and other appropriate state agencies, the building and construction industry, recognized bicycle advocacy groups, the League of California Cities, the California State Association of Counties, other interested organizations, and the public.

14692.5. (a) For an existing state-owned building without ~~adequate~~ short-term visitor bicycle parking, ~~high quality~~ *meeting the regulations adopted pursuant to Section 14692*, short-term bicycle parking *meeting the regulations adopted pursuant to Section 14692* shall be added before December ~~1~~ 31 , 2009.

(b) For an existing state-owned building without ~~adequate~~ bicycle facilities for employees *meeting the regulations adopted pursuant to Section 14692* , the addition of secure long-term bicycle parking, showers, and clothing lockers shall be a priority when the building is renovated.

~~(c) For an existing state-leased building, the state shall make~~

(c) *For state-leased buildings used primarily for office functions and other state-leased buildings as deemed appropriate by the department, the state, when negotiating or renegotiating a lease, shall make every effort* ~~to renegotiate the lease~~ to include provision of facilities for bicycle commuters and bicycle parking for visitors.

14693. Each state agency shall develop a program to manage its bicycle facilities so that bicycle parking and lockers are fairly assigned and access to showers is available. Facilities shall be available for workers at state buildings, whether they are state employees, contract employees, interns, or volunteers.

14693.5. Each state agency shall develop a program to promote and encourage bicycle commuting and the use of bicycles for work-related trips.

~~14694. On and after July 1, 2010, a capital plan for, renovation of, a state building shall be built, designed, and operated in accordance with the regulations adopted pursuant to subdivision (a) of Section 14692.~~

Attachment 3

AB 163
Page 1

ASSEMBLY THIRD READING
AB 163 (Mendoza)
As Amended June 1, 2007
Majority vote

BUSINESS & PROFESSIONS 7-3 APPROPRIATIONS 12-5

Ayes:	Eng, Bass, Carter, Hayashi, Hernandez, Price, Torrico	Ayes:	Leno, Caballero, Davis, DeSaulnier, Huffman, Karnette, Krekorian, Lieu, Ma, Nava, Solorio, Feuer
Nays:	Emmerson, Horton, Maze	Nays:	Walters, Emmerson, La Malfa, Nakanishi, Sharon Runner

SUMMARY : Requires the Department of General Services (DGS) to adopt regulations for the construction and renovation of state buildings that require the inclusion of bicycle facilities, showers, and clothing lockers. Specifically, this bill :

- 1) Requires DGS to adopt regulations, by July 1, 2009, for the construction and renovation of state owned office buildings and other buildings deemed appropriate by DGS, that require the inclusion of bicycle facilities, including short and long term parking, showers, and clothing lockers. In promulgating the regulations, DGS is required to consider:
 - a) Guidelines established by the Sacramento Area Bicycle Advocates State Bicycle Facilities - Statewide Policies and Recommendations;
 - b) Guidelines established by the Association of Pedestrian and Bicycle Professionals - Bicycle Parking Guidelines; and,
 - c) Input from the State Architect, other state agencies, building and construction industry, recognized bicycle advocacy groups, the League of California Cities, California State Association of Counties, and other interested organizations and the public.

-
- 2) Requires existing state owned office buildings, and other buildings deemed appropriate by DGS, to be retrofitted to include short term bicycle parking, by December 31, 2009.
 - 3) Requires existing state owned office buildings, and other buildings deemed appropriate by DGS, to include long term bicycle parking, showers, and clothing for use by employees when the building is renovated.
 - 4) Requires DGS to make every effort to negotiate, or renegotiate, state leases for inclusion of facilities for bicycle commuters and visitors in state office buildings and other buildings deemed appropriate by DGS.
 - 5) Requires each state agency to develop a program to manage its bicycle facilities so that bicycle parking and facilities are fairly assigned and access to showers is available for its employees.
 - 6) Requires each state agency to develop a program to promote and encourage bicycle commuting and the use of bicycles for work-related trips.

EXISTING LAW establishes DGS as the state government entity responsible for providing a broad range of business services to government. DGS' functions include: procurement and contracting for goods and services; real estate and design services for state buildings; telecommunications; fleet management; information services; publishing services; architectural services; energy efficiency programs; legal services; and building maintenance.

FISCAL EFFECT : According to the Assembly Appropriations Committee:

- 1) Costs to incorporate bicycle facilities into new and renovated state office buildings, estimated by DGS at around \$50,000 per building, would be a minor increase to each project's cost. Statewide, this would be a significant total cost over time, however.
- 2) Assuming a similar cost to retrofit leased facilities and assuming these additional costs would be incorporated into lease costs, the impact would be an increase in lease costs, whose impact would depend on the amount of state-occupied space in the building and the terms of the lease. Again, these costs

probably would not be significant in any single building but could be major statewide. These costs would occur over several years. DGS indicates that the state leases about 1,800 buildings.

- 3) The cost to add high quality short-term bicycle parking to state-owned buildings is unknown.

COMMENTS : According to the author's office: "The State of California has goals regarding increasing transportation choice, reducing traffic congestion, improving air quality, conserving energy, reducing greenhouse gases, improving social equity and increasing physical activity to promote public health. Increased levels of bicycling by state employees and by visitors to state buildings will help reach all these important goals."

The Sacramento Area Bicycle Advocates write in support: "The state's policies towards bicycling have sometimes discouraged, rather than encouraged, bicycle use by its employees and those in the community. In many cases, cyclists face no or inadequate bike facilities at their workplace. There may be no place to store their bikes safely, shower or keep their clothes and other personal items.

"The state's policies have been inconsistent between (and sometimes within) departments, agencies and locations. There is a hodge-podge of different arrangements. Some state employees enjoy state of the art bike facilities while accommodations elsewhere are substandard-making it difficult or impossible to bike commute. Sometimes privileges or facilities are available to some categories of employees, but denied to others.

"The state's bicycle facilities and policies should be a model to all employers statewide. The state can help achieve some of its most important goals by better serving cyclists. The state will benefit from healthier employees in the process. Joggers and other employees who exercise at lunch or before or after work can also use the showers and lockers."

Analysis Prepared by : Ross Warren / B. & P. / (916) 319-3301



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

3

CONSENT
August 9, 2007

Honorable Members of the
Law and Legislation Committee

Title: Somatic Practitioner Establishments (M07-039)

Location/Council District: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee review and recommend approval of an ordinance amending sections 17.16.010, 17.24.030, 17.24.050, 17.108.020(B), and 17.108.030(B) of Title 17 (Zoning Code) of the Sacramento City Code to be forwarded to the City Council.

Contact: Robert W. Williams, Associate Planner; (916) 808-7686, Sandra Yope, Senior Planner, (916) 808-7158

Presenters: Robert W. Williams, Associate Planner

Department: Development Services

Division: Current Planning

Organization No: 4881

Description/Analysis

Issue: On June 12, 2007, the City Council amended City Code Chapter 5.124 (Somatic Practitioners Alternative Permit Process). The ordinance included a change to establish a new Somatic Practitioner Establishment license. This license is for an owner of a business establishment that offers Somatic (massage or bodywork) services, but does not require the business owner to be a licensed Somatic Practitioner. At the Law and Legislation Committee meeting on April 17, 2007, the proposed changes to City Code Chapter 5.124 were heard and the item was forwarded to City Council. At that meeting, Councilmember Sheedy directed staff to return with an ordinance restricting the use of Somatic Practitioners and Somatic Practitioner Establishments in the Del Paso Boulevard Special Planning District.

In order to be consistent with the proposed changes in Chapter 5.124, staff has proposed amending Title 17 (Zoning Code) to add the definition of Somatic

Practitioners Establishment to Chapter 17.16 (Definitions) and also to modify the existing Land Use Matrix Charts along with footnote 67 of Chapter 17.24 (Land Use Regulations) relating to Somatic Practitioners. Staff has proposed amending Chapter 17.108 (Del Paso Boulevard Special Planning District) to allow Somatic Practitioners and Somatic Practitioners Establishments to the list of uses which are allowed within the district with a Special Permit.

Policy Considerations: The proposed ordinance is consistent with the City's Strategic Plan Focus Area to achieve sustainability and livability and foster economic development within the City of Sacramento.

Committee / Commission Action: The proposed ordinance was reviewed by the Planning Commission On June 28, 2007. The Planning Commission voted eight ayes, zero noes, and one absent to recommend approval of the proposed Zoning Code amendments.

Environmental Considerations: The proposed ordinance is exempt from the provisions of the California Environmental Quality Act (Section 15061(b)(3)).

Rationale for Recommendation: The proposed amendments will create consistency between Title 5 (Business Licenses and Regulations) and Title 17 of the City Code (Zoning Code) and will provide for greater flexibility for Somatic Practitioner business models.

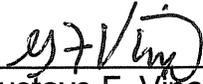
Financial Considerations: None

Emerging Small Business Development (ESBD): No goods or services are being purchased under this report.

Respectfully Submitted by:  _____
David Kwong
Planning Manager

Approved by:  _____
William Thomas
Director of Development Services

Recommendation Approved:



Gustavo F. Viña
Assistant City Manager

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2 Ordinance Amending Zoning Code	Pg	7

Redlined
ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING SECTIONS 17.16.010, 17.24.030, 17.24.050, 17.108.020, AND 17.108.030 OF TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO SOMATIC PRACTITIONERS ESTABLISHMENTS.

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Section 17.16.010 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Section 17.16.010 is amended by adding the definition of "Somatic Practitioners' Establishment" to read as follows:

"Somatic practitioner establishment" means a business that for pecuniary compensation, consideration, hire, or reward, offers massage or bodywork services and meets the requirements for and holds a valid permit under the regulations set forth in Chapter 5.124 of this code.

B. Except as specifically amended by adding the definition of "somatic practitioner establishment", all other provisions of section 17.16.010 remain unchanged and in full force and effect.

SECTION 2. Section 17.24.030 Commercial Land Use Chart of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. The matrix for "Somatic practitioner" set forth in Table 17.24.030 (A) is amended to read as follows:

	R E	R 1	R 1 A	R 1 B	R 2	R 2 A	R 2 B	R 3	R 3 A	R 4	R 5	R M X	R O	O B
Use														
<u>Somatic practitioner/ somatic practitioner establishment*</u>											67	67/ 69	67	67/ 18

B. The matrix for "Somatic practitioner" set forth in Table 17.24.030 (B) is amended to read as follows:

Use	E C	H C	S C	C 1	C 2	C 3	C 4	M 1	M 1 (S)	M 2	M 2 (S)	M I P	M R D	H	S P X	T C	A	A O S	F	A R P- F
Somatic practitioner/ somatic practitioner establishment*	67/ 53	67/ 16	67/ 15	67	67	67	67	67	67/ 20	67	67/ 20			67						

C. Except as specifically amended by the amendment to the matrix for “Somatic practitioner” in Tables 17.24.030 (A) and (B), all other provisions of section 17.24.030 remain unchanged and in full force and effect.

SECTION 3. Section 17.24.050 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Footnote 67 of Section 17.24.050 is amended to read as follows:

67. Somatic Practitioner / Somatic Practitioner Establishment.

Permitted subject to meeting the qualifications requirements of Chapter 5.124 of this code. The parking ratio for a somatic practitioner’s office practitioner or a somatic practitioner establishment shall be the same as for a general office use.

B. Except as specifically amended by the amendment to Footnote 67, all other provisions of section 17.24.050 remain unchanged and in full force and effect.

SECTION 4. Section 17.108.020 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Subsection (B) of Section 17.108.020 is amended to read as follows:

B. Planning Commission Approval Required.

The following uses, although generally discouraged because of over-concentration problems and the potential nuisance and other problems associated with such uses, are permitted in the C-2 zone in the special planning district, subject to the issuance of a special permit by the planning commission, provided that, in addition to other findings required by Chapter 17.212 of this title, the planning commission must find that the use will meet one or more of the goals set forth above:

1. Auto service and repair, rental;
2. Bed and breakfast inn;

3. Hotel;
4. Motel;
5. Social services;
6. Thrift stores/pawn shops;
7. Somatic practitioner or somatic practitioner establishment.

B. Except as specifically amended by the amendment to subsection (B), all other provisions of section 17.108.020 remain unchanged and in full force and effect.

SECTION 5. Section 17.108.030 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Subsection (B) of Section 17.108.030 is amended to read as follows:

B. Planning Commission Approval Required.

The following uses, although generally discouraged because of over-concentration problems and the potential nuisance and other problems associated with such uses, are permitted in the M-1 zone in the special planning district, subject to the issuance of a special permit by the planning commission, provided that, in addition to other findings required by Chapter 17.212 of this title, the planning commission must find that the use will meet one or more goals for the Triangle Area, as set forth in Section 17.108.010(B) of this chapter.

1. Auto service and repair, rental;
2. Bed and breakfast inn;
3. Hotel;
4. Motel;
5. Social services;
6. Thrift store;
7. Somatic practitioner or somatic practitioner establishment.

B. Except as specifically amended by the amendment to subsection (B), all other provisions of section 17.108.030 remain unchanged and in full force and effect.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING SECTIONS 17.16.010, 17.24.030, 17.24.050, 17.108.020, AND 17.108.030 OF TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO SOMATIC PRACTITIONERS ESTABLISHMENTS.

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Section 17.16.010 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Section 17.16.010 is amended by adding the definition of "Somatic Practitioners' Establishment" to read as follows:

"Somatic practitioner establishment" means a business that for pecuniary compensation, consideration, hire, or reward, offers massage or bodywork services and that meets the requirements for and holds a valid permit under the regulations set forth in Chapter 5.124 of this code.

B. Except as specifically amended by adding the definition of "somatic practitioner establishment", all other provisions of section 17.16.010 remain unchanged and in full force and effect.

SECTION 2. Section 17.24.030 Commercial Land Use Chart of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. The matrix for "Somatic practitioner" set forth in Table 17.24.030 (A) is amended to read as follows:

	R	R	R	R	R	R	R	R	R	R	R	R	R	O
Use	E	1	A	B	2	A	B	3	A	4	5	X	O	B
Somatic practitioner/ somatic practitioner establishment*											67	67/ 69	67	67/ 18

B. The matrix for "Somatic practitioner" set forth in Table 17.24.030 (B) is amended to read as follows:

Use	E C	H C	S C	C 1	C 2	C 3	C 4	M 1	M 1 (S)	M 2	M 2 (S)	M I P	M R D	H	S P X	T C	A	A O S	F	A R P- F
Somatic practitioner/ somatic practitioner establishment*	67/ 53	67/ 16	67/ 15	67	67	67	67	67	67/ 20	67	67/ 20			67						

C. Except as specifically amended by the amendment to the matrix for “Somatic practitioner” in Tables 17.24.030 (A) and (B), all other provisions of section 17.24.030 remain unchanged and in full force and effect.

SECTION 3. Section '17.24.050 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Footnote 67 of Section 17.24.050 is amended to read as follows:

67. Somatic Practitioner /Somatic Practitioner Establishment.

Permitted subject to meeting the requirements of Chapter 5.124 of this code. The parking ratio for a somatic practitioner or a somatic practitioner establishment shall be the same as for a general office use.

B. Except as specifically amended by the amendment to Footnote 67, all other provisions of section 17.24.050 remain unchanged and in full force and effect.

SECTION 4. Section 17.108.020 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Subsection (B) of Section 17.108.020 is amended to read as follows:

B. Planning Commission Approval Required.

The following uses, although generally discouraged because of over-concentration problems and the potential nuisance and other problems associated with such uses, are permitted in the C-2 zone in the special planning district, subject to the issuance of a special permit by the planning commission, provided that, in addition to other findings required by Chapter 17.212 of this title, the planning commission must find that the use will meet one or more of the goals set forth above:

1. Auto service and repair, rental;
2. Bed and breakfast inn;

3. Hotel;
4. Motel;
5. Social services;
6. Thrift stores/pawn shops;
7. Somatic practitioner or somatic practitioner establishment.

B. Except as specifically amended by the amendment to subsection (B), all other provisions of section 17.108.020 remain unchanged and in full force and effect.

SECTION 5. Section 17.108.030 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

- A. Subsection (B) of Section 17.108.030 is amended to read as follows:
 - B. Planning Commission Approval Required.

The following uses, although generally discouraged because of over-concentration problems and the potential nuisance and other problems associated with such uses, are permitted in the M-1 zone in the special planning district, subject to the issuance of a special permit by the planning commission, provided that, in addition to other findings required by Chapter 17.212 of this title, the planning commission must find that the use will meet one or more goals for the Triangle Area, as set forth in Section 17.108.010(B) of this chapter.

1. Auto service and repair, rental;
2. Bed and breakfast inn;
3. Hotel;
4. Motel;
5. Social services;
6. Thrift store;
7. Somatic practitioner or somatic practitioner establishment.

B. Except as specifically amended by the amendment to subsection (B), all other provisions of section 17.108.030 remain unchanged and in full force and effect.

Legislation Log

Tracking Number	Subject Matter	Ordinance Sponsor/ Staff	Estimated Law & Legislation hearing Date 1	Notes	Controversial or Significant Policy Issues	Anticipated Attorney Drafting Time for Completion 2	Revised 8/1/07
				NEW OR UPDATED ITEMS			
1	7.07.1 Solar Water Heater Ordinance	DSD/ Chris Dougherty	18-Sep-07	On July 31, 2007, Council directed staff to bring forward an ordinance that would waive the building permit fee for installation of a solar water heater.	No	Limited	Development Services
				SCHEDULED LAW & LEG ITEMS			
2	9.06.1 Amend Ordinance Relating to Street Furniture (Telcom and Cable Equipment)	Trans Dept/ Jon Blank	21-Aug-07	Amend Ordinance to give the city the authority to manage and negotiate the placement of street furniture (containers for telecommunications and cable equipment) throughout the city.	No	TBD	Transportation Dept
3	6.07.2 Temporary Surface Parking Lots	DSD/ Chris Dougherty	18-Sep-07	At the June 5, 2007 L&L meeting, the Committee directed staff to work with community and come back.	Yes	TBD	Development Services
4	6.07.1 Rental Housing Inspection Program Ordinance Options	Code Enforcement/Max Fernandez	2-Oct-07	Consider and review proposed City-wide Rental Housing Inspection Program options.	Possibly	TBD	Code Enforcement
5	5.07.1 Fire Code Amendments	Fire/ Troy Malaspino	2-Oct-07	The state will be revising its fire code this year. Staff will bring forward any necessary changes to reflect the changes at the state level.	TBD	TBD	Fire
				LAW AND LEG COMMITTEE			
6	6.06.1 Docks Area Plan Ordinance	Econ Development/ Beth Tincher	Pending	ORDINANCE & REPORTS - DATE PENDING Adopt, by ordinance, the Docks Area Specific Plan and Special Planning District.	TBD	TBD	TBD
7	1.05.2 Amend Tree Ordinance	Parks & Rec/ Joe Benassini	Pending	Amend the City's Tree Ordinance to add section to: allow assessment of fees; prohibit topping of trees; and amend the tree permit appeals process.	To be Determined	To be determined	Parks & Rec
8	11.04.2 Establish Drug & Gun Free Zones and Creation of Civil Exclusion	Police/Sherri Scruggs	Pending	Subject heard by Committee on 12/7/04. Staff met with Portland DA and federal agencies to share information. CAO reviewing information provided. Staff has determined that the Portland model will not work due to constitutional challenges it has faced. The City Attorney's office is reviewing potential alternatives such as the Lancaster ordinance.	Possibly	Significant	Police/CAO
9	1.2 Update on Sign Ordinance and Sign Program	CM Waters/DSD/ Joy Patterson / CAO / Rich Archibald	Pending	Development Svcs staff will meet with CM Waters to provide an update. Report presented to Committee in January 2004. Committee provided feedback and directed staff to report back. CM Cohn asked that staff review the City of Portland's program for A-Frame signs and report as to whether this program can be implemented in the City as a pilot program. Staff is doing a citywide study and will come back to the committee when it is completed. Council workshop is scheduled for 6/12/07.	Yes	Significant	Dev Svcs/ NSD

1 Reflects attorney drafting time only not time required for the leg. process, incl. staff direction, public outreach, comm. meetings, workshops, formal noticed public hearings req. for adoptions.

2 Limited =<10 hrs, Moderate =10-40 hrs, Sig. => 40 hrs

Legislation Log

Tracking Number	Subject Matter	Ordinance Sponsor/ Staff	Estimated Law & Legislation hearing Date 1	Notes	Controversial or Significant Policy Issues	Anticipated Attorney Drafting Time for Completion 2	City Departments Possibly Affected
10	09.04.02 Illegal Dumping Vehicle Impound Ordinance	CM Hammond Utilities/ Gary Reents	Pending	Provide for seizure and impound for a specified time for vehicles involved in illegal dumping. Code and CAO working on options. Pending court decision.	Potentially Yes	Significant	Utilities/Code
11	05.05.02 Housing Trust Fund Nexus Study	Planning Dept/ Carol Shearly	Pending	Item heard by Council on April 18 as part of the Affordable Housing Workshop. Based on the recommendations by Council, staff will bring this item to L&L.	Possibly	To Be Determined	Dev Svcs
12	08.05.1 Amend Ordinance Relating to Reward Program	Waters/Utilities/ Gary Reents	Pending	Amend ordinance relating to reward program to allow payment of reward at arrest and prosecution.	Unlikely	Limited	Utilities
13	12.04.1 Approved Alcohol Use Permits Processing	CM Hammond/ Police/ Sherrri Scruggs	Pending	Amend Chapter 17 of the City Code regarding deemed approved alcohol use permits processing. Heard by the Law & Leg Committee on 9/20/05.	Possibly	To be determined	Police/Code
14	04.06.1 Ordinance to Regulate Valet Parking Operations	DOT/Howard Chan	Pending	Any valet parking operator who performs valet parking services at a restaurant or other place of public assembly will be required to have a valet parking permit.	TBD	TBD	DOT
15	4.04.1 Solid Waste Facility Fee	Code Enforcement/Ron O'Connor	Pending	Ordinance to mitigate potential impacts to a geographic area relative to locating a solid waste facility. The Law & Leg Committee heard a staff report on this issue on November 4, 2004 and directed staff to get input from an advisory committee and report back to the L&L Committee with recommendations on fees.	To be Determined	To be Determined	Solid Waste/ Code/ DSD
16	7.04.2 Amendments to R Street SPD	Planning Dept/Tara Goddard	Pending	Amendments to R Street Special Planning District to Facilitate Development	No	Moderate	Planning
17	5.06.4 An Ordinance Relating to Bi-Directional Amplification Devices in Newly Constructed Buildings	Police & Fire/ Capt. McCarthy	Pending	The proposed ordinance would require that all new buildings over 5,000 square feet be required to install bi-directional amplification (BDA) devices, as needed, in newly constructed buildings. Ninety days after the certificate of occupancy is issued the building owner will have to provide certification that a test was done to determine if the BDA is necessary. If it is necessary, then a BDA must be installed. The State has implemented legislation that will begin January 1, 2008.	No	TBD	TBD
18	10.06.1 Ordinance Banning Cart Vendors	CM Pannell/ Finance/ Brad Wasson	Pending	On 7/18/06, CM Pannell requested that staff bring forward to the L&L Committee the ordinance banning cart vendors. This request is related to portable push-cart type food vendors.	TBD	TBD	TBD
19	2.07.2 Amend Vacant Building Ordinance	CM Hammond/ Code/ Max Fernandez	TBD	At the Feb 6, 2007 L&L meeting, CM Hammond requested that staff research bringing forward an amend to code requiring that vacant lots are fenced.	TBD	TBD	Code Enforcement

1 Reflects atty drafting time only not time required for the leg. process, incl. staff direction, public outreach, comm. meetings, wkshps, formal noticed public hearings req. for adoptions.
2 Limited =<10 hrs, Moderate =10-40 hrs, Sig. => 40 hrs

Legislation Log

Tracking Number	Subject Matter	Ordinance Sponsor/ Staff	Estimated Law & Legislation hearing Date 1	Notes	Controversial or Significant Policy Issues	Anticipated Attorney Drafting Time for Completion 2	City Departments Possibly Affected
20	3.07.4 Campaign Finance Ordinance Review	L&L Committee and Council/ Attorney's Office/ Eileen Tiechert	Pending	At the March 20, 2007 L&L meeting the Committee directed staff to redraft the current campaign finance code to simplify the language, making the code easier to read and understand.	No	TBD	TBD
21	1.11 Mobile Food Vendor Ordinance	CM Tretheway/ Brad Wasson	Pending	On April 3, 2007 staff brought forward an ordinance for the Committee's consideration. The Committee directed staff to re-convene the task force to discuss issues that they had with staff's recommended ordinance. CM Hammond is now the appointed member on the taskforce.	No	TBD	Revenue Dept and Code
22	4.07.1 Discussion Paper on Amendment Options to the Home Occupation Permit	L&L Committee/ Finance Dept./ Brad Wasson	Pending	At the 4/17/07 L&L meeting the Committee directed staff to come back with options to amend the home occupation permit.	TBD	TBD	Finance
23	4.07.3 Discussion Paper on Portable Gas Blowers	L&L Committee/ Code Enforcement & CMO	Pending	At the 4/17/07 L&L Meeting the Committee directed staff to come back with a discussion paper on issues relating to portable leaf blowers including: the legal decible limit, the noise caused by multiple blowers, the air quality issues, blowing debris onto the streets, and whether we are superceded by the state to regulate leaf blowers.	TBD	TBD	Code Enforcement
24	5.07.4 Regulation of Check Cashing and Pay Day Loan Stores	CM Sheedy/ CAO & CMO	Pending	At the May 15, 2007 Council Meeting, Councilmembers Sheedy, Hammond, McCarty, and Pannell have requested that the CAO explore the issue of regulating Check Cashing and Payday Loan Stores.	Yes	TBD	TBD

1 Reflects atty drafting time only not time required for the leg. process, incl. staff direction, public outreach, comm. meetings, wkshps, formal noticed public hearings req. for adoptions.
 2 Limited =<10 hrs, Moderate =10-40 hrs, Sig. => 40 hrs



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

1

Consent
July 17, 2007

Honorable Members of the
Law and Legislation Committee

Subject: Approval of Minutes – June 5, 2007

Location/Council District: All

Recommendation: Approve the minutes for the Committee meeting of June 5, 2007.

Contact: Jennifer Carlino, Senior Deputy City Clerk- 808-8091

Presenters: None

Department: City Clerk's Office

Organization No: 0700

Summary: Staff recommends the approval of the minutes for the Committee meeting of June 5, 2007.

Committee/Commission Action: None.

Financial Considerations: None.

Environmental Considerations: None.

Policy Considerations: None.

Emerging Small Business Development (ESBD): None.

Respectfully Submitted by:


Jennifer Carlino, Senior Deputy City Clerk

Recommendation Approved:


SHIRLEY CONCOLINO

City Clerk

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MINUTES City of Sacramento Law and Legislation Committee

COMMITTEE MEMBERS:

SANDY SHEEDY, Chair (D-2)

LAUREN HAMMOND (D-5)
Councilmember

STEVE COHN (D-3)
Councilmember

ROBBIE WATERS (D-7)
Councilmember

CITY STAFF:

Jennifer Carlino
Sr. Deputy City Clerk

Patti Bisharat
Government Affairs

Yvette Rincon
Legislative Analyst

Joe Robinson
Deputy City Attorney

City Hall
915 I Street, 1st Floor – Council Chambers
June 5, 2007 – 12:30 P.M.

The Law and Legislation Committee is a Standing Committee, a permanent committee of the City Council established to consider subjects of a particular class. Its purpose is to review state and federal legislation affecting the City and proposed changes to municipal ordinances in order to make recommendations to the full City Council.

NOTICE TO THE PUBLIC

You are welcomed and encouraged to participate in this meeting. Public comment is taken (3 minutes maximum) on items listed on the agenda when they are called. Public Comment on items not listed on the agenda will be heard at the end of the meeting as noted on the agenda. Comments on controversial items may be limited and large groups are encouraged to select 3-5 speakers to represent the opinion of the group.

Notice to Lobbyists: When addressing the Committee you must identify yourself as a lobbyist and announce the client/business/organization you are representing (City Code 2 15.160).

Speaker slips are located in the rack inside the chamber and should be completed and submitted to the City Clerk.

Government Code 54950 (The Brown Act) requires that a brief description of each item to be transacted or discussed be posted at least 72 hours prior to a regular meeting. The City posts Agendas at City Hall as well as offsite meeting locations. The order of Agenda items are listed for reference and may be taken in any order deemed appropriate by the legislative body. The Agenda provides a general description and staff recommendations; however, the legislative body may take action other than what is recommended. Full staff reports are available for public review on the City's website and include all attachments and exhibits. "To Be Delivered" and "Supplemental" reports will be published as they are received. Hard copies are available at the Office of the City Clerk. (25 cents per page)

Live video streams and indexed archives of meetings are available via the internet. Visit http://www.cityofsacramento.org/webtech/streaming_video/live_council_meetings.htm

Meeting facilities are accessible to persons with disabilities. If you require special assistance to participate in the meeting, notify the Office of the City Clerk at (916) 808-7200 at least 48 hours prior to the meeting.

MINUTES

Tuesday, June 5, 2007

City Hall

915 I Street - First Floor Council Chamber

All items listed are heard and acted upon by the Law and Legislation Committee unless otherwise noted.

Call to Order – 12:38 p.m.

Roll Call- Members Hammond, Waters, Sheedy present. Councilmember Cohn arrived at 12:41 p.m.

Consent Calendar

All items listed under the Consent Calendar are considered and acted upon by one motion. Anyone may request an item be removed for separate consideration.

ACTION: Moved/Seconded/Carried (Waters/Hammond; Absent: Cohn) to adopt the Consent Calendar in one motion except as indicated.

1. Approval of Minutes for May 15, 2007.

Location: (Citywide)

Recommendation: Approve Committee minutes for May 15, 2007.

Contact: Jennifer Carlino, Sr. Deputy City Clerk, (916) 808-8091, City Clerk's Office.

ACTION: Approved recommendation

2. Law and Legislation Log

Location: (Citywide)

Recommendation: Approve legislative log

Contact: Yvette Rincon, Legislative Analyst, (916) 808-5827, City Manager's Office.

ACTION: Approved recommendation

3. Designation of 1905 "I" Street to the Sacramento Register as a Landmark.

Location: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee recommend approval of the proposed ordinance placing the property located at 1905 I Street in the Sacramento Register of Historic and Cultural Resources as a Landmark, and specifying the property's significant features and characteristics.

Contact: Kathleen Forrest, Associate Planner, Development Services, (916) 808-5896.

ACTION: Approved recommendation

4. Designation and Listing of the property located at 7041 Carnation Avenue to the Sacramento Register as a Landmark

Location: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee recommend approval of the proposed Ordinance placing the property located at 7041 Carnation Avenue in the Sacramento Register of Historic and Cultural Resources (Register) as a Landmark, and specifying the property's significant features and characteristics.

Contact: Kathleen Forrest, Associate Planner, Development Services, (916) 808-5896.

ACTION: Approved recommendation

5. Legislative Position: Support SB 992 Relating to Adult Recovery Maintenance Facilities and Support AB 724 Relating to Sober Living Homes

Location: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee adopt support positions on SB 992 and AB 724.

Contact: Yvette Rincon, Legislative Analyst, City Manager's Office, (916) 808-5827

ACTION: Approved recommendation

6. Legislative Position: Support AB 1358 Relating to Planning Circulation Element

Location: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee adopt a support position on AB 1358.

Contact: Azadeh Dorherty, Principal Planner, Transportation Department, (916) 808-3137.

ACTION: Approved recommendation

Staff Reports

Staff reports include oral presentations including those recommending receive and file. Each speaker is limited to a maximum of 3 minutes.

7. Zoning Code Amendment to Establish the Northgate 880 Special Planning District

Location: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee recommend approval of the proposed Ordinance amendment. The proposed ordinance would add Chapter 17.102 to Title 17 of the Sacramento City Code relating to the establishment of the Northgate/I-880 Business Park Special Planning District.

Contact: Scot Mende, New Growth Manager, Planning Department, (916) 808-4756

ACTION: Moved/Seconded/Carried (Hammond/ Waters) to approve and forward to the City Council the proposed Ordinance amendment adding Chapter 17.102 to Title 17 of the Sacramento City Code relating to the establishment of the Northgate/I-880 Business Park Special Planning District

(Item 8 had a correction that is noted in *italics*)

8. City Code Amendment Relating to Minor Permit Label Program *and Building Permit Inspections*

Location: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee recommend approval of the proposed code amendments. The proposed Ordinance would ***amend section 15.08.190 regarding building permit inspections and*** add section 15.10 to Title 15 of the Sacramento City Code (The Building Code) relating to Minor Permits for repairs, replacements or installations.

Contact: Chris Dougherty, Assistant Planner, Development Service, (916) 808-5680

ACTION: Moved/Seconded/Carried (Hammond/ Waters) to approve and forward to the City Council an Ordinance amending section 15.08.190 regarding building permit inspections and adding section 15.10 to Title 15 of the Sacramento City Code (The Building Code) relating to Minor Permits for repairs, replacements or installations and include insurance verification as a part of the process.

9. Zoning Code Amendment Relating to Temporary Surface Parking Lots in the Central City

Location: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee recommend approval of the proposed zoning code amendments. The proposed Ordinance would amend section 17.16.010, 17.24.050, 17.64.010 and 17.64.030, and add sections 17.64.070, 17.64.080, and appendix A, to Title 17 of the Sacramento City Code (The Zoning Code) relating to temporary surface parking lots in the Central City.

Contact: Chris Dougherty, Assistant Planner, Development Services, (916) 808-5680

Public Testimony was given by Patrick Tully, Louis Gonzalez, Aaron Zeff, Shawn Eldridge, Connie Miottel, and Craig Waldman.

ACTION: Moved/Seconded/Carried (Cohn/Hammond; Absent: Waters) to approve and forward to the City Council the proposed zoning code amendments relating to temporary surface parking lots in the Central City for those parking lots that have been existence from January 1, 2006 forward and return to the Committee regarding older lots that were in existence prior to January 1, 2006.

Public Comments- Matters Not on the Agenda-None

Adjournment- 1:51 p.m.